

TOWN OF PHILLIPSBURG
TOWN COUNCIL MEETING
TUESDAY, DECEMBER 15, 2020 AMENDED AGENDA
via ZOOM
7:00 P.M.

Join Zoom Meeting
<https://us02web.zoom.us/j/83255615083>

Meeting ID: 832 5561 5083
Passcode: pburg
One tap mobile
+19292056099,,83255615083#,,,,,0#,,491210# US (New York)
+13017158592,,83255615083#,,,,,0#,,491210# US (Washington D.C)

Dial by your location
+1 929 205 6099 US (New York)
+1 301 715 8592 US (Washington D.C)

Meeting ID: 832 5561 5083
Passcode: 491210
Find your local number: <https://us02web.zoom.us/j/83255615083>

1. CALL TO ORDER

2. OPEN PUBLIC MEETING ACT STATEMENT:

THIS MEETING IS CALLED PURSUANT TO THE PROVISIONS OF THE OPEN PUBLIC MEETINGS LAW. THIS MEETING OF DECEMBER 15, 2020 WAS INCLUDED IN A NOTICE SENT TO NEWSPAPERS OF RECORD AND POSTED ON THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND HAS REMAINED CONTINUOUSLY POSTED AS THE REQUIRED NOTICES UNDER THE STATUTE. IN ADDITION, A COPY OF THIS NOTICE HAS BEEN AVAILABLE TO THE PUBLIC AND IS ON FILE IN THE OFFICE OF THE MUNICIPAL CLERK

3. INVOCATION AND FLAG SALUTE

Council Vice President McVey

4. ROLL CALL

Council President Piazza, Council Vice President McVey, Councilwoman DeGerolamo, Councilman Fulper, Councilman Wyant

Mayor Tersigni, Attorney Wenner, Business Administrator Bengivenga, Clerk Kleiner

5. **ANNOUNCEMENTS**

December 15, 2020 – Preparing for a large snow storm on December 16, 2020 into December 17, 2020

December 19, 2020 – Santa Visits Phillipsburg

December 23, 2020 – Virtual Ugly Sweater Party

December 24, 2020 - Town Hall Closed – Garbage pick up scheduled for Wednesday, December 23, 2020

December 25, 2020 - Town Hall Closed – Garbage pick up scheduled for Monday, December 28, 2020

Please don't put the garbage out early.

January 01, 2021 Town Hall Closed

January 05, 2021 Re- Organization Meeting via zoom

TENTATIVE – December 16, 2020 Town Garage – RABIES CLINIC – There will be NO Licenses issued there

6. **BILLS LIST -** Bills List A - \$3,186,124.70
Bills List B - \$ 12,181.22

7. **MAYOR'S REPORT**

Mayor's Report

Chief Stettner – End of Month Police Report

8. **DISCUSSION -**

Justin Davidson – Apothecarium

Mary Jo Harris – NPP and

Mark Valli – CEO Norwescap; Mark Lohbauer; Alex Fanfarillo

9. **HABITABILITY**

85 Lewis Street - Block 1402, Lot 33

10. **PUBLIC COMMENT ON AGENDA ITEMS**

11. ORDINANCES — FIRST READING NONE

12. ORDINANCES – SECOND READING

O: 2020-24 (1st read 11-04-2020 – Second read 12-15-2020) ~~TABLED 11-04-2020~~ (AMENDED for 12-01-2020)

AN ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN STATE OF NEW JERSEY AMENDING THE CODE OF THE TOWN OF PHILLIPSBURG BY DELETING CHAPTER 140, *VOLUNTEER ORGANIZATIONS*, ARTICLE II, *CRIMINAL HISTORY BACKGROUND CHECKS*; CHAPTER 248, *DEMONSTRATIONS AND SPECIAL EVENTS*; AND CHAPTER 422, *PARKS* IN ORDER TO CREATE A NEW CHAPTER 422 ENTITLED *PARKS AND RECREATION*

O: 2020-26 (First read 11-04-2020 – Second read 12-15-2020) ~~TABLED on 11-04-2020~~

AN ORDINANCE AMENDING THE SALARY RANGE FOR THE SCHOOL RESOURCE OFFICERS

O: 2020-27 (First reading 11-23-2020 Second read 12-15-2020)

ORDINANCE OF THE TOWN OF PHILLIPSBURG, IN THE COUNTY OF WARREN, STATE OF NEW JERSEY PROVIDING FOR A SPECIAL EMERGENCY APPROPRIATION PURSUANT TO N.J.S.A. 40A: 4-53(m) TO FUND A DEFICIT IN OPERATIONS

O: 2020-28 (1st Read 12-01-2020 Second read 12-15-2020)

AN ORDINANCE OF THE TOWN OF PHILLIPSBURG CONCERNING DEVELOPMENT FEES

O: 2020- 29 (1st Read 12-01-2020 Second read 12-15-2020)

ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY ESTABLISHING SEWER CONNECTION FEE

13. **RESOLUTIONS - CONSENT AGENDA** * *Matters listed on the Consent Agenda Resolution are considered routine and will be enacted by one motion of the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item to be removed for consideration

R: 2020-239

RESOLUTION OF TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY DIRECTING THE PHILLPSBURG PLANNING BOARD TO PREPARE AN AMENDMENT TO THE RIVERFRONT REDEVELOPMENT PLAN IN ORDER TO INCLUDE INDUSTRIAL USES

R: 2020-240

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY, AUTHORIZING REFUND OF TAX OVER PAYMENT DUE TO TAX APPEALS

R: 2020-241

A RESOLUTION AWARDDING PURCHASES UNDER NEW JERSEY STATE CONTRACT (FIRE DEPARTMENT)

R: 2020-242

A RESOLUTION AWARDDING PURCHASES UNDER NEW JERSEY STATE CONTRACT (FIRE DEPARTMENT)

R:2020-243

A RESOLUTION IMPOSING LIEN FOR MUNICIPAL SERVICES (DEMO- REDEMPTION)

R: 2020-244

A RESOLUTION PROVIDING FOR THE INSERTION OF SPECIAL ITEM OF REVENUE IN THE BUDGET OF ANY COUNTY OR MUNICIPALITY PURSUANT TO N.J.S. 40A:4-87 (CHAPTER 159, P.L. 1948) (NJ Youth Corp)

R: 2020-245

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY IN SUPPORT OF CIVIL LIBERTIES AND EXPRESSING THE TOWN COUNCIL'S DISAPPROVAL OF THE EROSION OF CIVIL LIBERTIES BY GOVERNOR PHIL MURPHY

R: 2020-246

A RESOLUTION APPROVING 2020-2021 LIQUOR LICENSES WITHIN TOWN OF PHILLIPSBURG WITH A SPECIAL RULING 12:39

R: 2020-247

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY AWARDDING A CONTRACT TO KEYTECH IN THE AMOUNT OF \$2,075.00 FOR MATERIAL TESTING IN CONNECTION WITH HECKMAN STREET PHASE 3 AND 4 ROAD PROJECT

R: 2020-248

A RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY APPROVING THE AGREEMENT WITH SPATIAL DATA LOGIC, INC. AND AUTHORIZING THE MAYOR TO EXECUTE A LICENSE AGREEMENT

R: 2020-249

A RESOLUTION IMPOSING LIEN FOR MUNICIPAL EMERGENCY SERVICES (CORNER OF RAILROAD AVENUE AND MARSHALL STREET – EMERGENCY TREE CLEAN UP)

R: 2020-250

A RESOLUTION TO PROVIDE FOR INTERFUND TRANSFERS

R: 2020-251

RESOLUTION OF THE TOWN OF PHILLIPSBURG, AUTHORIZING A CHANGE ORDER INCREASE OF \$3,576.50 FOR THE FIREHOUSE GENERATOR PROJECT

14. **NEW BUSINESS**

15. **OLD BUSINESS – any tabled items from previous meeting**

R: 2020-232 TABLED 12-01-2020

RESOLUTION AUTHORIZING THE SALE OF CERTAIN LAND AND PROPERTY NO LONGER NEEDED FOR PUBLIC USE BY THE TOWN OF PHILLIPSBURG, PURSUANT TO N.J.S.A. 40A:12-13(A) ET SEQ.

R: 2020-233 TABLED 12-01-2020

RESOLUTION TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF A PAVING ESCROW AGREEMENT WITH AQUA NEW JERSEY, INC.

R: 2020 – 236 TABLED 12-01-2020

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN AND STATE OF NEW JERSEY, AUTHORIZING THE TOWN OF PHILLIPSBURG PLANNING BOARD TO UNDERTAKE A PRELIMINARY INVESTIGATION TO DETERMINE WHETHER THE PROPOSED STUDY AREA DISTRICT 3 (RECREATIONAL/HERITAGE) WHICH INCLUDES: BLOCK 917, LOTS 25, 26, AND 27; BLOCK 1502, LOTS 37, 38, 39 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 AND BLOCK 2012, LOT 2.01 QUALIFIES AS AN AREA IN NEED OF CONDEMNATION REDEVELOPMENT PURSUANT TO N.J.S.A. 40A:12A ET SEQ.

16. **PUBLIC PETITIONS**

17. **COUNCIL OPEN TIME**

18. **MOTIONS** NONE

19. **EXECUTIVE SESSION**

R: 2020-

A RESOLUTION TO PROVIDE FOR AN EXECUTIVE MEETING OF THE TOWN COUNCIL OF THE TOWN OF PHILLIPSBURG FOR THE PURPOSE OF CONSIDERING ...

20. **ADJOURNMENT**

"A"

Bill List Summary
REGULAR BILL LIST AS OF DECEMBER 15, 2020

		<u>Check No</u>	
1	Current Fund	1,248,428.71	_____
2	State & Federal Grants	402,922.58	_____
4	Capital Fund	372,558.81	_____
7	Sewage Utility Fund	530,104.28	_____
8	Sewage Capital Fund	263,530.25	_____
12	Planning Board Trust Fund	577.25	_____
12	Bridge Development	1,080.00	_____
13	Dog Trust Fund	0.00	_____
15	Public Defender Trust Fund	0.00	_____
16	Section 8	5,803.09	_____
17	General Trust Fund	2,865.95	_____
17	Commerce Park Redevelopment	0.00	_____
18	Bernards Township RCA	0.00	_____
20	Agency Fund	326.02	_____
21	Revolving Loan Fund	866.25	_____
Total Regular Bill List as DECEMBER 15, 2020		2,829,063.19	

Section 8 Rent Payments for 2020

16	Section 8 Program	161,068.00	_____
Total Section 8 Rent Payments		161,068.00	

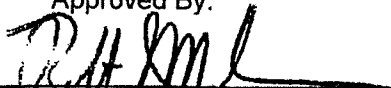
Pre-Paid Bill List as of DECEMBER 15, 2020

1	Current Fund	0.00
2	State & Federal Grants	36,540.00
4	Capital Fund	0.00
7	Sewer Utility Fund	0.00
8	Sewer Utility Capital	0.00
12	Planning Board Trust Fund	0.00
16	Section 8	0.00
17	General Trust Fund	0.00
18	Bernards Township RCA	0.00
20	Agency Fund	159,453.51
21	Revolving Loan Fund	0.00
Total Pre-Paid Bill List for DECEMBER 15, 2020		195,993.51

Grand Total All Funds

3,186,124.70

Approved By:


Robert J. Merlo, CFO


Todd Tersigni, Mayor

**Bill List Summary
REGULAR BILL LIST AS OF DECEMBER 15, 2020**

		<u>Check No</u>
1 Current Fund	2,881.22	_____
2 State & Federal Grants	0.00	_____
4 Capital Fund	0.00	_____
7 Sewage Utility Fund	0.00	_____
8 Sewage Capital Fund	0.00	_____
12 Planning Board Trust Fund	0.00	_____
12 Bridge Development	0.00	_____
13 Dog Trust Fund	0.00	_____
15 Public Defender Trust Fund	0.00	_____
16 Section 8	0.00	_____
17 General Trust Fund	9,300.00	_____
17 Commerce Park Redevelopment	0.00	_____
18 Bernards Township RCA	0.00	_____
20 Agency Fund	0.00	_____
21 Revolving Loan Fund	0.00	_____
Total Regular Bill List as DECEMBER 15, 2020	12,181.22	

Section 8 Rent Payments for 2020

16 Section 8 Program	0.00	_____
Total Section 8 Rent Payments	0.00	

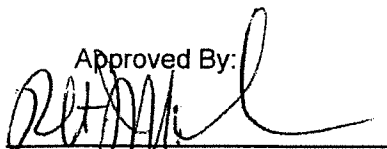
Pre-Paid Bill List as of DECEMBER 15, 2020

1 Current Fund	0.00
2 State & Federal Grants	0.00
4 Capital Fund	0.00
7 Sewer Utility Fund	0.00
8 Sewer Utility Capital	0.00
12 Planning Board Trust Fund	0.00
16 Section 8	0.00
17 General Trust Fund	0.00
18 Bernards Township RCA	0.00
20 Agency Fund	0.00
21 Revolving Loan Fund	0.00
Total Pre-Paid Bill List for DECEMBER 15, 2020	0.00

Grand Total All Funds

12,181.22

Approved By:



 Robert J. Merlo, CFO



 Todd Tersigni, Mayor

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

O: 2020-24

AN ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN STATE OF NEW JERSEY AMENDING THE CODE OF THE TOWN OF PHILLIPSBURG BY DELETING CHAPTER 140, *VOLUNTEER ORGANIZATIONS*, ARTICLE II, *CRIMINAL HISTORY BACKGROUND CHECKS*; CHAPTER 248, *DEMONSTRATIONS AND SPECIAL EVENTS*; AND CHAPTER 422, *PARKS* IN ORDER TO CREATE A NEW CHAPTER 422 ENTITLED *PARKS AND RECREATION*

BE IT ORDAINED by the Town Council of the Town of Phillipsburg that Chapter 140, *Volunteer Organizations*, Article II, *Criminal History Background Checks*; Chapter 248, *Demonstrations and Special Events*; and Chapter 422, *Parks* are hereby deleted in their entirety and replaced with a new Chapter 422, *Parks and Recreation*, as follows:

Section 1.

Chapter 422 - *PARKS AND RECREATION*

422-1 – Penalty.

Any person who violates section 422-6 of this Chapter shall have the following penalties:

- A. First offense; up to 50 hours community service and up to \$250 fine
- B. Second offense; up to 100 hours community service and up to a \$500 fine
- C. Third offense; up to 250 hours community serve and up to a \$1000 fine
- D. Fourth offense; up to 1000 hours of community service and up to a \$2,500 fine
- E. For offenses where property damage has occurred, cost of replacement shall be added to the fines

422-2. - Applicability.

All rules and regulations continued in this article shall apply to all parks and recreation areas and any other lands owned, leased or otherwise controlled by the Town of Phillipsburg for the purposes of recreation.

422-3. - Implementation.

The department of parks and recreation shall have the power to place signs within public parks and recreation areas implementing the rules and regulations contained in this article, and shall be directly responsible to the Business Administrator, or Mayor in the absence of a Business Administrator, for the supervision and control of such areas.

420-4 - Fees.

Unless otherwise noted in this chapter, the fees and charges for parks and recreation areas shall be in accordance with the fee schedule in O2020-13. Fees are non-refundable.

422-5 Hours of operation, availability

5.1. All community parks

11-04-2020 First Read

11-04-2020 Tabled

11-05-2020 Amended

12-01-2020 1st Read

12-15-2020 2nd Read

1. April 1 – October 15: One hour before sun rise to 10:00pm
2. October 16 – March 31: 60 minutes before sunrise to 60 minutes after sunset
3. No vehicle shall remain in a parking lot after designated closing hours.

5.2. All neighborhood playgrounds - January 1 – December 31: 30 minutes before sunrise to 30 minutes after sunset

5.3. Passive parks - January 1 – December 31: 60 minutes before sunrise to 60 minutes after sunset

5.4. Except for unusual and unforeseen circumstances, parks shall be open to the public during designated days/hours.

5.5. No person shall, on the grounds of race, color, national origin, age, gender, or handicap, shall be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination in any park facility, program, or activity.

5.6. Discrimination on the basis of residency, including preferential reservation, registration, or permits being granted, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residency in and park, facility, program, or activity.

422-6. - Acts prohibited, generally.

6.1. No person in any public park or recreation area shall:

- (1) Ride or drive except on established roads and ways, and then at a speed not in excess of ten miles per hour;
- (2) Willfully mark, deface, disfigure, injure, tamper with, displace or remove any buildings, bridges, tables, benches, fireplaces, grills, railings, paving materials, public utilities or appurtenances thereof, signs, notices or placards (whether temporary or permanent), monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- (3) Kill, injure or disturb any animal or bird, or damage any grass, tree, shrub or plant, or any building, sign, structure or equipment, upon any premises under the jurisdiction of the Town of Phillipsburg
- (4) Carry or use any firearms or explosives, air rifles, bows and arrows, slingshots, or any other weapons or devices potentially inimical to wildlife or dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device in the parks, playgrounds or other recreational areas;
- (5) Participate in or abet any game of chance except in such areas and under such regulations as may be designated by the Town of Phillipsburg.
- (6) Use any loud, violent, obscene or profane language, or act in a disorderly manner, or to commit any nuisance;
- (7) Scatter litter or any form of waste material; or have glass or any breakable material of any type within park and recreation area boundaries;
- (8) Disturb or interfere with any improvements made or being made in or about the parks or drives;
- (9) Enter such area other than via the designated entrance way
- (10) Give entertainments of any kind, transact business of any kind, hold meetings or assemblies, or establish or occupy a camp upon the grounds except by written consent of the department of parks and recreation;

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

- (11) Occupy any grounds for picnic parties, assemblages, business or entertainment except those designated by the department of parks and recreation;
- (12) Kindle, build, maintain, or use fire except in portable grills or places provided for such purpose. Any fire shall be continuously under the care and direction of a competent person from the time it is kindled until it is extinguished. No fire shall be built within 10 feet of any tree, building, or other structure.
- (13) Sell, vend or give away, in or upon any of the parks or drives, any articles of merchandise whatever without the express permission of the department of parks and recreation;
- (14) Solicit contributions for any purpose, whether public or private, except in such areas and under such regulations as may be designated by the Town of Phillipsburg
- (15) Operate or park any motor vehicles on any walkways/paths except for town personnel perform their duties.
- (16) Throw, cast, catch, kick, fly or strike any baseball, golf ball, football, basketball, model airplane or other object except in designated and approved places;
- (17) Use the park drives or parkways for the purpose of demonstrating any vehicle, or for the purpose of instructing another to drive or operate any vehicle, or for learning to drive or operate any vehicle;
- (18) Have alcoholic beverages in one's possession or consume any alcoholic beverage
- (19) Throw or place any foreign or waste substance in any lake, river or lagoon in or bordering upon any of the parks, or swim or bathe therein except in such places and at such times designated by the department of parks and recreation;
- (20) Throw, cast, lay or drop, discharge into, or allow to remain in the waters of the parks or of any tributary brook or stream, or storm sewer or drain flowing into such waters, any substance, matter or things which may or shall result in the pollution of such waters;
- (21) Fail to comply with regulations posted or signs adjacent to drives and entranceways;
- (22) Park any type of wheeled vehicle in a parking area designated for the use of handicapped persons unless such vehicle is identified with a special state license plate issued to handicapped persons;
- (23) Ride or drive any off-road vehicle or all-terrain vehicle (ATV), minibike or dirt bike, snowmobiles,
- (24) Violate any rules and regulations associated with participation in any recreation program or membership activity under penalty of revocation of such membership or loss of participation privileges for up to one full year, by the department of parks and recreation or its authorized representative;
- (25) Utilize any recreation or park area designated for use by permit only without having first been issued the requested permit;
- (26) Use any product or device designed for smoking
- (27) Coast with skates, skis, sleds, wagons, skateboards, or other like vehicles on wheels or runners, except for skates, bikes, scooters, and skateboards at the skate park.
- (28) Have in their possession, set, or otherwise cause to explode, discharge, or burn any fireworks, firecrackers, or explosives or flammable materials;
- (29) Ride, drive, or bring any horse within park limits, playgrounds, or other recreational area without department permission.
- (30) Have any dogs or other animals unless area is a designated for such animal use

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

(31) The Department of Parks and Recreation may implement rules required to promote health, safety, and good conduct of people utilizing facilities and participating in programs and activities.

422-7 – Permits Required

7.1. Picnic areas and pavilions.

- (1) Any individual or group desiring to use a picnic area or pavilion where there will be at least 10 people must obtain a permit through the department of parks and recreation and remit in advance the applicable fee set forth in the current Fee Schedule. The use of a picnic area or pavilion for 10 or more people without obtaining the approval of the department of parks and recreation is prohibited.
- (2) Reservations may be made up to 90 days in advance of the desired date.
- (3) Bounce houses slip and slides, and other inflatable or amusement games are not allowed.

- (4) Weekday use, Monday-Thursday, of pavilions is limited to groups of 10 to 40 people and to a maximum of four hours. Groups obtaining reservations may utilize the entire space of the reserved picnic pavilion.
- (5) A reservation of a picnic area or pavilion includes the use of electricity where applicable and the removal of all garbage accumulated during the event. Excessive cleanup of a picnic or pavilion area will result in a \$50 fee to the permit holder
- (6) Parking is limited to the designated areas.
- (7) All picnics/pavilion use are scheduled to end at sundown.
- (8) Grilling must be done in designated areas only with only the use of either charcoal or wood burning grills.

7.2. Ballfields. Individuals or private organizations who wish to organize and operate activities including, but not limited to, camps, clinics, practices, or games on any field must obtain a permit from the department of parks and recreation. The minimum number of participants, including the coach, to constitute any of the previously mentioned activities shall be 11.

7.3. Game courts. Individuals or private organizations who wish to organize and operate activities including, but not limited to, camps, clinics, practices, or games on any game court must obtain a permit from the department of parks and recreation. The minimum number of participants, including the coach, to constitute any of the previously mentioned activities shall be 6.

7.4. Special Services. Wedding ceremonies, funerals, and viewings are permitted for up to 2 hours with no fee.

7.5. Field lights. Use of the lighted field in Walters Park is restricted to four nights per week, and lights will be turned off no later than 10:00 p.m.

7.6. Special Events. Events outside of routine picnics, family gatherings, and youth focused camps, clinics, practices, and games shall be subject to section 13 of this chapter

7.7. Concession stands. Concession stands are available for use for picnics and sporting events and shall be available for a fee per the current fee ordinance.

7.8. Denials. If use of facility is denied by the Department of Parks and Recreation, an appeal can be made in writing to the Mayor. Town council shall be informed of all denials.

7.9. Certificates of Insurance. A certificate of insurance with a minimum of \$1,000,000 liability and \$100,000 property damage coverage is required for 422-7 B, C, E, F, and G.

11-04-2020 First Read

11-04-2020 Tabled

11-05-2020 Amended

12-01-2020 1st Read

12-15-2020 2nd Read

7.10. *Standards of Issuance.* The standards for the issuance of a permit pursuant to this Chapter shall include the following findings:

1. That the proposed event will not unreasonably interfere with or detract from the general public enjoyment of the public park or roadway to be utilized.
2. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation.
3. That the proposed activity or uses that are reasonably anticipated will not be likely to include violence, crime, or disorderly conduct.
4. That the facilities desired have not been reserved for other use at the date and hour requested in the application.
5. That the permittee shall be bound by all park rules and regulations and shall be liable for all loss, damage, or injury sustained by any person or organization.

422-8 Skate Park.

In addition to the rules and regulations contained in section 422-4, the following rules shall apply to any skate park in town:

- (1) The skate park is an unsupervised area and all users skate at their own risk.
- (2) All users must wear safety equipment; including helmet, elbow and kneepads. All equipment is to be worn per manufacturer's specifications (e.g., helmets strapped).
- (3) The hours of operation are from sunrise to sunset, year-round.
- (4) The facility is for skateboard, scooters, in-line skates, and bicycles. Motorized vehicles are not permitted.
- (5) Smoking within the skate park area is strictly prohibited.
- (6) No skating or rollerblading will be permitted when equipment is wet and/or icy.
- (7) Use of drugs, alcohol, profanity, abusive language and/or vandalism is strictly prohibited
- (8) Users will refrain from bringing any loose items onto the skate park paved area, including backpacks, food, beverages, etc.

422-9 - Game courts (tennis, basketball, and other games)

9.1 The following rules and regulations shall apply to the operation of all sport courts:

- (1) No dunking or hanging on rim of basketball standards
- (2) No instruction shall be permitted unless authorized by the department of parks and recreation
- (3) No spectators shall be permitted on any court surface at any time while in use.
- (4) No person shall enter upon any court surface unless such person is wearing appropriate footwear.
- (5) No pets or wheeled vehicles of any type shall be permitted on any court surface at any time.
- (6) No person shall do any act which may cause damage to the surface, nets, fencing or any other part of the tennis courts or surrounding property.

422-10 - Use of metal detectors.

The following rules and regulations shall govern the use of metal detectors:

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

10.1. Use of metal detecting objects are limited to Walters, Delaware River, Green Street, and Delaware Heights Parks.

(1) Use is not permitted on any ballfields

10.2. Digging tools for removing metallic objects shall be limited solely to an ice pick or a screwdriver with a width of not more than 0.5 inch.

(1) Digging is not permitted on any ballfields

10.3. All aluminum materials, pull rings, bottle caps, and other debris uncovered shall be picked up and deposited in trash receptacles.

10.4. Any person removing any metallic object from underneath the ground shall thereafter restore the surface ground cover to its original condition.

422-11 – Municipal Pool

The following rule and regulations shall govern the use of the municipal swimming pool

11.1. Membership

1. Open to all patrons regardless of residency. Membership is valid for one season only and shall have no bearing on eligibility in any successive season. Memberships purchased after August 1 of each year will be available at a 25% discount

11.2. Types of membership; discounts

1. Types of membership:

(a) Family membership, resident or nonresident. This membership includes up to 4 people in a household, one of them being an adult 21 or older.

(b) Parent/Child membership shall include 2 people, resident or nonresident, one of whom is age 18 or older, who reside in the same dwelling.

(c) Grandparent/Child shall include 2 people, resident or nonresident, one of whom is the grandparent caretaker of the other person who is under the age of 13.

(d) Individual membership, resident or nonresident, is anyone 13 years of age or over.

2. The Town of Phillipsburg reserves the right to request proof of residency or age.

3. Volunteer firefighters or EMS personnel who reside in the Town of Phillipsburg shall be given a pool membership free of charge.

4. Teenagers, ages 13-17, with High school ID, shall be eligible for a 10% discount off individual membership fees

11.3. Use of Pool; Operating Hours

(1) All members, upon either paying daily entry fee or providing proper membership identification to the pool staff, shall be entitled to use the pool facility.

(2) Use of the pool shall only be during regular operating hours which are set by the Department of Parks and Recreation based on the operating budget provided by Town Council.

11.4. Pool Rules; Enforcement

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

(1) The Department of Parks and Recreation may establish pool rules prior to each season that are compliant with all local, county, and state regulations and fall within industry standards for pool operation

(2) The Pool Manager may implement temporary pool rules to ensure the safety of the pool patrons. This shall only be done if approval from the Director of the Department is given.

(3) All rules and regulations must be posted according to county and state regulations.

(4) All pool staff are responsible for the enforcement of pool rules and regulations.

422-12 – Dog park

The following rules and regulations shall govern Dog Parks

12.1. Permitted uses.

Residents of the town may bring their dogs to the dog park for off leash exercise and play. Such activities shall always take place within the fenced area of the dog park. Any person using the facilities of the dog park shall be subject to all the rules and regulations set forth herein, as well as all other ordinances of the town.

12.2. Rules and regulations of the dog park.

(1) Operating hours for the dog park are from 8am until sunset. The town reserves the right to adjust and close the park at any time without prior notice. The town shall not provide any supervision during dog park operating hours. All persons using the dog park assume all risks associated with the use of the dog park. Residents shall always be responsible for the supervision and control of their dogs. Under no circumstances shall any dog go unattended.

(2) All dogs must always be accompanied by at least one resident who is 18 years of age or older. There is a 2 dog per adult maximum in the dog park. There shall be a maximum of 10 dogs permitted in the large

gated area of the dog park. Up to 5 small dogs, under 25 pounds, are permitted in the small fenced area of the dog park. Dogs weighing more than 25 pounds are prohibited from entering the small dog area.

(3) Children under the age of 6 years are not permitted in the dog park. Children between the ages of 6 years and 12 years shall always be accompanied and supervised by at least one responsible adult 18 years of age or older.

(4) All dogs and puppies must be licensed by the town and have all inoculations up to date.

(5) All dogs must always wear a collar with a current license tag while in the dog park. Spiked, pronged, or choke collars are prohibited.

(6) All owners must clean up after their dogs.

(7) All puppies using the dog park must be at least 4 months old.

(8) Dogs who are in heat shall not be allowed in the dog park.

(9) Dogs may go unleashed while in the dog park, however, all persons accompanying a dog or puppy must use a leash when taking the dog or puppy to and from the dog park.

(10) All persons who bring play items to the dog park shall remove same before leaving the dog park. No rawhide or other dogfood products are permitted inside the gated area.

(11) Dogs displaying aggressive behavior towards other dogs and or people shall be removed from the dog park by the owner. Continued displays of aggressiveness by any dog may result in prohibiting the owner or other responsible adult from bringing the dog to the dog park. Any dog who bites any person shall not be allowed thenceforth to use the dog park.

(12) All dog bites shall immediately be reported to the Animal Control Officer.

(13) Food and beverage for human consumption is prohibited in the dog park

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

(14) Smoking is prohibited in the Dog park.

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

12.3. Fee; Enforcement

- (1) Fees for resident use of dog park is \$20 and \$40 for non-resident use, per annum. Resident applicants must ensure the dog is licensed and must execute a release of liability, both through the Office of the Town Clerk. Non-Resident applicants must show proof of rabies vaccination and execute a release of liability through the Town Clerk
- (2) Enforcement of dog park rules and regulations is the responsibility of the Animal Control Officer or other law enforcement officer in the absence of an Animal Control Officer

422-13 – Special Events.

13.1 A. Any person or organization desiring to hold any event, i.e. concert, race, walkathon, fair, carnival, festival, celebration, show, or other similar event in or upon any public grounds, park, or road of the Town of Phillipsburg must first apply for, and obtain a permit from the Department of Recreation in accordance with the requirements of this chapter. Any such concert, race, walkathon, fair, carnival, festival, celebration, show, or other similar event, which is likely to require the expenditure of municipal resources in the form of the Police Department, Fire Department, Department of Public Works, Recreation Department and/or Emergency Medical Services salaries, wages, or other expense, shall constitute a special event. To obtain a permit for a special event, the applicant shall also satisfy the requirements of this chapter.

B. In order to further define "a special event" the following shall be inclusive: closing of a public street; the blocking or restriction of public property; the sale of merchandise, food, or beverages on public property or on private property where otherwise prohibited by ordinance; the installation of a stage, band shell, trailer, van, portable building, grandstand, or bleachers on public property, or on private property where otherwise prohibited by ordinance; the placement of portable toilets on public property, or on private property where otherwise prohibited by ordinance; or placement or temporary "no parking" signs on a public right-of-way.

C. This chapter shall apply to any event defined in 422-13.1 for which at least 25 people shall be present except for:

1. Town sponsored programs/events operated by any municipal departments
2. Routine pavilion rentals and picnics at Walters Park and Green Street Park
3. Town sponsored youth sports programs operating practices and games.
4. Funeral processions
5. Legal labor picketing on sidewalks
6. Organized protests per constitutional rights

13.2 Application for Permit.

A. All applicants shall complete a preapplication meeting via phone or in person to discuss the feasibility of the event, availability of facilities, and discuss the application process.

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

B. Only upon completion of 422-13.2(A), a person or organization seeking issuance of a permit hereunder shall file the application with the Superintendent of Recreation on a paper form, electronic form, or via other designated submission technique to be

C.

provided by the Superintendent of Recreation for that purpose, on which form the applicant shall furnish the following information:

1. The name, address and telephone number of the applicant.
2. The name, address, and telephone number of the person, persons, corporation, or association sponsoring the activity.
3. A detailed site plan that would show the area or route to be used, along with proposed parking areas, structures, tents, fences, barricades, signs, banners, and rest room facilities, more commonly referred to as a "footprint".
4. The date(s) and hours for which the permit is desired.
5. The location of the event for which the permit is desired, and complete details as to how the applicant intends to provide for security and traffic control.
6. The number of contestants, participants, spectators, and/or other people that could reasonably be anticipated to attend the event.
7. A detailed description of the municipal resources or services that will be required to be provided in connection with the event.
8. The following information shall be included with the application as attachments:
 - a. A detailed emergency management plan for the site.
 - b. Certificate of insurance
 - c. Names of all presenters/acts/demonstrators to be scheduled during the event
 - d. A signed statement whether applicant or sponsoring organization has ever had a permit revoked by this or any other agency. This may also act as a reference letter from any other agency where permits were issued.
9. Application must be submitted no later than ninety (90) days prior to any such event.

C. Upon verification that the application is complete, the Superintendent of Recreation shall refer the application to the Municipal Clerk, Business Administrator, Fire Chief, Police Chief, Emergency Squad, Mayor and all members of Town Council for preliminary review in accordance with Section 13.3 of this chapter.

13.3 Review of Application; Decision by Town Council.

A. The department heads listed in 13.2(C) shall review the applications and shall present their recommendations including estimated costs to the Superintendent of Recreation for final review within ten (10) business days upon their receipt. The Superintendent of Recreation shall present a recommendation to the governing body during the next regularly scheduled meeting. If any Council members voice concern that the event to be held requires additional investigation, he or she may direct that the application be sent back for additional information.

11-04-2020 First Read

11-04-2020 Tabled

11-05-2020 Amended

12-01-2020 1st Read

12-15-2020 2nd Read

The Council shall make the final determination by majority vote whether to issue a permit for a special event, and if it is determined that there is a need for certain conditions and restrictions as may be reasonably necessary to insure that the standards set forth in Section 13-2 are satisfied. These conditions and restrictions shall be approved by resolution of the Council.

B. If permit is denied, the applicant may, within 3 days of denial notification, request in writing to the Municipal Clerk an appeal to overturn the decision. The Town Council may act upon the appeal at its next regularly scheduled meeting. If the aggrieved person wishes to request a special meeting, this shall be done in writing to the Municipal Clerk. Cost of a special meeting for this purpose shall be \$750. A written decision of the appeal shall be sent via certified mail to the applicant and shall include the reason for denial.

13.4 Standards for Permit Issuance; Deposit; Fees; Waiver of Fees; Alcohol

A. The standards for the issuance of a permit pursuant to this Chapter shall include the following findings:

1. That the proposed event will not unreasonably interfere with or detract from the general public enjoyment of the public park or roadway to be utilized.

2. That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation.

3. That the proposed activity or uses that are reasonably anticipated will not be likely to include violence, crime, or disorderly conduct.

4. That the facilities desired have not been reserved for other use at the date and hour requested in the application.

5. Applicant is following all local, county, state laws and regulations with regards to permits, inspections, food service, noise, illumination of event area

6. Suitable toilet facilities will be kept during duration of event .

B. All fees charged shall be in accordance with current municipal ordinances and shall include, but not limited to: Application fee, event fee, vehicle/parking fee, labor hour fees, clean up deposits, and clean up fees.

C. A deposit of one hundred (100%) percent of the estimated costs shall be paid not less than thirty (30) days before the event or a permit will not be issued. All fees paid are non-refundable.

D. A fee waiver may be requested and shall only be issued by town council with the following conditions:

1. These groups are eligible for fee waivers:

a. Veterans Groups - up to 75% of fees can be waived

b. 501(c)3 Non-profit organizations - up to 50% can be waived

2. Labor, garbage removal, and alcohol fees cannot be waived or discounted

3. The request for fee waiver shall accompany the completed application.

E. Consumption of alcohol at an event held town property is at the sole discretion of the Town Council. If alcohol is permitted at the event, a fee of \$500 shall be assessed. An official application must be made through the ABC.

11-04-2020 First Read

11-04-2020 Tabled

11-05-2020 Amended

12-01-2020 1st Read

12-15-2020 2nd Read

1. All events where alcohol is to be served shall have a minimum of 1,000 square feet of space designated solely for sale and consumption.
2. No alcohol may be sold or consumed outside of this space

13.5 – Liability Insurance; Inspection; Revocation of Permit.

- A. A permit holder shall be bound by all applicable municipal ordinances, rules, and regulations. The person or persons to whom the permit is issued shall be liable for all loss, damage, or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.
- B. The permittee is required to submit to the Superintendent of Recreation with the initial application a certificate of insurance with coverages not less than \$1,000,000 for bodily injury or death and \$100,000 for property damage. The permittee shall be responsible for all additional costs incurred if, as a result of this activity, additional resources are needed, such as but not limited to manpower and/or equipment. Additional insurance policies from vendors may be requested and shall have the same coverage limits
- C. The Town of Phillipsburg reserves the right to inspect any premises for which an application for special event has been made at any time. An inspection shall be required:
 1. 10 days prior to event to finalize site details.
 2. The day after the event to complete a detailed walk through of the site to determine if any additional fees are needed to be assessed.
- D. The Superintendent of Recreation and Chief of Police shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown.

13.6 – Garbage; Restroom Facilities; Parking

- A. All trash accumulated at the permitted event location is the responsibility of the permittee and shall be disposed of in accordance with all local, county, and state laws.
- B. If the permittee wishes to have the municipality remove garbage accumulated from the event, the following shall apply:
 1. A garbage removal deposit of \$600 shall be assessed
 2. Deposit is refundable less a \$200 per pickup truck load of trash removed from event charge.
 3. If more than 3 truckloads of garbage are removed, a \$200 per additional truckload fee shall be assessed.
- C. The permittee shall be responsible to cover the cost of adequate portable restroom facilities.
 1. Portable restrooms are billed at cost plus a \$10 per unit scheduling fee
 2. Number of portable toilets are determined based off industry standard recommendations for the number of participants and hours of the event.
 3. A permittee can schedule their own restrooms facilities if they choose. Proof of adequate facilities shall be required in the site plan.
- D. If park restrooms are used, a \$250 clean up fee per structure shall be assessed

11-04-2020 First Read

11-04-2020 Tabled

11-05-2020 Amended

12-01-2020 1st Read

12-15-2020 2nd Read

- E. Parking fees below shall be assessed based on the number of participants and calculated based on 4 people per vehicle:
1. Up to 120 people is \$2/car
 2. Up to 240 people is \$2.50/car
 3. Up to 360 people is \$3/car
 4. Up to 480 people is \$3.50/car
 5. Over 481 people is \$4/car

13.7 – Offenses.

A person commits an offense if he or she:

- A. Commences or conducts an event without a permit; or
- B. Fails to comply with any requirement or provision of an event permit of this Chapter;
or
- C. Hampers, interferes or impedes or obstructs with any special event or with any person or property being used in said special event.
- D. Possesses a dangerous weapon defined as any device designed or capable of being used to inflict serious injury upon a person or property, including, but not limited to, firearms, knives of any kind or type, razors or razor blades, metallic knuckles, clubs, blackjacks and night stick, and any device designed to cause an explosion.

13.8 – Violations and Penalties.

A person who violates a provision of this section shall be guilty of a separate offense for each day or part thereof during which the violation is committed or continued. Each offense shall be punishable by a fine of not less than \$1000 but no more than \$2,500. Penalties are in addition to revocation of permit, not in lieu of.

422-14 – Background Checks

14.1 Non-Sponsored Youth Programs - Criminal background checks- Required for use of Municipal facilities.

A. Prior to any club or organization, not defined as a municipal-sponsored youth program, being authorized to use municipal-owned facilities for functions participated in by children, all adults, those persons 18 years of age or older, in any way assisting in the function, including but not limited to coaches, assistant coaches, or similar positions, must provide the Municipal Clerk and Business Administrator with findings of a criminal history background check obtained from the SBI or third-party independent agency.

B. The submission of background check findings must be based upon a check performed within three (3) years of the start of use of the municipal-owned facility. In the case of coaches performing duties as employees of a school district, the

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12-01-2020 1st Read
12-15-2020 2nd Read

policy of background checks adopted by the individual school district shall be used to establish eligibility for use of municipal-owned facilities. In all cases the background check must comply with the provisions of any applicable laws regarding same, but not less detailed than those performed by the municipality for individuals involved in administering municipal-sponsored youth programs. All fees for individuals not administering a non-municipal- sponsored program shall be borne by the individual or program with which they are participating.

14.2 Municipal-Sponsored Youth Programs - Background checks.

A. All adults, those persons 18 years of age or older, including but not limited to coaches, assistant coaches, or similar positions involved in educating, directing or supervising youth, and in any way assisting in a municipal-sponsored function participated in by children, shall submit sufficient information on forms supplied by the Municipal Clerk. Applications for background checks shall be processed by the Municipal Clerk, Business Administrator or designee, or a third party agency.

B. All league officers and/or those individuals in charge of each recreation program are required to ensure compliance with this chapter for that league or program. The President or leader of each recreation program shall file an annual roster of individuals that are required to participate in the background check procedures of this chapter to the Municipal Clerk and Business Administrator. The roster shall be on forms supplied by the municipality and shall contain a certification as to the accuracy and completeness of the roster and individual names. Any person who knowingly certifies a background check roster that excludes an individual required to be checked shall be in violation of this chapter and laws regarding false swearing.

C. The Town may, in its discretion, engage the services of a third-party independent agency to conduct the criminal history record background checks authorized under this chapter.

14.3 Qualification - ID Card.

A. Individuals engaged in providing recreation opportunities for, or on behalf of, the municipality of Philipsburg shall be issued identification cards with appropriate expirations based upon the date of their individual background check. Individuals issued identification cards are required to display their card or be able to supply evidence the card is on their possession if asked, while in performance of their duty involving youth programs.

14.4 - Disqualification

Upon receipt of a completed background check, notification of disqualification based on the criminal history record shall be made to the employee or volunteer by either the

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

Municipal Clerk or third-party independent agency conducting the criminal history record background check. The specific criminal violation is not identified on the notification. A copy of such disqualification shall also be kept on file in the office of the Municipal Clerk.

A. Details in the background check that result in a negative determination by the third-party independent agency are not afforded to the Municipality and are only available to the applicant upon making a formal request to the or third-party independent agency.

B. In the event the criminal background check reveals any prior convictions for crimes or offenses which negatively impact the health, safety and welfare of children, said person shall not be qualified to participate in any official capacity in any function form persons under the age of 18 years held at any Town-owned facilities. Such offenses shall include, but not to be limited to:

1. In New Jersey, any crime or disorderly persons offense: involving danger to the person, meaning those crimes and disorderly persons offense set forth in N.J.S.A. 2C:11-1 et seq., such as criminal homicide; N.J.S. A. 2C:12-1 et seq., such as assault, reckless endangerment, threats, stalking; N.J.S.A. 2C:13-1 et seq., such as kidnapping; N.J.S..A. 2C:14-1 et seq., such as sexual assault; or N.J.S.A. 2C:15-1 et seq., such as robbery;

(a) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq., such as endangering the welfare of a child;

(b) involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes;

(c) involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S. 2C:35-10.

(d) any 4th degree offense or higher.

2. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in this section.

(e) Anyone currently under investigation for a potential disqualifying crime shall be ineligible until such investigation is complete and the person is cleared of charges.

C. The list of crimes and violations contained in this section is for illustrative purposes only and shall not be construed as a limitation on those criminal activities or violations that

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12-01-2020 1st Read
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would be grounds to disqualify a person from assisting with youth-related activities as indicated herein.

D. Refusal by individuals required to submit to background checks will result in an immediate dismissal of the individual from any municipal-sponsored activities requiring background checks. In addition, refusal to comply with this chapter by any individual falling within the scope of requirements for non-sponsored youth programs will forfeit that individual's ability to participate with the respective program. Refusal of a non-municipal sponsored youth program to subscribe to the requirements of this chapter shall forfeit that programs ability to use municipal facilities and shall be subject to the fines listed in this chapter.

14.5 – Frequency of Background Checks

A. All non-sponsored youth programs that have individuals subject to this chapter shall supply background checks for all its participants prior to the individual being able to participate at any function at a municipal-owned facility to the extent covered by this chapter. Thereafter, every three (3) years a new background check shall be submitted to the Municipal Clerk and Business Administrator.

B. All municipal sponsored youth programs that have individuals subject to this chapter shall direct those individuals to the Municipal Clerk and Business Administrator for background checks prior to the individual being able to participate at any function sponsored by the municipality of PHILLIPSBURG. Thereafter, every three (3) years a new background check shall be submitted required.

2. Individuals involved in municipal-sponsored youth programs who are required to undergo background checks shall be given an interim approval for participation only evidence of submission to the third-party independent agency for a background check is provided. Interim approvals shall only be valid for the period of time that it takes to receive background checks results. Such interim approval shall not be valid for a period of time exceeding 30 days. Only one interim approval may be granted per individual.

14.6 - Appeals

A. Any person whose criminal history background check disqualifies that person from employment or from volunteering, may appeal his or her disqualification.

11-04-2020 First Read

11-04-2020 Tabled

11-05-2020 Amended

12-01-2020 1st Read

12-15-2020 2nd Read

1. *Appeal re: Accuracy of Record.* A person may challenge the accuracy of the criminal history record.

(a) A challenge to the accuracy of the report shall be filed with the municipal Chief of Police or other chief law enforcement officer, who shall coordinate the challenge with State Bureau of Identifications (SBI) or third-party independent agency.

2. *Appeal Alleging Rehabilitation.* A person may claim to be rehabilitated.

(a) No person may appeal a disqualification on the grounds of rehabilitation, if convicted of a 4¹ Degree Offense or Higher, if the person has been disqualified because that person has been convicted, adjudicated delinquent or acquitted by reason of insanity of aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of *N.J.S.A. 2C:13-1*; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of *N.J.S.A. 2C:24-4*; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of *N.J.S.A. 2C:24-4*; luring or enticing pursuant to section 1 of P.L. 1993 c.291 (*N.J.S.A. 2C:13-6*); criminal sexual contact pursuant to *N.J.S.A. 2C:14-3b* if the victim is a minor; kidnapping pursuant to *N.J.S.A. 2C:13-2*, or false imprisonment pursuant to *N.J.S.A. 2C:13-3* if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph 3 of subsection b. of *N.J.S.A. 2C:34-1*; or an attempt to commit any of these enumerated offenses

(b) *Appeals Committee.* An appeal based on rehabilitation shall be made to an Appeals Committee, which shall consist of the Municipal Clerk, Business Administrator or Designee, and a class A member of the Recreation Advisory Committee. Any such appeal must be made within thirty (10) days of receipt of the notice of disqualification.

(c) *Rehabilitation Criteria.* In determining whether a person has affirmatively demonstrated rehabilitation, the Appeals Committee shall consider the following factors:

- 1) The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
- 2) The nature and seriousness of the offense;
- 3) The circumstances under which the offense occurred;
- 4) The date of the offense;
- 5) The age of the person when the offense was committed;
- 6) Whether the offenses was an isolated or repeated incident;
- 7) Any social conditions which may have contributed to the offense; and,
- 8) Any other evidence of rehabilitation, including good conduct in prison or the community, counseling or psychiatric treatment received, acquisition of additional

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

academic or vocational schooling, successful participation in correctional work- release programs, or the recommendation of those who have had the person under their supervision.

(d) If the Appeals Committee determines that the disqualified person has been successfully rehabilitated, it shall enter that person's name on the list of qualified employees and volunteers maintained by the Municipal Clerk and Business Administrator

14.7 – Privacy and Confidentiality

A. All criminal background checks supplied to the Municipal Clerk shall be filed and maintained in a secure and locked cabinet or digital file with a security to only the Clerk. This shall not be available to the public. The Municipal Clerk shall take appropriate steps to safeguard such records by paper or digital means. The records shall be exempt from public disclosure under the common law or the New Jersey Right to Know Law. The records shall only be retained for such period as is necessary to serve their intended and authorized purpose, and thereafter shall be destroyed.

B. Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to the members of the review committee, as authorized by federal or state statute, rule or regulation, executive order, local ordinance or resolution regarding obtaining and disseminating of criminal history record information obtained under this section.

C. The review committee shall limit its use of criminal history record information solely to the individual for which it was obtained, and the criminal history record information furnished shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. This information shall be limited solely to the authorized purpose for which it was given, and it shall not be disseminated to any unauthorized persons. Any person violating federal or state regulations governing access to criminal history records information may be subject to criminal and/or civil penalties.

14.8 Penalties

Failure to comply with this section may result in the municipality withholding funding for the non-profit youth-serving organization, prohibiting the use of facilities, or withholding funding for facility maintenance.

A. Any individual or organization who has been advised, verbally or in writing of his/her disqualification to participate and continues to participate upon conviction thereof in a proceeding before a court of competent jurisdiction be subject to the following fines:

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
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1. A fine of not less than two hundred fifty dollars (\$500.00) and not more than one two thousand five hundred dollars (\$2,500.00);
2. Revocation of use of municipal facilities for the term:
 - a. First offense; one year from date of offense
 - b. Second offense; indefinite revocation of municipal facilities
3. Each continuing violation of this chapter shall constitute a separate offense.

422-15 - Enforcement.

- A. The Town of Phillipsburg or its designated agents shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter. No person shall interfere with or fail to obey any police officer or recreation personnel in the proper performance of his or their duties.
- B. The Town of Phillipsburg or its designated agents shall have the authority to eject from any park any person(s) acting in violation of this chapter.
- C. The Town of Phillipsburg or its designated agents shall have the authority to seize and confiscate any property, thing or device in the park areas or used in violation of this chapter.
- D. This chapter shall also be enforced by the Phillipsburg Police Department of the municipality.

Section 2:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 3:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 4:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

11-04-2020 First Read
11-04-2020 Tabled
11-05-2020 Amended
12-01-2020 1st Read
12-15-2020 2nd Read

ATTEST:

TOWN OF PHILLIPSBURG

VICTORIA L. KLEINER, RMC
Municipal Clerk

TODD TERSIGNI
Mayor

DATED:

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their November 04, 2020 meeting.

VICTORIA L. KLEINER, RMC

1ST Read 11-04-2020 TABLED
1st Read 12-01-2020
Amended 12-01-202
2ND READ 12-15-2020

O: 2020-26

**AN ORDINANCE AMENDING THE SALARY RANGE FOR
THE SCHOOL RESOURCE OFFICER OF THE TOWN OF PHILLIPSBURG**

WHEREAS, the Town Council of the Town of Phillipsburg, Warren County, New Jersey, is required to establish by Ordinance the salary or salary ranges of officers and employees of the Town of Phillipsburg; and

WHEREAS, the Town wishes to amend the salary range for the School Resource Officers.

NOW, THEREFORE, BE IT ORDAINED, that the salary range for the School Resource Officers is hereby amended as follows:

SECTION I

SCHOOL RESOURCE OFFICER

MINIMUM

MAXIMUM

\$25/HOUR

\$30/HOUR

SECTION II

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION III

If any article, section, subsection, paragraphs, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION IV

This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

TOWN OF PHILLIPSBURG

VICTORIA L. KLEINER, RMC
Municipal Clerk

TODD TERSIGNI
Mayor

DATED:

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their November 04, 2020 meeting.

VICTORIA L. KLEINER, RMC

**TOWN OF PHILLIPSBURG
O: 2020-27**

**ORDINANCE OF THE TOWN OF PHILLIPSBURG, IN THE
COUNTY OF WARREN, STATE OF NEW JERSEY
PROVIDING FOR A SPECIAL EMERGENCY
APPROPRIATION PURSUANT TO N.J.S.A. 40A: 4-53(m)
TO FUND A DEFICIT IN OPERATIONS**

WHEREAS, the Governor of the State of New Jersey (the "State") has heretofore declared a public health emergency and a state of emergency in response to the outbreak of the coronavirus disease 2019 as announced by the World Health Organization ("COVID-19"); and

WHEREAS, N.J.S.A. 40A:4-53(m) provides that a municipality may, subject to the approval of the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs (the "Director"), adopt an ordinance providing for a special emergency appropriation for the funding of a deficit in operations attributable to COVID-19; and

WHEREAS, the Town of Phillipsburg (the "Town") has experienced COVID-19 related revenue loss during the budget year 2020, and

WHEREAS, in order to qualify for a special emergency under the provisions of N.J.S.A. 40A:4-53, as amended by P.L. 2020, c.74, the Town must, prior to December 1, make application to the Director of the Division of Local Government Services to obtain an approval of the certification of the special emergency and the resulting deferred charge in advance of the close of budget year 2020, and

WHEREAS, the Chief Financial Officer of the Town has prepared and executed a certification in the form prescribed by the Director, a copy of which has been presented to this meeting (the "Certification"), certifying that the deficit balance anticipated to be reported on the Town's "Results of Operations" schedule of the annual financial statement for the current fiscal year is an aggregate amount equal to \$400,000.00 allocated \$400,000.00 to the General Fund; and

WHEREAS, the Town Council, by resolution adopted on November 23, 2020 by a majority of the fully governing body, approved the Certification and the submission of the application to the Director in accordance with N.J.S.A. 40A: 4-53(m); and

WHEREAS, the Town Council now wishes to make a special emergency appropriation in accordance with N.J.S.A. 40A:4-53(m) and adopt an ordinance authorizing such special emergency appropriation in the amount of set forth above to provide for the funding of such deficit balance (the "Ordinance");

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY AS FOLLOWS:

SECTION 1. Pursuant to N.J.S.A. 40A:4-53(m) the Town has determined and does hereby authorize a special emergency appropriation in the aggregate amount of an aggregate amount equal to \$400,000.00 allocated \$400,000.00 to the General Fund, subject to the approval of the Director (the "Special Emergency Appropriation").

SECTION 2. The amount to finance such Special Emergency Appropriation shall be provided for in succeeding annual budgets beginning in 2022 by the inclusion of at least 1/5 of the amount authorized pursuant to N.J.S.A.40A-53 and 40A:4-55.

SECTION 3. The Mayor and Chief Financial Officer are each hereby authorized and directed to determine all matters in connection with the Special Emergency Appropriation not determined by this or a subsequent ordinance, all in consultation with the Town Auditor, Town Attorney or Bond Counsel, and the manual or facsimile signature of the Town's Mayor or Chief Financial Officer upon any documents shall be conclusive as to all such determinations. The Mayor, Chief Financial Officer, Clerk and any other Town Representative, including but not limited to, Bond Counsel, the Town Attorney, Town Municipal Advisor, and the Town Auditor, are each hereby authorized and directed to take such actions or refrain from such actions as are necessary to undertake the Special Emergency Appropriation, including but not limited to, the negotiation of any and all contracts, agreements and documents for the Special Emergency Appropriation, and any all such actions or inactions taken by the aforesaid Town Representatives heretofore are hereby ratified and confirmed, *nunc pro tunc*.

SECTION 4. A certified copy of this ordinance shall be filed with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs (the "Director").

SECTION 5. This ordinance is subject to the approval of the Director and shall become effective in accordance with law and upon approval of the Director.

**ADOPTED ON FIRST READING
DATED: November 23, 2020**

**VICTORIA L. KLEINER,
Clerk of the Town of Phillipsburg**

**ADOPTED ON SECOND READING
DATED: December 15, 2020**

**VICTORIA L. KLEINER,
Clerk of the Town of Phillipsburg**

**TOWN COUNCIL OF THE TOWN OF PHILLIPSBURG
PUBLIC NOTICE
NOTICE OF PENDING ORDINANCE**

The ordinance, the title of which is published herewith, was introduced and adopted upon first reading at a meeting of the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, held on November 23, 2020. It will be further considered for final passage, after public hearing thereon, at a virtual meeting of the governing body to be held on December 15th at 7:00 p.m. Information regarding remote access to the meeting may be found on the Town's website at www.phillipsburgnj.org

The purpose of this ordinance is to authorize a special emergency appropriation in accordance with N.J.S.A. 40A:4-53(m), in the aggregate amount of \$400,000.00 allocated \$400,000.00 to the General Fund to fund a deficit in operations.

A copy of said ordinance may be obtained from the Office of the Clerk of the Town during regular municipal office hours at the Town's Municipal Building, 120 Filmore St, Phillipsburg in said County.

**TOWN OF PHILLIPSBURG
ORDINANCE NUMBER 27**

**ORDINANCE OF THE TOWN OF PHILLIPSBURG, IN THE COUNTY OF WARREN,
STATE OF NEW JERSEY PROVIDING FOR A SPECIAL EMERGENCY
APPROPRIATION PURSUANT TO N.J.S.A. 40A: 4-53(m) TO FUND A DEFICIT IN
OPERATIONS**

VICTORIA L. KLEINER, Town Clerk

**TOWN COUNCIL OF THE TOWN OF PHILLIPSBURG
PUBLIC NOTICE**

NOTICE OF THE DATE OF PASSAGE OF ORDINANCE

The ordinance, the title of which is published herewith has been finally adopted by the Town Council of the Town of Phillipsburg, in the County of Warren, State of New Jersey on December 15, 2020.

The purpose of this ordinance is to authorize a special emergency appropriation in accordance with N.J.S.A. 40A:4-53(m), in the aggregate amount of \$400,000.00 allocated \$400,000.00 to the General Fund to fund a deficit in operations.

**TOWN OF PHILLIPSBURG
ORDINANCE NUMBER 27**

**ORDINANCE OF THE TOWN OF PHILLIPSBURG, IN THE COUNTY OF WARREN,
STATE OF NEW JERSEY PROVIDING FOR A SPECIAL EMERGENCY
APPROPRIATION PURSUANT TO N.J.S.A. 40A: 4-53(m) TO FUND A DEFICIT IN
OPERATIONS**

VICTORIA L. KLEINER, Town Clerk

CERTIFICATE OF INTRODUCTION

I, the undersigned Clerk of the Town of Phillipsburg, in the County of Warren, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a meeting of the governing body of the Town duly called and held on November 23, 2020 at 7 p.m. via Zoom Phillipsburg, in said County, and that the following was the roll call:

Present: Piazza, McVey, Fulper, DeGerolamo, Wyant
Absent: none

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town this 24th day of November 2020.

(SEAL)

VICTORIA L. KLEINER, Town Clerk

CERTIFICATE OF FINAL ADOPTION

I, the undersigned Clerk of the Town of Phillipsburg, in the County of Warren, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a meeting of the governing body of the Town duly called and held on December 15th, 2020, at 7 p.m. via Zoom meeting, Phillipsburg in said County, and that the following was the roll call:

Present:

Absent:

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town this ____ day of _____, 2020.

(SEAL)

VICTORIA L. KLEINER, Town Clerk,

CLERK'S CERTIFICATE

I, **VICTORIA L. KLEINER**, DO HEREBY CERTIFY that I am the Clerk of the Town of Phillipsburg, in the County of Warren (the "Town"), a municipal corporation organized and existing under the laws of the State of New Jersey, and that as such I am duly authorized to execute and deliver this certificate on behalf of the Town. In such capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the Town and the records relative to all resolutions and ordinances of the Town. The representations made herein are based upon the records of the Town. I DO HEREBY FURTHER CERTIFY THAT:

(1) Attached hereto is the ordinance introduced on November 23, 2020, finally adopted on December 15, 2020 and approved by the Mayor on _____, 2020 (if applicable).

(2) After introduction, the ordinance was published as required by applicable law on _____ in _____ (name of newspaper).

(3) Following the passage of the ordinance on first reading, and at least seven (7) days prior to the final adoption thereof, I caused to be posted in the principal municipal building of the Town at the place where public notices are customarily posted, a copy of said ordinance and a notice that copies of the ordinance would be made available to the members of the general public of the Town who requested copies, up to and including the time of further consideration of the ordinance by the governing body. Copies of the ordinance were made available to all who requested same.

(4) After final passage, the ordinance was duly published as required by law on _____ in _____ (name of newspaper).

(5) The ordinance has not been amended, added to, altered or repealed and said ordinance is now in full force and effect.

(6) A certified copy of the ordinance has been filed with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs as applicable.

(7) The official seal of the Town is the seal, an impression of which is affixed opposite my signature on this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town this ____ day of _____, 2020.

(SEAL)

VICTORIA L. KLEINER, Town Clerk

O: 2020-28
**AN ORDINANCE OF THE TOWN OF PHILLIPSBURG CONCERNING
DEVELOPMENT FEES**

BE IT ORDAINED by the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey as follows:

Section 1.

The Code of the Town of Phillipsburg is hereby amended by creating a new chapter 29 entitled *Development Fees* as set forth below.

§29-1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c) Pursuant to the Executive Reorganization Act of 1969, P.L. 1969, c. 203 (C. 52:14C-1 et seq.), the Governor abolished COAH and transferred all functions, powers, and duties to the Commissioner of the Department of Community Affairs, effective August 29, 2011. Any and all references to COAH shall mean the Department of Community Affairs (the Department).
- d) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to the Department's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of the Department's rules on development fees, codified at N.J.A.C. 5:97-8.

§29-2. Basic requirements

- a) This ordinance shall not be effective until approved by the Department pursuant to N.J.A.C. 5:96-5.1.
- b) *The Town of Phillipsburg* shall not spend development fees until the Department has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

§29-3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. **“Affordable housing development”** means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
 - ii. **“COAH”** or the **“Council”** means the New Jersey Council on Affordable Housing established under the Fair Housing Act which previously had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State. Pursuant to the Executive Reorganization Act of 1969, P.L. 1969, c. 203 (C. 52:14C-1 *et seq.*), the Governor abolished the Council and transferred all functions, powers, and duties to the Commissioner of the Department of Community Affairs, effective August 29, 2011. As such, any and all references to COAH shall mean the Department.
 - iii. **“Development fee”** means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
 - iv. **“Developer”** means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
 - v. **“Equalized assessed value”** means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
 - vi. **“Green building strategies”** means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§29-4. Residential Development fees

- a) Imposed fees
 - i. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% percent of the equalized assessed value for residential development provided no increased density is permitted.
 - ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of 6% percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

[Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.]

- b) Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - ii. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

§29-5. Non-residential Development fees*

- a) Imposed fees
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

- ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- b) Eligible exactions, ineligible exactions and exemptions for non-residential development
- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 - iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Town of Phillipsburg as a lien against the real property of the owner.

§29-6. Collection procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should the Town of Phillipsburg fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i) Appeal of development fees

- 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Town of Phillipsburg. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Town of Phillipsburg. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§29-7. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 1. payments in lieu of on-site construction of affordable units;
 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 3. rental income from municipally operated units;
 4. repayments from affordable housing program loans;
 5. recapture funds;
 6. proceeds from the sale of affordable units; and
 7. any other funds collected in connection with the Town of Phillipsburg's affordable housing program.
- c) Within seven days from the opening of the trust fund account, the Town of Phillipsburg shall provide the Department with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and the Department to permit the Department to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Department.

§29-8 Use of funds

- a) The expenditure of all funds shall conform to a spending plan approved by the Department. Funds deposited in the housing trust fund may be used for any activity approved by the Department to address the Town of Phillipsburg's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse the Town of Phillipsburg for past housing activities.
- c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

- d) The Town of Phillipsburg may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Department's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

§29-9. Monitoring

- a) The Town of Phillipsburg shall complete and return to the Department all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Town of Phillipsburg's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court. All monitoring reports shall be completed on forms designed by the Department.

§29-10. Ongoing collection of fees

- a) The ability for the Town of Phillipsburg to impose, collect and expend development fees shall expire with its judgment of compliance unless the Town of Phillipsburg has filed an adopted Housing Element and Fair Share Plan with the Department, has petitioned for substantive certification, and has received the Department's approval of its development fee ordinance. If the Town of Phillipsburg fails to renew its ability to impose and collect development fees prior to the expiration of judgement of compliance it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Town of Phillipsburg shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Town of Phillipsburg retroactively impose a development

fee on such a development. The Town of Phillipsburg shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

Section 2:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder off this Ordinance shall not be affected thereby.

Section 3:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 4:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

ATTEST:

TOWN OF PHILLIPSBURG

VICTORIA L. KLEINER, RMC
Municipal Clerk

TODD TERSIGNI
Mayor

DATED:

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their December 01, 2020 meeting.

VICTORIA L. KLEINER, RMC

O: 2020- 29

ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY ESTABLISHING SEWER CONNECTION FEE

WHEREAS the Phillipsburg Town Council created a municipal sewer utility with the adoption of Ordinance O:86-44 on November 26, 1986; and

WHEREAS pursuant to N.J.S.A. 40A:26A-11, a sewer connection fee or tapping fee may be imposed for each connection of any property to the sewerage system upon the owner or occupant of the property so connected.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Phillipsburg, County of Warren, State of New Jersey that Section 485-11 of the Phillipsburg Town Code concerning sewer connection fees is hereby amended as follows to be effective as of January 1, 2021.

(additions/[deletions])

§ 485-11 Connection Charges

For every application for connection or for every connection made after [January 1, 1989]January 1, 2021, the applicant shall pay a connection charge at the time of the application for each service lateral or connection to the Town's sewer system as follows:

- A. It shall be assumed and established that for single-family dwellings and for multiple-family dwellings on a per-unit basis, said unit shall consume approximately 250 gallons per day, and the current charge for connection shall be [~~\$8~~]\$9.60 per gallon or [~~\$2,000~~]\$2,400 per residential unit.
- B. For nonresidential units, said charge shall be based upon the actual gallonage as certified by the applicant and approved by the Municipal Engineer of the Town of Phillipsburg. For example, if an applicant proposes to produce 2,000 gallons of wastewater for treatment, the connection charge will be [~~\$10~~]\$12.00 times 2,000 or [~~\$20,000~~]\$24,000.
- C. [no change]
- D. Applicants whose developments lie within a municipality other than the Town of Phillipsburg and who wish to use the facilities of the Phillipsburg Sewage Treatment Plant shall pay the host municipality the connection fee as provided above; except that applicants whose developments lie within the municipalities of Greenwich or Lopatcong are to pay one half of the connection fee directly to the Town of Phillipsburg and the other half to said municipality. Said payment shall be made prior to the connection to the sanitary disposal collection system and may be made by cash or certified check.
- E. [no change]

1st Read 12-01-2020
2nd Read 12-15-2020

ATTEST:

TOWN OF PHILLIPSBURG

VICTORIA L. KLEINER
Municipal Clerk

TODD M. TERSIGNI
Mayor

Dated:

CERTIFICATION

I, Victoria L. Kleiner, Acting Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their December 01, 2020 meeting.

VICTORIA L. KLEINER,
Municipal Clerk

R: 2020-239

**RESOLUTION OF TOWN OF PHILLIPSBURG, COUNTY OF WARREN,
STATE OF NEW JERSEY DIRECTING THE PHILLIPSBURG PLANNING
BOARD TO PREPARE AN AMMENDMENT TO THE RIVERFRONT
REDEVELOPMENT PLAN IN ORDER TO INCLUDE INDUSTRIAL USES**

WHEREAS, the Riverfront Redevelopment Plan (“Plan”) was first adopted in 2005 and most recently amended in 2013; and

WHEREAS, the Town Council desires to amend the Riverfront Redevelopment plan in order to permit industrial uses in District 3 as identified in the Plan; and

WHEREAS, in accordance with N.J.S.A. 40A:12A-7, the governing body of a municipality may direct the Planning Board to prepare an amendment to a redevelopment plan for a designated redevelopment area; and

WHEREAS, the Town Council desires to direct the Planning Board to prepare an amendment to the Riverfront Redevelopment Plan (District 3) to include industrial uses; and

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey that the Phillipsburg Planning Board is hereby directed, in accordance with N.J.S.A. 40A:12A-7, to prepare an amendment to the Riverfront Redevelopment plan to permit industrial uses in District 3.

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner
Municipal Clerk

R: 2020-240

**RESOLUTION OF THE TOWN OF PHILLIPSBURG,
COUNTY OF WARREN, STATE OF NEW JERSEY,
AUTHORIZING REFUND OF TAX OVER PAYMENT DUE
TO TAX APPEALS**

WHEREAS, the Tax Office of the Town of Phillipsburg has certified that the following is a refund overpayment and,

WHEREAS, said payment was due to a tax overpayment refund due to tax appeals,

ACCT	YEAR	BLOCK	LOT	NAME	AMOUNT
1413	2020	210	10	Broad Katz LLC	\$ 824.57
1653	2020	214	04	Mile High 1 LLC	763.94
5834	2020	520	09	Bryan, Michael /Jennifer	286.98
5908	2020	521	01	Duddy, Seamus/Alison	735.64
21515	2020	1223	17	Shae, Jayesh/Sonal	371.86
35564	2020	1810	02	Phan, Suong/Tien	493.12
42730	2020	2411	01	Wolf Vespasiano LLC/ Gary Russo	84.88
42755	2020	2411	01	Wolf Vespasiano LLC/ Gary Russo	331.44
47432	2020	2606	05	Roerig, Nathaniel Q.	808.40
50467	2020	2901	18	Reiner, Edward W. Sr./Audrey	254.65

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Phillipsburg, County of Warren, that the following list received tax payments.

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk of the Town of Phillipsburg, County of Warren and State of New Jersey do hereby certify the foregoing to be true and correct copy of a Resolution adopted by Council at a meeting held on December 15, 2020.

Victoria L. Kleiner, RMC

R: 2020-241

**A RESOLUTION AWARDING PURCHASES
UNDER NEW JERSEY STATE CONTRACT**

WHEREAS, the State of New Jersey adopted legislation which requires all municipalities who purchase under New Jersey State Contract to award said purchases by resolution and contract,

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Phillipsburg that the following purchases under New Jersey State Contract are hereby authorized:

Purchase of Fire Clothing

State Contract #20-FLEET-01124

**New Jersey Fire Equipment Co.
119-131 Route 22 East
Green Brook, NJ 08812**

**Fire Department
Equipment**

One (1) Cairns # 1010 White Helmet, Per Current Phillipsburg FD Specs.

Price \$380.00.00 Each

Total Cost: \$380.00

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, RMC

R: 2020-242

A RESOLUTION AWARDING PURCHASES
UNDER NEW JERSEY STATE CONTRACT

WHEREAS, the State of New Jersey adopted legislation which requires all municipalities who purchase under New Jersey State Contract to award said purchases by resolution and contract,

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Phillipsburg that the following purchases under New Jersey State Contract are hereby authorized:

Purchase of Fire Clothing

State Contract #20-FLEET-00803

**New Jersey Fire Equipment Co.
119-131 Route 22 East
Green Brook, NJ 08812**

**Fire Department
Equipment**

Six (6) Cairns # 10071006 Helmet Tuffshields.
Price \$71.97 Each, Total \$431.02

Six (6) Cairns #S918P Mounting Hardware for Tuffshields
Price \$50.94 Each, Total \$305.64

Total Cost: \$736.66

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, RMC

R:2020-243

A RESOLUTION IMPOSING LIEN FOR
MUNICIPAL SERVICES

WHEREAS, the attached schedule lists the owner of a property located within the Town of Phillipsburg, and

WHEREAS, the Town of Phillipsburg conducted public hearing regarding habitability of 145-147 Mercer Street and after such hearing, the property owner received notification by regular mail and certified mail with said notices being advertised that certain improvements were required to be performed to said property within certain time limitations, and

WHEREAS, further notification was given to property owner that if improvements were not accomplished, the Town of Phillipsburg would perform such improvements, at the owner expense, including lien redemption of Tax sale certificate 2016-122 in the amount of \$8,445.86 and Tax sale certificate 2019-062 in the amount of \$2,417.71.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Phillipsburg that it does hereby place a lien onto property identified as Block 145 Mercer St., Block 1507 – Lot 16 in the amount of \$19,999.50 and 147 Mercer St., Block 1507- Lot 15 in the amount of \$19,999.50 for the demolition of property.

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, Municipal Clerk

R: 2020-244

A RESOLUTION PROVIDING FOR THE INSERTION OF SPECIAL
ITEM OF REVENUE IN THE BUDGET OF ANY COUNTY OR
MUNICIPALITY PURSUANT TO N.J.S. 40A:4-87
(CHAPTER 159, P.L. 1948) (NJ Youth Corp)

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

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

SECTION 1

NOW, THEREFORE, BE IT RESOLVED that the Town of Phillipsburg hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2020 in the sum of \$377,500.00 under the category 3. Miscellaneous – Section F: Special Item of Revenue Anticipated with Prior Written Consent of the Director of Local Government Services – Public and Private Revenues Offset with Appropriations:

FY 2021 New Jersey Youth Corps

SECTION 2

BE IT FURTHER RESOLVED that the sum of \$377,500.00 be and is hereby appropriated under the caption of:

8. General Appropriations
(A) Operations – Excluded from “CAPS”

FY 2021 New Jersey Youth Corps

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, RMC

Budget Amendment Certification Form, Appropriations Offset by Revenue

Counties/Municipalities (NJS.A.40A:4-87) or Fire Districts (NJS.A.40A:14-78.5)

Resolution Date: 12/15/2020

Resolution # R2020-244

Muni Code 2119 Organization Name 2119 Phillipsburg Town - County of Warren

Fiscal Year 2020 Calendar Year State Fiscal Year Transitional year

Revenue Title NJ Department of Labor & Workforce Development Amount \$ 377,500.00
Description FY 2021 New Jersey Youth Corps

Appropriation Title NJ Department of Labor & Workforce Development Amount \$ 377,500.00
Description FY 2021 New Jersey Youth Corps

Local Match _____ Amount _____

Municipalities and Counties only	<u>Chapter 85 - Title and Text</u>	
Appropriation (From) Title	_____	Amount _____
Appropriation (To) Title	_____	Amount _____

By electronic transmittal of this form the County Clerk of the Board/Municipal Clerk/Fire District Executive Director certify that this resolution, reference above and included as an attachment with this form, is a true resolution and was properly adopted by the respective governing body

By electronic transmittal of this form the County/Municipality CFO or the Fire District Accountant certifies that this revenue has been realized and/or is in receipt of written notification from the funding source cited in the resolution and included as an attachment with this form and that the revenue/appropriation identified above meets all statutory requirements and that the Annual Operating Budget has been amended to include this item of revenue/appropriation.

By checking this box, I am swearing that the above statement is true. (The Email function will not work until you acknowledge the above statement as true

Victoria L. Kleiner

County Clerk of the Board, Municipal Clerk, or Fire District Director

Municipal Clerk / Registrar

Title of Certifying Officer

vkleiner@phillipsburgnj.org

Email Address

(908) 454-5500 x309

Telephone Number

Robert J. Merlo

County/Municipal CFO or Fire District Accountant

Chief Financial Officer

Title of Certifying Officer

bmerlo@phillipsburgnj.org

Email Address

(908) 454-5500 x311

Telephone Number

Approval is hereby given to the cited resolution adopted by the governing body pursuant to N.J.S.A.40A: 4-87

For Director, Division of Local Government Services by:

New

Approved Date: _____

R: 2020-245

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY IN SUPPORT OF CIVIL LIBERTIES AND EXPRESSING THE TOWN COUNCIL'S DISAPPROVAL OF THE EROSION OF CIVIL LIBERTIES BY GOVERNOR PHIL MURPHY

WHEREAS, our State Constitution recognizes, among other things, that

1. All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness;
2. No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience.
3. The people have the right freely to assemble together, to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances; and

WHEREAS, under the pretense of public safety, Governor Phil Murphy has deprived New Jersey citizens of the right to pursue safety and happiness; to worship in the manner most agreeable to him or her; and to assemble together in the manner of their own choosing; and

WHEREAS, Governor Phil Murphy has further deprived New Jersey citizens of the right and ability to own and operate businesses and has taken away the right for individuals to make decisions concerning their health and welfare; and

WHEREAS, Town Council finds that the rash of executive orders issued by Governor Phil Murphy constitute unconstitutional infringements on the inalienable rights of New Jersey citizens; and

WHEREAS, the Town Council desires to reaffirm its support for the civil and religious liberties which are granted by Almighty God, as recognized and reaffirmed in our State Constitution and to also express its disapproval of the erosion of those liberties under the guise of public safety by our Governor.

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Phillipsburg, County of Warren and State of New Jersey that the Town Council does hereby recognize and reaffirms its support for the liberties granted to us by Almighty God and embodied in our State Constitution.

BE IT FURTHER RESOLVED that the Town Council hereby expresses its official disapproval of those acts by Governor Murphy which have served to undermine, erode, and displace those liberties guaranteed to us by Almighty God and which are embodied in our State Constitution.

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, RMC

R: 2020-246

A RESOLUTION APPROVING 2020-2021 LIQUOR LICENSES
WITHIN TOWN OF PHILLIPSBURG WITH A SPECIAL RULING 12:39

BE IT RESOLVED by the Council of the Town of Phillipsburg that:

WHEREAS, application for renewal of licenses in accordance with the provisions of law has been received and no remonstrance's, protests or complaints having been filed by any person with the Council on below listed licensees, and the said Council having investigated the applicant and premises, and

WHEREAS, the 12:39 ruling has been met for the 2020-2021 license year, and

WHEREAS, Tax Clearance Certificates for below listed establishments have been received from Division of Taxation,

NOW, THEREFORE, BE IT RESOLVED that the following license be renewed: (Attached hereto and made a part hereof);

PLENARY RETAIL CONSUMPTION EFFECTIVE: July 1, 2020 FEE: \$1400.00

2119-33-013-005

Union Square Hotel LLC

Pocket License

CERTIFICATION

I, Victoria L. Kleiner, Registered Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, RMC

R: 2020-247

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY AWARDED A CONTRACT TO KEYTECH IN THE AMOUNT OF \$2,075.00 FOR MATERIAL TESTING IN CONNECTION WITH HECKMAN STREET PHASE 3 AND 4 ROAD PROJECT

WHEREAS, the Town of Phillipsburg performed certain road work on Heckman Street with assistance from a NJDOT grant; and

WHEREAS, pursuant to the terms of the grant, the work which was performed must be tested and found to be in accordance with NJDOT standards; and

WHEREAS, KEYTECH has submitted a proposal to perform the required testing for the amount of \$2,075.00 in accordance with a proposal dated October 26, 2020; and

WHEREAS, there is sufficient funding as evidenced by the attached certification of funds.

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Phillipsburg, County of Warren and State of New Jersey that a contract with KEYTECH is hereby awarded in accordance with the proposal terms and **FURTHER**, that the Mayor is authorized and directed to undertake any act necessary to effectuate same.

CERTIFICATION

I, Victoria L. Kleiner, Registered Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, Municipal Clerk



R-247

Neil I. Van Cleef, P.E., L.S. & P.P.
Robert J. Clerico, P.E., P.P., CME, CPWM
Samuel D. Costanzo, P.E. & P.P.
Cynthia V. Norfleet, COO
Mark A. Bahnick, P.E.
Lawrence M. Diffley, P.E., PTOE
Michael K. Ford, P.E., P.P.
Jeffrey W. Munzing, P.E.
Stanley J. Schrek, P.E., A.I.A., P.P., CME, LEED AP
Herbert J. Seeburger, Jr., P.E., CME, CPWM

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Stormwater Management | Surveying | Planning | Landscape Architecture

November 25, 2020

Mayor & Council
120 Filmore Street
Phillipsburg, New Jersey 08865

Re: Recommendation of Award
Heckman Street Phase 3 & 4
Town of Phillipsburg
Our Proj. No. 9110.022/026

Dear Mayor & Council:

To meet the NJDOT grant requirements, we recommend award of a contract for material testing to KeyTech Laboratories in the amount of \$2,075.00. KeyTech will perform the required asphalt sampling and testing to document material and workmanship of the contractor was in conformance to NJDOT requirements. This cost is reimbursable expense under the NJDOT grants.

Please advise should there be any questions.

Very truly yours,

VAN CLEEF ENGINEERING ASSOCIATES INC.

Timothy M. O'Brien

Timothy M. O'Brien, PE, CME
Assistant to Town Engineer

cc: Rob Bengivenga, Jr., Business Administrator
Robert Merlo, CFO
Victoria Kleiner, Clerk
Richard Wenner, Esq.
Stan Schrek, PE, AIA, PP, CME, LEED AP, Town Engineer

f:\projects\9100 phillipsburg\9110 -- ci roads\022 heckman phase 3\2020-11-25- heckman award recommendation - keytech.doc

VanCleeEngineering.com

Please Reply To:

PHILLIPSBURG NJ OFFICE

755 Memorial Parkway, Suite 110 • Phillipsburg NJ 08865
908.454.3080 • Fax: 908.454.1397

With Other Offices In:

Hillsborough NJ • Lebanon NJ • Mt. Arlington NJ • Freehold NJ
Toms River NJ • Hamilton NJ • Doylestown PA • Bethlehem PA
Mechanicsburg PA • Leesport PA • Newark DE

R: 2020- 248

A RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY APPROVING THE AGREEMENT WITH SPATIAL DATA LOGIC, INC. AND AUTHORIZING THE MAYOR TO EXECUTE A LICENSE AGREEMENT

WHEREAS, the Town desires to enter into an agreement with Spatial Data Logic, Inc. for an Enterprise License (Type II per Spatial Data's pricing schedule) for one year in the amount of \$11,550; and

WHEREAS, the Town requires the execution of a licensing agreement for software utilized with the product; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5(1)(a)(dd) a contract may be executed without competitive bidding by reason that such services constitute support of proprietary computer hardware and software; and

WHEREAS, Town of Phillipsburg is desirous of authorizing the execution of a license agreement with Spatial Data Logic, Inc.; and

WHEREAS, sufficient funding is available as evidenced by the attached certification of funds.

NOW THEREFORE BE IT RESOLVED by the Mayor and the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, that the agreement with Spatial Data Logic, Inc. for an Enterprise License for one year in the amount of \$11,550 is hereby approved; and

BE IT FURTHER RESOLVED by the Mayor and the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, Mayor is hereby authorized to sign the agreement as required.

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, Municipal Clerk

R: 2020 - 249

A RESOLUTION IMPOSING LIEN FOR
MUNICIPAL SERVICES TOWN EMERGENCY SERVICES

WHEREAS, the attached lists the owner of 17 Railroad Avenue, Block 1310 Lot 1, located in the Town of Phillipsburg, and

WHEREAS, there are unpaid charges in the amount listed outstanding on said Block and Lot, representing the costs incurred by the Town of Phillipsburg to remedy violations occurring on said property, according to the certification and cost annexed hereto, which the Town Council has examined and found to be proper,

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Phillipsburg that it does hereby place a lien on the premises listed in the amount listed for the purpose of collecting unpaid charges due to the Town of Phillipsburg.

CERTIFICATION

I, Victoria L. Kleiner, Registered Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 15, 2020 meeting.

Victoria L. Kleiner, RMC

R: 2020 - 249

A RESOLUTION IMPOSING LIEN FOR
MUNICIPAL SERVICES TOWN EMERGENCY SERVICES

Attached please see the departments that were a result of a downed from the property of 17 Railroad Avenue, Block 1310, lot 1.

The attached are the work and fees that the Town incurred during the emergency when the tree fell on the house and blocked the road.

Rich Hay – Fire Report –	Total	Costs	\$ 1,100.00
Action Tree Service			\$ 3,000.00
Public Works, workers/equipment			
Town Inspector			<u>\$ 1,029.20</u>
	Total		\$ 5,129.20

R: 2020-250

A RESOLUTION TO PROVIDE FOR
INTERFUND TRANSFERS

BE IT RESOLVED by the Town Council of the Town of Phillipsburg
that:

Pursuant to the provision of N.J.S.A. 40A:5-48, the Chief Financial
Officer be and is hereby authorized to make transfers to said accounts in
accordance with the attached listing.

CERTIFICATION

I, Victoria L. Kleiner, Registered Municipal Clerk for the Town of
Phillipsburg, do hereby certify that the foregoing is a true copy of a
resolution duly adopted by the Town Council at their December 15, 2020
meeting.

Victoria L. Kleiner, Municipal Clerk

Account #	Description	Debits	Credits	
01-201-25-265-001	Fire Dept S&W	100.00		FROM
01-201-25-252-001	Emergency Management S&W		100.00	TO
				FROM
				FROM
				FROM
				TO
				FROM
				TO
				FROM
				TO
		100.00		FROM
			100.00	TO

R-2020-251

**RESOLUTION OF THE TOWN OF PHILLIPSBURG,
AUTHORIZING A CHANGE ORDER INCREASE OF
\$3,576.50 FOR THE FIREHOUSE GENERATOR PROJECT**

WHEREAS, the Town advertised for the submission of bids relative to the installation of natural gas generators for Firehouses 3 & 4 in the Town as identified in the bid specifications (“Project”); and

WHEREAS, the Town awarded the Project to LuLo Electric in the amount of \$141,305.00; and

WHEREAS, LuLo. has submitted a change order No 1 (“Change Order”) requesting an increase of \$3,576.50% in the contract price in order to install larger gas lines needed to service the generators; and

WHEREAS, the Town Council believes it to be in the best interest of the Town to approve the Change Order; and

WHEREAS, sufficient funding is available as evidenced by the attached certification of funds.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Phillipsburg, County of Warren, State of New Jersey, that the Change Order increasing the contract amount by \$3,576.50 is hereby approved and that the contract for the Project is hereby increased in the amount NOT TO EXCEED \$144,881.50.00 and

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk of the Town of Phillipsburg, County of Warren and State of New Jersey do hereby certify the foregoing to be true and correct copy of a Resolution adopted by Council at a meeting held on December 15, 2020.

Victoria L. Kleiner, Municipal Clerk

OLD BUSINESS

R: 2020-232

**RESOLUTION AUTHORIZING THE SALE OF CERTAIN
LAND AND PROPERTY NO LONGER NEEDED FOR
PUBLIC USE BY THE TOWN OF PHILLIPSBURG,
PURSUANT TO N.J.S.A. 40A:12-13(A) ET SEQ.**

WHEREAS, the Town of Phillipsburg is the owner of certain lands and capital improvements within the Town; and

WHEREAS, the Town Council of the Town of Phillipsburg does hereby determine that the lands and properties set forth in Schedule A are no longer needed for public use; and

WHEREAS, the Town desires to make available for public sale said lands in accordance with N.J.S.A. 40A:12-13(a).

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Phillipsburg, in the County of Warren State of New Jersey, as follows:

SECTION 1. The Town Council hereby declares that the lands and premises set forth in Schedule A are no longer needed for public use and should be sold in accordance with the appropriate statutes of the State of New Jersey and ordinances of the Town of Phillipsburg.

SECTION 2. The Town Council hereby authorizes the Town's Tax Collector and Town Attorney (hereinafter "Auctioneer"), to offer for sale to the highest bidder by sealed bid at auction, the property described in Schedule A attached hereto and made a part hereof.

SECTION 3. The opening of the sealed bids shall take shall take via ZOOM web video conference on January 22, 2021 at 10:00a.m., or as soon thereafter as the matter may be heard and publicly announced, provided the sale is not canceled.

SECTION 4. INTENTIONALLY OMITTED.

SECTION 5. All bidders at the time of sale must present a certified check or money order in the amount of Five Thousand Dollars (\$5,000.00), payable to themselves (to be endorsed to the Town of Phillipsburg, or its designee if successful). The successful bidder shall submit a personal check or money order for the deposit of 10% of the minimum bid plus Buyer's Premium in the amount of 10% at the conclusion of the auction and shall execute an Agreement of Sale. The Agreement of Sale is on file with the office of the Town Clerk and incorporates by reference the terms set forth in this Resolution. Said Agreement of Sale shall be binding upon the high bidder until such time that the Town Council either 1) does not accept the bid in which case bidders deposit will be returned, or, 2) accepts the bid whereupon the Town shall execute the Agreement of Sale and both parties shall be held bound by the terms and conditions contained therein. The balance of the purchase price shall be paid at closing which shall occur not later than

45 days following the acceptance of the bid by the Town. The purchaser shall be entitled to possession immediately following closing of title.

SECTION 6. THERE SHALL BE A MINIMUM BID FOR EACH PROPERTY AS LISTED IN SCHEDULE A.

SECTION 7. In the event the Town is unable to convey clear and marketable title, insurable at regular rates by a title insurance company licensed to do business in the State of New Jersey, the Town will forthwith return to the purchaser any and all deposit moneys previously submitted by the purchaser, and neither party shall have any further rights against the other. The acceptance of a deed by the purchaser from the Town shall extinguish any claims that said purchaser may have against the Town in connection with the quality of title conveyed.

SECTION 8. The property herein sold is subject to existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting said property. The Town makes no representations as to the presence or absence of wetlands or any other environmental conditions on the property and the purchaser assumes the risk of any such condition, all property being sold "as is."

SECTION 9. All conveyances by the Town shall be made by Bargain and Sale Deed with Covenants Against Grantor's Acts.

SECTION 10. The Town reserves the right to waive any and all defects and informalities in any bid and to accept or reject any and all bids at the public sale and to not award to the highest bidder. No bid shall be considered finally accepted until passage of a resolution by the Town Council as set forth in Paragraph 12 hereof.

SECTION 11. Acceptable bids shall be confirmed by resolution of the Town Council no later than the first regular meeting of the Town Council following the date of such sale.

SECTION 12. This Resolution shall constitute and serve as the public notice to be published in a newspaper circulating in the Town at least once a week for two (2) consecutive weeks, the last publication being not earlier than seven (7) days prior to the date set forth for the public sale.

SECTION 13. In the event the successful bidder fails to close on the property, he shall forfeit the ten percent (10%) deposit.

SECTION 14. The successful bidder shall not sell or otherwise transfer title to the premises, or any part thereof, to a nonprofit or nontaxable organization for a period of five (5) years from the date of closing on the property. This restriction shall be set forth in the deed conveying title.

SECTION 15. The successful bidder(s) shall be required to pay at time of closing of title the cost of legal advertising of the sale of this property which is the subject of this auction plus their proportionate cost of the transcript, if applicable.

SECTION 16. The successful bidder(s) shall bear the cost of recording the deed(s) and agree that the deed(s) shall be recorded on behalf of the purchaser by the Town Attorney. The successful bidder, prior to closing of title, will not be permitted to assign his or her bid nor any right, title or interest in the property on which the bid was made.

SECTION 17. The burden is on all successful bidders to obtain any and all variances and/or approvals from the Land Use and Development Ordinance of the Town of Phillipsburg from the appropriate municipal agency.

SECTION 18. Title is to close within forty-five (45) calendar days of confirmation of the bid by the Town Council at the Town Attorney's office, unless otherwise extended in the sole discretion of the Town Council, but if the last day for closing of title falls on a Saturday/Sunday, or legal holiday, then title shall close on the following day. Time is of the essence. **NO POSTPONEMENT OF CLOSING IS PERMITTED UNLESS:**

a. The Town's title is unmarketable, in which event the Town shall be allowed a reasonable time to, provide clear title and to close. If the unmarketability of title relates to a valid encumbrance against the property, the Town, after being timely notified of this defect by the purchaser, will endeavor to obtain within a reasonable time after such notification a release or discharge of such lien. If the Town is not successful in this regard, then part of the consideration to be paid by the purchaser for his said property shall be in the form of a certified check payable to the lienor for the amount to be paid for such release of discharge.

b. There is a written request, containing the reasons therefore, made by the purchaser within fifteen (15) calendar days after the confirmation of the sale by the Town Council and the Town Attorney grants a one time postponement which is not to exceed thirty (30) days.

SECTION 19. INTENTIONALLY OMITTED.

SECTION 20. The sale price, as may result from this auction sale, may not be used before any County Board of Taxation, State Tax Court of in any other court of this State to challenge the assessment with respect to the subject property nor may same be used as a comparable sale to challenge assessment with regard to other properties.

SECTION 21. This sale is also subject to further conditions that if the State of New Jersey or any upland owner has any rights or claim to the land being sold herein by reason of a riparian interest or otherwise, any charges levied or so levied by the State of New Jersey of upland owner for said riparian interest or otherwise are to be borne by the purchaser, in addition to the sale price bid for said property.

SECTION 22. All successful bidders are required to conduct all desired title searches at their expense prior to the date of closing. If the title to this property shall prove to be unmarketable, the liability of the Town shall be limited to the repayment to the purchaser of the amount of his or her deposit and any portion of the purchase price paid without any further cost, expense, damage or claim. Notice of any alleged defect in title or claim of unmarketability shall be given to the Town in writing no later than thirty (30) calendar days after the date of confirmation of the sale by the governing body of the Town of Phillipsburg. Failure to give such notice shall be deemed conclusive evidence that the purchaser accepts title in its then present condition.

SECTION 23. All prospective purchasers are put on notice that no employee, agent or officer of the Town of Phillipsburg has authority to waive, modify or amend any of the conditions of sale.

SECTION 24. If the successful bidder was the sole or part owner of the property to be sold at the time the Town acquired title by a tax foreclosure, said bidder may not reacquire the property directly or indirectly without complying with the following condition: The successful bidder of any property at this auction, by making such bid, thereby agrees to pay the Town at closing of title the difference, if any, between the total amount of taxes, plus interest and penalties due at the time of the judgment of foreclosure was entered and the amount of the successful bid.

SECTION 25. It is conclusively presumed that a bidder prior to taking his or her bid has done the following:

- a. Checked the exact location, including the correct street address and lot size of the property on the Official Tax Maps that are available at the Assessor's Office.
- b. Checked the zoning restrictions to ascertain the legal use of the property. This information can be obtained from the Town Zoning Office.
- c. Made a personal inspection of the property prior to the bidding on a piece of property by contacting the Town Clerk, Monday – Friday, between 9:00 am to 4:00 pm, telephone number (908) 454-5500.
- d. Responsibility for failure to comply with the above-mentioned conditions and guidelines will be fully assumed by the purchaser.

SECTION 26. A failure by the purchaser to fully comply with the terms, conditions, requirements and regulations of sale as herein contained shall be considered, at the option of the Town of Phillipsburg, as a material breach of the conditions of sale whereupon the Town of Phillipsburg may declare said contract or purchase terminated and at an end. All monies paid on behalf of the purchase price, by way of deposit or otherwise, may be retained by the Town as its liquidated damages and it may thereafter resell the said property and/or pursue such other and further legal and/or equitable remedies as it may have and the defaulting

purchaser shall continue to remain liable for all damages and losses sustained by the Town of Phillipsburg by reason of any such default.

SECTION 27. Any descriptions of the properties published by the Town are intended as a general guide only and may not be accurate. NO REPRESENTATIONS OF ANY KIND ARE MADE BY THE TOWN OF PHILLIPSBURG AS TO THE CONDITIONS OF THE PROPERTY, SAID PREMISES AND BUILDINGS ARE BEING SOLD IN THEIR PRESENT CONDITIONS "AS IS".

SECTION 28. The sale is made subject to such state of facts as an accurate survey may disclose, existing tenancies, rights of persons in possession, easements, conditions, covenants and restrictions and any other encumbrances of title which the Town Council may impose on any parcel at the time of the sale, including but not limited to, restrictions on the use to be made of such real property, capital improvements of personal property and any conditions of sale as to buildings or structures, or as to the type, size or other specifications of buildings or structures to be constructed thereon, or as to demolition, repair or reconstruction of buildings or structures, and the time within such conditions shall be operative, or any other conditions of sale in like manner and to the same extend as by any other vendor. All properties and buildings are being sold "AS IS".

SECTION 29. The sale is made subject to all applicable laws and ordinances of the State of New Jersey and the Town of Phillipsburg.

SECTION 30. Successful bidders agree to the following conditions:

- a. To pay prorated property taxes for the balance of the current year as of the date of closing.
- b. To abide by appropriate zoning, subdivision, health and building regulations and codes and stipulations that this sale will not be used as grounds to support a challenge of the existing assessment of the subject property, nor shall the purchase price be used as a comparable sale to challenge assessments with regard to other properties.
- c. That the failure to close title as agreed shall forfeit to the Town of Phillipsburg any and all money deposited with the Town.

SECTION 31. If any section or provision of this Resolution shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Resolution, except so far as the section of the provision so declared invalid shall be inseparable from the remainder or any portion thereof.

SECTION 32. This resolution shall take effect immediately.

CERTIFICATION

I, Victoria L. Kleiner, Clerk of the Town of Phillipsburg, County of Warren, do hereby certify that the foregoing is a true and exact copy of the resolution adopted by the Town of Phillipsburg Council on December 01, 2020.

Victoria L. Kleiner
Town Clerk

Schedule A

ADDRESS	BLOCK	LOT	DECSRIPTION	ASSESSMENT	MINIMUM BID
78 Broad St	302	2	LAND	100,800.00	
94 Morris St	305	14	LAND	26,300.00	
688 Belvidere Rd	513	10.02	LAND	40,300.00	
51 Front St	908	9	LAND	1,500.00	
17 Hudson St	909	35	LAND	22,400.00	
11 Randall St	910	2	LAND	15,800.00	
Hudson St	923	17	LAND	20,100.00	
Lincoln St	1115	18	LAND	20,600.00	
Mary St	1311	2	LAND	19,800.00	
253 Washington St	1410	15	HOUSE/LAND	40,400.00	
62-64-66 Sitgreaves St	1421	11	PAVED BUILDABLE	44,900.00	
27 Fox St	1508	14	LAND	12,800.00	
140 Sitgreaves St	2002	16	LAND	29,100.00	
139 Cedar Alley	2004	30	ROW HOME	34,400.00	
936 Hill St	2430	2.02	LAND	29,100.00	
Center St Rear	1805	12	LAND	4,100.00	
Bank St	2430	69	LAND	108,003.00	
955 Green St	2701	7	LAND	30,000.00	
1105-1107 So Main St	2805	11	LAND	20,000.00	

R: 2020-233

**RESOLUTION TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE
OF NEW JERSEY AUTHORIZING THE EXECUTION OF A PAVING ESCROW
AGREEMENT WITH AQUA NEW JERSEY, INC.**

WHEREAS, Aqua is a public utility providing water service within the Town and has pipe and main (“Improvements”) located in the streets and right of way located in the Town; and

WHEREAS, Aqua from time to time performs work on the Improvements that requires excavations be made in the streets and right of way located in the Town; and

WHEREAS, Chapter 545, Article VII, of the Code of the Town of Phillipsburg, Street Excavations establishes procedures for street excavation and permanent restoration; and

WHEREAS, *inter alia*, Sections 545-27 requires certain maintenance and guarantees in regard to permanent restorations; and

WHEREAS, the Town and Aqua have negotiated an agreement in the form attached hereto and are desirous of authorizing the execution of same.

NOW, THEREFORE, BE IT RESOLVED by Town Council of Phillipsburg, County of Warren, State of New Jersey that the Escrow Agreement attached hereto is hereby approved.

BE IT FURTHER RESOLVED the Mayor and the Municipal Clerk are hereby authorized and directed to execute any documents which may be necessary to effectuate the foregoing.

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 01, 2020 meeting.

Victoria L. Kleiner
Municipal Clerk

AQUA NEW JERSEY
PAVING ESCROW AGREEMENT

This agreement (this "Agreement") is entered into this **02 day of December, 2020**, by Aqua NEW JERSEY, INC., ("Aqua") and the Town of Phillipsburg, a New Jersey municipal corporation, ("Town") (collectively, the "Parties").

WHEREAS, Aqua is a public utility providing water service within the Town and has pipe and main ("Improvements") located in the streets and right of way located in the Town; and

WHEREAS, Aqua from time to time performs work on the Improvements that requires excavations be made in the streets and right of way located in the Town; and

WHEREAS, Chapter 545, Article VII, of the Code of the Town of Phillipsburg, Street Excavations establishes procedures for street excavation and permanent restoration; and

WHEREAS, *inter alia*, Sections 545-27 requires certain maintenance and guarantees in regard to permanent restorations; and

WHEREAS, the Town wishes to coordinate any permanent restorations so that permanent restorations and paving are coordinated with the Town's street paving schedule; and

WHEREAS, the Parties intend that the obligations established in this Agreement are in lieu of, and not in addition to, the obligations set forth in Chapter 545 regarding permanent restorations for any restoration Aqua may be obligated to perform as of the date of execution of this Agreement; and

WHEREAS, the parties have and wish to establish an escrow fund ("Fund") in order to fund the permanent restoration of any street excavation performed by Aqua ("Restoration") during the term of this Agreement; and

WHEREAS, the Town shall undertake to contract for and pay from the Fund for such Restorations during the term of this Agreement.

NOW THEREFORE, the parties agree as follows:

I. FUND.

A. INITIAL FUND

1. Aqua does hereby establish a Fund, i.e. an escrow fund, with the Town. The parties acknowledge the current balance of the Fund is \$184,028.84. Within 30 days of the date this Agreement Aqua shall deposit with the Town \$437,204.97. Upon notice from the Town, but not prior to January 1, 2022, Aqua shall deposit with the \$224,610.96. The total shall herein be referred to as the Initial Fund.

2. The Initial Fund escrowed hereunder shall be used by the Town only to make the Restorations of any street excavation performed by Aqua. The schedule of Restoration of street excavations to which the Initial Fund shall be applied is attached as Exhibit A designating Aqua's cost.
3. The Parties acknowledge that the Initial Fund hereunder represents all amounts due by Aqua for any Restoration as of the date of this Agreement.

B. ADDITIONAL FUNDS

- a. Upon each application by Aqua for an excavation, the Town shall establish an amount of money due to the Fund for Restoration of such excavation and shall present such amount to Aqua for payment.
 - i. If Aqua disagrees with the amount that the Town presents for such an excavation, Aqua shall send a response to the Town and the parties shall attempt to negotiate a mutually agreeable amount.
 - ii. Should the parties be unable to agree to an amount, then the parties shall submit the matter to binding arbitration

C. USE OF FUNDS

- a. The portion of any Restorations which shall be allocated to Aqua shall be limited to 15 feet from the edge of each excavation.
- b. The Town shall be responsible for all work related to the Restorations during the term of this Agreement
- c. Aqua shall be relieved of any responsibility for restoration or maintenances for any Restorations that is to be or actually is paid from the Fund and shall have no responsibility for permanent restoration, including any obligations pursuant to Article VII, of the Code of the Town of Phillipsburg, including but not limited to any Restoration shown in Exhibit A, or upon payment to the to the Fund for Restoration of any excavation.
- d. The Town shall be solely responsible for any paving schedule related to any excavation, and no further amounts shall be due or owing from Aqua once payment has been made to the Fund for any Restoration.
- e. The Town shall provide to Aqua an estimated statement of costs for such project and shall provide at the conclusion of the project, a statement of final costs.

- f. The Town shall provide a statement of balances and expenditures on an annual basis to Aqua.
- g. The Town shall deposit the Fund in a segregated interest bearing account in an institution acceptable to Aqua. All interest accruing shall be added to the Fund amount.

D. TERM

- a. The term of this Agreement shall be 10 years from the execution date above.
- b. The term of this Agreement shall automatically renew for another period of 10 years unless either party gives notice one year prior to expiration of the initial term of the Agreement stated in section D.a.
- c. Upon Termination any balance in the Fund shall be paid to Aqua.
- d. Upon Termination, neither party shall have any further obligation pursuant to this Agreement and any Restoration of any street excavation performed by Aqua shall be in accordance with any municipal code or procedure then in place, except Aqua shall have no ongoing maintenance or other responsibility for any Restorations for which the Town contracted and paid for from the Fund.

E. MISCELLANEOUS

- a. Entire Agreement. This Agreement, including its exhibits and future appendices constitutes the entire agreement of the parties hereto and supersedes all prior and contemporaneous representations, proposals, discussions, and communications, whether oral or in writing. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by each of the parties hereto.
- b. Counterparts. This Agreement may be executed in separate counterparts, and any party hereto may execute any such counterpart, each of which shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered (which deliveries may be by telefax) by the parties.
- c. Modifications, Waiver. This Agreement shall not be amended or modified, nor shall any waiver of any right hereunder be effective unless set forth in a document executed by duly authorized representatives of both Parties. The waiver of any breach of any term, covenant or condition herein contained, or the failure of either party to seek redress for the violation of, or to insist upon

the strict performance of, any covenant or condition of this Agreement shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement, or caused it to be signed by their duly authorized representatives, as of the Effective Date above written.

TOWN OF PHILLIPSBURG

AQUA NEW JERSEY, INC.

By: Todd M. Tersigni

Title: Mayor

By: Lawrence R. Carson,

Title: President

EXHIBIT A

Road Name:	Street Bounds:	Etown Cost	Etown Cost Share	Aqua Cost	Aqua Share
Arlington Avenue 1	Hillside Road to Gate Street	\$ 23,350.75	100%	\$ -	0%
Bates Street 1	US Route 22 to Marshall Street	\$ -	0%	\$ 13,278.50	50%
Bates Street 2	Marshall Street to Stockton Street	\$ -	0%	\$ 18,633.63	50%
Bowhay Ave	Filmore Street to Mary Street	\$ 5,879.75	50%	\$ 5,879.75	50%
Cedar Alley 1	River Street to Fox Street	\$ -	0%	\$ 9,845.50	100%
Cedar Alley 2	Fox Street to Stockton Street	\$ -	0%	\$ 7,810.00	100%
Cedar Alley 3	Stockton Street to Jefferson Street	\$ -	0%	\$ 14,672.75	100%
Cedar Alley 4	Jefferson Street to McKeen Street	\$ -	0%	\$ 13,910.00	100%
Cedar Alley 5	McKeen Street to Mercer Street	\$ -	0%	\$ -	0%
Cherry Alley 1	Dead End to Fox Street	\$ -	0%	\$ 9,533.00	100%
Cherry Alley 2	Fox Street to Stockton Street	\$ -	0%	\$ 7,280.50	100%
Cherry Alley 3	Stockton Street to Jefferson Street	\$ -	0%	\$ 11,772.50	100%
Cherry Alley 4	Jefferson Street to McKeen Street	\$ -	0%	\$ -	0%
Columbus Avenue 6	Congress Street to Dead End	\$ 7,545.25	50%	\$ 7,545.25	50%
Congress Street 1	Gate Street to Hillside Road	\$ 29,437.75	100%	\$ -	0%
Congress Street 2	Hillside Road to Green Street	\$ 24,202.50	100%	\$ -	0%
Congress Street 3	Green Street to Cullin Street	\$ 13,923.00	100%	\$ -	0%
Congress Street 4	Cullin Street to Columbus Avenue	\$ 15,518.00	100%	\$ -	0%
Congress Street 5	Columbus Avenue to Mill Street	\$ 14,975.50	100%	\$ -	0%
Congress Street 6	Mill Street to Wilbur Avenue	\$ 14,985.25	100%	\$ -	0%
Congress Street 7	Wilbur Avenue to Hill Street	\$ 14,778.00	100%	\$ -	0%
Davis Street	Railroad Avenue to Filmore Street	\$ -	0%	\$ 34,692.50	100%
Farm Street	Tuttle Street to Hillside Avenue	\$ 8,333.00	100%	\$ -	0%
Firth Street 1	US Route 22 to Hudson Street	\$ -	0%	\$ -	0%
Firth Street 2	Hudson Street to Marshall Street	\$ -	0%	\$ 20,780.88	50%
Fox Street 1	South Main Street to Mercer Street	\$ -	0%	\$ -	0%
Fox Street 2	Mercer Street to Cherry Alley	\$ -	0%	\$ 4,798.00	100%
Gate Street	Tuttle Street to Congress Street	\$ 22,058.50	100%	\$ -	0%
Harris Street 1	Washington Street to Bullman Street	\$ -	0%	\$ 5,677.38	50%
Heckman Street 6	Lincoln Street to Prospect Street	\$ -	0%	\$ -	0%
Heckman Street 7	Prospect Street to Bates Street	\$ -	0%	\$ -	0%
Heckman Street 8	Bates Street to Anderson Street	\$ -	0%	\$ -	0%
Heckman Street 9	Anderson Street to Roseberry Street	\$ -	0%	\$ -	0%
Hill Street 2	Congress Street to Steele Street	\$ 18,799.63	50%	\$ 18,799.63	50%
Hill Street 3	Steele Street to Kent Street	\$ 10,325.63	50%	\$ 10,325.63	50%
Hillside Road 1	Congress Street to Tuttle Road	\$ 26,225.00	100%	\$ -	0%
Hillside Road 2	Tuttle Street to Valley View Circle	\$ 8,339.50	100%	\$ -	0%
Hillside Road 3	Valley View Circle to Valley View Circle	\$ 7,372.75	100%	\$ -	0%
Hillside Road 4	Valley View Circle to Ridge Road	\$ 11,868.00	100%	\$ -	0%
Howard Street 1	Delaware River Park Tressel to Stockton Street	\$ -	0%	\$ 80,318.75	100%
Howard Street 2	Stockton Street to McKeen Street	\$ -	0%	\$ 77,227.50	100%
Jefferson Street 1	Cedar Street to South Main Street	\$ -	0%	\$ -	0%
Jefferson Street 2	South Main Street to Silgreaves Street	\$ -	0%	\$ 3,860.62	34%
John Street	Bowhay Avenue to Davis Street	\$ 4,284.75	50%	\$ -	0%
Kent Street 2	Bank Street to Hill Street	\$ -	0%	\$ -	0%
Kent Street 3	Hill Street to Wilbur Avenue	\$ -	0%	\$ -	0%
Kent Street 4	Wilbur Avenue to Logan Street	\$ 28,263.75	100%	\$ -	0%
Kneeder Avenue	Anderson Street to Fisher Avenue	\$ 50,450.25	100%	\$ -	0%
Marshall Street 2	Bates Street to Railroad EOP	\$ 6,163.01	7%	\$ 6,163.01	7%
Mary St	Bowhay Avenue to Davis Street	\$ -	0%	\$ 8,760.50	100%
McKeen Street 1	Howard Street to South Main Street	\$ -	0%	\$ 44,554.25	100%
Mercer Street 4	Jersey Street to Fox Alley	\$ 3,480.75	25%	\$ 8,981.50	50%
Mercer Street 5	Fox Alley to Stockton Street	\$ 4,040.63	25%	\$ 8,081.25	50%
Mercer Street 6	Stockton Street to Jefferson Street	\$ 7,388.19	25%	\$ 14,776.38	50%
Mercer Street 7	Jefferson Street to McKeen Street	\$ 16,387.63	50%	\$ -	0%
Mercer Street 8	McKeen Street to South Main Street	\$ 25,965.13	50%	\$ 25,965.13	50%
Mill Street 2	Congress Street to Steele Street	\$ 18,577.75	50%	\$ 18,577.75	50%
Mill Street 3	Steele Street to Kent Street	\$ 11,351.50	50%	\$ 11,351.50	50%
Miller Street	Morris Street to Henderson Street	\$ -	0%	\$ -	0%
Prospect Street 1	Stockton Street to Heckman Street	\$ 2,721.25	50%	\$ -	0%
Railroad Avenue	Anderson Street to Marshall Street	\$ -	0%	\$ 44,250.19	75%
Randall Street	Pleasant Avenue to Tyndall Avenue	\$ -	0%	\$ 5,334.00	100%
River Street 1	Mercer Street to South Main Street	\$ 3,561.38	30%	\$ -	0%
Schillinger Alley	Marshall Street to Heckman Street	\$ -	0%	\$ 8,194.63	50%
Stanley Street 1	Valley View Circle to Madison Street	\$ 2,407.13	50%	\$ -	0%
Steele Street 1	Bioher Alley to Mill Street	\$ -	0%	\$ -	0%
Steele Street 2	Mill Street to Wilbur Avenue	\$ 5,407.75	50%	\$ 5,407.75	50%
Steele Street 3	Wilbur Avenue to Hill Street	\$ 5,087.13	50%	\$ 5,087.13	50%
Steele Street 4	Hill Street to Carhart Alley	\$ 2,024.13	50%	\$ 2,024.13	50%
Stewart Alley	Congress Street to Columbus Avenue	\$ -	0%	\$ 16,797.25	100%
Summit Ave 1	Chambers Street to Lewis Street	\$ -	0%	\$ 12,305.25	100%

Road Name:	Street Bounds:	Etown Cost	Etown Cost Share	Aqua Cost	Aqua Share
Tuttle Street 1	Hillside Road to Farm Road	\$ 11,345.00	100%	\$ -	0%
Tuttle Street 2	Farm Road to Gate Street	\$ 16,267.75	100%	\$ -	0%
Tyndall Avenue 1	Chambers Street to Washington Street EOP	\$ 6,951.75	100%	\$ -	0%
Valley View Cir. -East	Stanley Street to Hillside Road	\$ 8,017.25	100%	\$ -	0%
Valley View Cir. to West	Hillside Road to Stanley Street	\$ 6,951.75	100%	\$ -	0%
Warron Street 4	Anderson Street to Lynn Road	\$ -	0%	\$ -	0%
Wilbur Avenue 6	Congress Street to Steele Street	\$ 20,725.00	50%	\$ -	0%
Wilbur Avenue 7	Stoale Street to Kent Street	\$ 23,015.50	100%	\$ -	0%
Ace Lane	Beers Alley to Titus Alley ("H" alleys)	\$ -	0%	\$ -	0%
Anderson Street A1	Dead End to Kneedler Avenue	\$ -	0%	\$ -	0%
Anderson Street A4	Heckman Street to Marshall Street	\$ -	0%	\$ -	0%
Bach Street	Off Shafer Avenue to	\$ -	0%	\$ -	0%
Beers Alley	Schultz Avenue to Evelyn Ave ("H" Alleys)	\$ -	0%	\$ -	0%
Brainard Street 1	Dead End to Hudson Street	\$ -	0%	\$ -	0%
Chintewink Alley 3	3rd Street to Wire Alley	\$ -	0%	\$ -	0%
Christia Alley	Off Irwin Street end of Oak Alley to T to	\$ -	0%	\$ -	0%
Comstock Alley	Schultz Avenue to Dead End	\$ -	0%	\$ -	0%
Dean Alley	Glen Avenue to Green Alley	\$ -	0%	\$ -	0%
Dimmick Alley	Irwin Street to Marshall Street	\$ -	0%	\$ -	0%
Dimmick Alley	Marshall Street to Heckman Street	\$ -	0%	\$ -	0%
Green Alley	Filmore Street to Schultz Avenue	\$ -	0%	\$ -	0%
Ivy Street	Off Mercer Street to	\$ -	0%	\$ -	0%
Kent Street 1	South Main Street to Bank Street	\$ -	0%	\$ -	0%
Lincoln Street 2	Stockton Street to Marshall Street	\$ -	0%	\$ -	0%
Lincoln Street 3	Stockton Street to Anderson Street	\$ -	0%	\$ -	0%
Lock Street #1	Lopatcong Boundary to Ridge Street	\$ -	0%	\$ -	0%
Lock Street #2	Ridge Street to Chestnut Street	\$ -	0%	\$ -	0%
Lock Street #3	Chestnut Street to South Main Street	\$ -	0%	\$ -	0%
Lynn Road	Cahill Road to Meyner Road	\$ -	0%	\$ -	0%
Mercer Street 3	River Road to Jersey Street	\$ -	0%	\$ -	0%
Oak Alley	Off Irwin Street to Christia Alley	\$ -	0%	\$ -	0%
Park Road	Hill Road to Dead End	\$ -	0%	\$ -	0%
River Street 2	River Street to Mercer Street	\$ -	0%	\$ -	0%
Titus Alley	Schultz Avenue to Evelyn Ave ("H" Alleys)	\$ -	0%	\$ -	0%
Walnut Street	Center Street to Elm Street	\$ -	0%	\$ -	0%
Wire Alley	Broad Street to Chintewink Alley	\$ -	0%	\$ -	0%
		\$ 568,753.82		\$ 621,233.81	

R: 2020-236

RESOLUTION OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN AND STATE OF NEW JERSEY, AUTHORIZING THE TOWN OF PHILLIPSBURG PLANNING BOARD TO UNDERTAKE A PRELIMINARY INVESTIGATION TO DETERMINE WHETHER THE PROPOSED STUDY AREA DISTRICT 3 (RECREATIONAL/HERITAGE) WHICH INCLUDES: BLOCK 917, LOTS 25, 26, AND 27; BLOCK 1502, LOTS 37, 38, 39 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 AND BLOCK 2102, LOTS 1 AND 2.01 QUALIFIES AS AN AREA IN NEED OF CONDEMNATION REDEVELOPMENT PURSUANT TO N.J.S.A. 40A:12A ET SEQ.

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (“Redevelopment Law”), provides a mechanism to assist local governments in efforts to promote programs of redevelopment; and

WHEREAS, the Redevelopment Law sets forth the procedures for the Town to declare an area in need of redevelopment, along with the development and effectuation of a redevelopment plan; and

WHEREAS, pursuant to the required redevelopment procedures, specifically set forth in N.J.S.A. 40A:12A-6, no area of a municipality shall be deemed a redevelopment area unless the governing body of the municipality shall, by Resolution, authorize the Planning Board to undertake a preliminary investigation to determine whether a proposed area is a redevelopment area meeting the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the New Jersey Legislature adopted, and the Governor signed, P.L. 2013, Chapter 159, which amended the Redevelopment Law, including the procedural requirements of N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-6; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, “[t]he resolution authorizing the planning board to undertake a preliminary investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain (hereinafter referred to as a “Non-Condemnation Redevelopment Area”) or whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain (hereinafter referred to as a “Condemnation Redevelopment Area”); and

WHEREAS, the Town Council previously designated Block 917, Lots 25, 26, and 27; Block 1502, Lots 37, 38, 39 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and Block 2102, Lots 1 and 2.01 as a Non-Condemnation Redevelopment Area; and

WHEREAS, the Town Council desires to commission a study to determine if the Area(s) should be designated a **Condemnation Redevelopment Area**; and

WHEREAS, the Town Council finds it to be in the best interest of the Town and its residents to authorize the Town’s Planning Board pursuant to N.J.S.A. 40A:12A-4 and N.J.S.A.

40A:12A-6 to undertake such preliminary investigation of the study area which includes properties Block 917, Lots 25, 26, and 27; Block 1502, Lots 37, 38, 39 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and Block 2102, Lots 1 and 2.01 (the “Study Areas”);

WHEREAS, the Town of Phillipsburg wishes to direct the Planning Board to undertake a preliminary investigation utilizing Angela Knowles, PP, AICP, of Van Cleef Engineering Associates. to prepare the preliminary investigation to determine whether the proposed Study Areas qualifies as an area in need of Condemnation Redevelopment pursuant to N.J.S.A. 40A:12A-5.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Phillipsburg, in the County of Warren, and State of New Jersey, that the Planning Board is hereby authorized to undertake a preliminary investigation, utilizing Angela Knowles, PP, AICP, of Van Cleef Engineering Associates to prepare the preliminary investigation, pursuant to the notice, conduct a hearing and comply with other requirements of the Redevelopment Law, N.J.S.A. 40A:12A-1 et seq., as amended, in order to recommend to the Town Council whether the area comprising the study area is an area in need of **Condemnation Redevelopment** according to the criteria set forth in N.J.S.A. 4A:12A-5.

BE IT FURTHER RESOLVED, that the Planning Board is hereby directed to provide individual notice to the property owners of record in the Study Areas in accordance with N.J.S.A. 40A:12A-6.

BE IT FURTHER RESOLVED, that, pursuant to N.J.S.A. 40A:12A-1 et seq., the redevelopment area determination shall authorize the Town to use all those powers provided by the Legislature for use in a redevelopment area including the use of eminent domain (“**Condemnation Redevelopment Area**”).

BE IT FURTHER RESOLVED, that the Planning Board shall submit its findings and recommendations to the Town Council in the form of a Resolution with supporting documentation.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution is to be forwarded to the Planning Board of the Town of Phillipsburg.

BE IT FURTHER RESOLVED, that this Resolution shall take effect pursuant to law.

CERTIFICATION

I, Victoria L. Kleiner, Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Town Council at their December 01, 2020 meeting.

Victoria L. Kleiner
Municipal Clerk