

**MEETING OF MAYOR AND COUNCIL
WEDNESDAY – JULY 25, 2012
7:00 P.M.**

MEETING CALLED TO ORDER * STATEMENT REGARDING OPEN PUBLIC MEETING LAW * SALUTE TO THE FLAG

The meeting was called to order at 7:04 p.m. by Mayor Martin. Adequate notice of this meeting was provided as is required by the Open Public Meetings Law with advertising in the Home News Tribune and posting on the bulletin board. All present Pledged Allegiance to the Flag.

CALLING OF THE ROLL:

ASCIOLLA
JANECZEK
KARCZEWSKI - absent
PEREZ
SLAVICEK

READING OF RESIGNATION OF PATRICK SMITH

A letter of resignation from Councilman Patrick Smith was read by the Municipal Clerk.

RESOLUTION # 2012 – 129

Resolution authorizing the appointment of Wendy Vidal as Borough Councilwoman in order to temporarily fill a vacancy on the Helmetta Borough Council

MOTION – Clmn. Ascioffa SECOND – Clmn. Perez

ROLL CALL: 4 – 0

Mayor Martin administered the Oath of Office to Councilwoman Vidal.

CALLING OF THE ROLL:

ASCIOLLA
JANECZEK
KARCZEWSKI - absent
PEREZ
SLAVICEK
VIDAL

PUBLIC PORTION

There was no one from the public who wished to speak.

CONSENT AGENDA – RESOLUTION 138

Report of Municipal Clerk, Tax Collector, Utility Revenue Collector

130 – Appointment of Joann Holland as Finance Clerk

131 – Payment of bills

132 – Waiver of Permit Fees

133 – Authorization to sign PBA Contract (discussion was held on a few typos)

134 Municipal Lien

~~135 Appointment of Police Officer~~

~~136 Appointment of Police Officer~~

137 Shared Service Agreement with Spotswood for EMS

MOTION - Clmn. Ascioffa SECOND – Clmn. Janeczek

ROLL CALL: 5 – 0

We are going to wait a few weeks to see about moving up the two Class II Officers. We feel and they feel that they are in need of some more training. We are waiting for the Sgt. to come to us and if he feels and if they feel confident we would want to hire one or two. We want the authority to appoint one of those two specials. George Kosanovich has resigned from the Police Department and we are in the position to need to hire somebody.

An amendment was made to Resolution # 2012-135 and 2012 -36 to add this paragraph:

BE IT FURTHER RESOLVED upon recommendation of the Sgt, and the Public Safety Committee that he is hereby appointed as full time Police Officer subject to the completion of the Police Academy and probationary period.

MOTION – Clmn. Slavicek SECOND – Clmn. Janeczek
ROLL CALL: 5 - 0

MINUTES

Approval of minutes of June 27, 2012

MOTION – Clmn. Janeczek SECOND – Clmn. Slavicek
ROLL CALL: 4 – 0 – 1

Approval of minutes of July 9, 2012

MOTION – Clmn. Janeczek SECOND – Clmn. Slavicek
ROLL CALL: 2 – 0 – 3

Public Works Director Darren Doran – report attached.

RESOLUTION # 2012 – 139 Authorization for Mayor to sign soil disturbance exemption application

MOTION – Clmn. Ascioffa SECOND – Clmn. Janeczek
ROLL CALL: 5 - 0

READING OF ORDINANCES – First Reading

4 – An Ordinance amending Section 8 (“Rates and Charges”) of Chapter 57 (“Water”) of the Code of the Borough of Helmetta

MOTION – Clmn. Ascioffa SECOND – Clmn. Janeczek
ROLL CALL: 4 – 0 - 1

5 – An Ordinance of the Borough of Helmetta amending Chapter 40A of the Code of the Borough of Helmetta entitled “Littering: Property Maintenance”

MOTION – Clmn. Ascioffa SECOND – Clmn. Perez
ROLL CALL: 5 – 0

A former Councilman took a picture of a Fireman washing his car when we had the water restrictions; however, the restrictions were lifted that afternoon. He was also concerned about liability with the Firemen keeping their personal property behind the Fire House and wrote a letter to the Fire Dept.

NEW BUSINESS – NNO will be held on Tuesday, August 7. Clmn. Slavicek said that Shop Rite donated hot dogs. We will have a waterslide and a DJ. Help is needed.

Grantiski	\$10.00	\$10.00			
TOTAL	\$586.25	\$20.00	\$56.00	\$500.00	\$10.25

Dog & Cat Licenses \$182.00

REPORT OF THE TAX COLLECTOR

Tax Collector

Month of: June, 2012

Dated: July 2, 2012

Taxes - 2013	
Taxes - 2012	\$ 38,984.27
Taxes - 2011	\$ 2,919.46
Interest	\$ 897.22
Costs	
Tax search	
Return Check fee	
Search Printouts	
Duplicate Bill Fee	\$ 5.00
Misc.	
TOTAL	\$ 42,805.95

ADJUSTMENTS

	\$
2012 Allow Deduction	(250.00)

Closing Balances

	Debit	Credit	Net
Tax	\$	\$	\$
2012	59,771.89	(14,427.61)	45,344.28
Tax	\$		\$
2011	44,147.96		44,147.96

Tax Collectors Trust

Prior Balance	\$ 19,300.00
Receipts	\$ 65,847.91

Disbursements

	\$
Check 119	65,847.91
Check 120	\$

REPORT OF MUNICIPAL CLERK –
SANDRA BOHINSKI

<u>JUNE, 2012</u>	Copies	Marr Lic	Plng Bd	Towing	Licenses	Lndlr Reg	Recycling
Krypel	\$10.25						<u>\$10.25</u>
Sulkowski	\$100.00					\$100.00	
Leao	\$100.00					\$100.00	
Gilbert	\$100.00					\$100.00	
Laczi	\$10.00	\$10.00					
AGGO	\$200.00					<u>\$200.00</u>	
Castles	\$28.00	\$28.00					
Granitski	\$28.00	<u>\$28.00</u>					

Disbursements	\$ 80,847.91	15,000.00
		\$
		80,847.91
Balance	\$ 4,300.00	
Premium Balance	\$ 4,300.00	

Water/Sewer Receipts Report

June 2012

	<u>Water</u>	<u>Sewer</u>	<u>Total</u>
2010 Principal	\$ -	\$ -	\$ -
2011 Principal	816.95	912.59	1,729.54
2012 Principal	<u>6,750.16</u>	<u>6,899.38</u>	<u>13,649.54</u>
Subtotal	7,567.11	7,811.97	15,379.08
Interest	<u>115.45</u>	<u>139.48</u>	<u>254.93</u>
Subtotal	7,682.56	7,951.45	15,634.01
Final Water Reads	20.00	-	20.00
Returned Checks	-	-	-
Payment Reversal	-	-	-
NSF Bank Fees	-	-	-
Misc.	-	-	-
Connection Fee	-	-	-
Water Meter Testing	-	-	-
Transfer in from Tax	-	-	-
Transfer out to Tax	<u>-</u>	<u>-</u>	<u>-</u>

Total Deposits \$ 7,702.56 \$ 7,951.45 \$ 15,654.01

RESOLUTION

2012 – 129

RESOLUTION AUTHORIZING THE APPOINTMENT OF WENDY VIDAL AS BOROUGH COUNCILWOMAN IN ORDER TO TEMPORARILY FILL A VACANCY ON THE HELMETTA BOROUGH COUNCIL

WHEREAS, Helmetta Borough Councilman Patrick Smith has submitted a letter of resignation to the Borough Clerk of the Borough of Helmetta (the "Borough"), thereby leaving a vacancy in the membership of the Borough Council; and

WHEREAS, pursuant to the Municipal Vacancy Law, N.J.S.A. 40A:16-1, *et seq.*, if a council member whose office has become vacant was not elected to office as the nominee of a political party, the governing body may, within thirty (30) days of the occurrence of the vacancy, by majority vote of the remaining members of the governing body appoint a successor to fill the vacancy temporarily until the next general election; and

WHEREAS, the Borough Council wishes to appoint Borough resident Wendy Vidal as Councilwoman in order to temporarily fill the vacancy in the membership of the Borough Council caused by the resignation of Patrick Smith; and

WHEREAS, the Borough Council believes that Wendy Vidal is qualified to serve as Borough Councilwoman and that it is in the best interest of the Borough to appoint Wendy Vidal to fill this vacancy.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Helmetta that Wendy Vidal is hereby appointed as Borough Councilman in order to temporarily fill the vacancy in the membership of the Borough Council until the next general election.

RESOLUTION

#2012 – 130

APPOINTMENT OF JOANN HOLLAND AS FINANCE CLERK

WHEREAS, the Borough of Helmetta requires additional personnel to assist the finance department; and

WHEREAS, several candidates were evaluated by the Chief Finance Officer; and

WHEREAS, Joann Holland is the most qualified applicant who has indicated her willingness to obtain Certified Tax Collector certification; and

WHEREAS, the rate of pay is \$12.00 per hour, for a total of 15 hours per week, with no medical insurance.

NOW, THEREFORE, BE IT RESOLVED that Joann Holland is hereby appointed to work for the Borough of Helmetta for a rate of \$12.00 per hour, effective July 25, 2012.

**RESOLUTION # 2012 – 131
PAYMENT OF BILLS**

RESOLUTION
2012-

BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HELMETTA, in the County of Middlesex, New Jersey (not less than three (3) members thereof affirmatively concurring) as follows:

1. All bills or claims as reviewed and approved by the Finance Committee and as set forth in this Resolution are hereby approved for payment.
2. The Mayor and Chief Financial Officer are hereby authorized and directed to sign checks in the payment of bills and claims which are hereby approved.

The computer print-out of the list of bills will be on file in the Clerk's Office.

CURRENT FUND	\$	337,027.29
Including the following non-budget items:		
County taxes	\$	170,954.09
State of New Jersey		100.00
Grants		<u>104.34</u>
		<u>\$ 171,158.43</u>
WATER OPERATING FUND		26,990.18
SEWER OPERATING FUND		88,703.92
GENERAL CAPITAL FUND		38,313.30
TRUST FUND		1,171.36
		<u>\$ 492,206.05</u>

	Motion	Second	Aye	Nay	Abstain	Absent
Asciolla						
Janeczek						
Karczewski						
Perez						
Slavicek						
Vidal						

Sandra Bohinski, Municipal Clerk of the Borough of Helmetta, Middlesex County, New Jersey, do hereby certify that the foregoing Resolution was duly adopted by the Governing Body at their regular meeting on July 25, 2012.

Sandra Bohinski, Municipal Clerk

**RESOLUTION
2012 – 132
WAIVER OF PERMIT FEES**

WHEREAS, the Helmetta Fire Department would like to install a hood at the Fire House, and

WHEREAS, it is required to take out permits to do such work;

NOW THEREFORE BE IT RESOLVED, that the applications be properly filed for this installation but all permit fees be waived.

**RESOLUTION
#2012 – 133
AUTHORIZATION TO SIGN PBA CONTRACT**

WHEREAS, an agreement has been made between the Borough of Helmetta, and the Spotswood P.B.A. Local No. 225 on behalf of the Helmetta Police officers; and

WHEREAS, the Borough and the Association recognize and declare that providing quality police protection for the Borough is their mutual aim, and

WHEREAS, the parties have reached certain understandings which they desire to confirm in this Agreement from January 1, 2010 through December 31, 2014;

NOW THEREFORE BE IT RESOLVED that the Mayor and Municipal Clerk are hereby authorized to sign such agreement on behalf of the Borough of Helmetta.

**RESOLUTION
#2012 - 134
MUNICIPAL LIEN**

WHEREAS, the house on , Block 14 Lot 19, owned by Nicole and Kevin Palmer has been left vacant for several months; and

WHEREAS, there is no one who has been taking care of the house; and

WHEREAS, the grass and weeds grew over a foot high in the front yard as well as there being over forty newspaper and advertising bags thrown in the yard; and

WHEREAS, this was in violation of the Borough Code; and

WHEREAS, the Public Works Department went and cleaned the yard;

NOW THEREFORE BE IT RESOLVED, that a Municipal Lien of \$100.00 be placed on the property for the work performed by two Public Works employees to keep the property from being in violation.

2012 – 137

**RESOLUTION OF THE BOROUGH OF HELMETTA
AUTHORIZING SHARED SERVICES AGREEMENT
WITH THE BOROUGH OF SPOTSWOOD FOR THE
PROVISION OF EMERGENCY MEDICAL SERVICES
TO THE BOROUGH OF HELMETTA**

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq., authorizes municipalities to contract with each other for shared services; and

WHEREAS, the Borough of Helmetta (“Helmetta”) entered into a shared services agreement with the Borough of Spotswood (“Spotswood”) for the purpose of having emergency medical services provided to Helmetta by Spotswood for one year commencing June 1, 2009 through May 31, 2010, with a renewal upon the same terms and conditions for up to three (3) additional one year periods, provided that both parties have adopted resolutions authorizing the renewal of said Agreement; and

WHEREAS, for each additional year that the Agreement is renewed, Helmetta agrees to pay a non-refundable lump sum of \$2,000.00 to Spotswood due and payable within forty-five (45) days of Helmetta’s renewal of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Helmetta, County of Middlesex, State of New Jersey that the Mayor and Borough Clerk are hereby authorized to execute any documents, in a form acceptable to the Borough Attorney, necessary to effectuate a one year renewal of the emergency medical services agreement with Spotswood, effective June 1, 2012. Said agreement is on file with the Borough Clerk and incorporated herein by reference.

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

- a. Clerk, Borough of Spotswood
- b. David A. Clark, Borough Attorney
- c. Lori Russo, CFO

RESOLUTION
#2012 - 135

APPOINTMENT OF AS A POLICE OFFICER

BE IT RESOLVED, that be and is hereby appointed as Police Officer in the Borough of Helmetta. He must successfully complete his waivers and schooling designated by the Police Training Academy and any other requirements by law. As per the Borough Ordinance he shall serve a probationary period of one year after his completion of the Academy.

BE IT FURTHER RESOLVED, he will be entitled to insurance coverage under N.J. Direct 15 or a comparable plan. As a new employee he will fall under the newly negotiated contract as a new employee; and

BE IT FURTHER RESOLVED upon recommendation of the Sgt, and the Public Safety Committee that he is hereby appointed as full time Police Officer subject to the completion of the Police Academy and probationary period.

RESOLUTION
#2012 - 136

APPOINTMENT OF AS A POLICE OFFICER

BE IT RESOLVED, that be and is hereby appointed as Police Officer in the Borough of Helmetta. He must successfully complete his waivers and schooling designated by the Police Training Academy and any other requirements by law. As per the Borough Ordinance he shall serve a probationary period of one year after his completion of the Academy.

BE IT FURTHER RESOLVED, he will be entitled to insurance coverage under N.J. Direct 15 or a comparable plan. As a new employee he will fall under the newly negotiated contract as a new employee.

MOTION – Clmn. Slavicek SECOND – Clmn. Janeczek

ROLL CALL: 5 - 0

RESOLUTION
#2012 – 139

BE IT RESOLVED by the Governing Body that Mayor Nancy Martin is hereby authorized to sign the Soil Disturbance Exemption Application from Freehold Soil Conservation District.

PUBLIC WORKS REPORT 7/25/12

NORTH BRUNSWICK SHARED SERVICES

Trash once a week pick up .Bulk bi weekly from container at Municipal building
\$40,208.15 per year. Formal agreement is being drafted for our review

- A) Back up animal control and impoundment Draft agreement attached recommend \$50 per call during 7 to 3 hours a not to exceeded \$200.00 per day. \$75.00 per call before 7 and after 3. \$75.00 per call weekends, holidays. All service must be scheduled in advance. Impoundment would be standard agreement.

HAZLET AND
ABERDEEN

- A) No new news

OLD FORGE TREES

- A) Attached is Bartlett Tree sample findings
- B) Still awaiting soil sample results
- C) Mario's check is being held until issue is resolved

MUNICIPAL RECYCLING OIL TANK

- A) Lorco Petroleum has indicated our oil tank has been contaminated with PCB's B) The estimate cost to dispose of the oil removed from our tank is \$1,500.00
- B) Some material is still left in our tank that will cost extra to dispose of as well.
- C) Picked up a sample kit from independent lab Acutest Labs to confirm this allegation
- D) Will report to Council when results are received
- E) Recommends Municipality does away with accepting waste oil for recycling

ORDINANCE

2012 - 4

AN ORDINANCE AMENDING SECTION 8 ("RATES AND CHARGES") OF CHAPTER 57 ("WATER") OF THE CODE OF THE BOROUGH OF HELMETTA

WHEREAS, N.J.S.A. 40A:31-10 permits a local unit to alter rates or rentals to be charged to users of water supply services from time to time; and

WHEREAS, the Borough Council desires to amend the Borough Code of the Borough of Helmetta in order to alter the current water usage rates.

NOW, THEREFORE, BE IT ORDAINED, by Borough Council of the Borough of Helmetta that Section 8 ("Rates and Charges") of Chapter 57 ("Water") of the Borough Code is hereby amended as follows (additions are underlined and bolded, and deletions struck-through):

1. Section 57-8 Rates and Charges.

A. Definitions.

1. "Residential customer" or "residential use" shall be defined as those accounts where the principal use of the building or structure is as living space for residents of the Borough of Helmetta, or is not defined as a "commercial customer." In the event a building or structure contains, or could contain, more than one dwelling unit for residential use, there should be charged as many minimum residential billing units as there are residential dwelling units.

2. "Commercial customer" or "commercial use" shall be defined as those accounts where the principal use of the building or structure is retail, commercial or other business activity. In the event a building or structure contains, or could contain, more than one unit for commercial use, there shall be charged as many minimum commercial billing units as there are commercial units.

B. A water usage charge for each residential customer, effective for consumption beginning October 1, 2012, shall be sixty-seven dollars and seventy-four cents (\$67.74) for usage of six thousand nine hundred ninety-nine gallons (6,999) or less of water per quarter. The usage charges are hereby fixed and officially established as charges by the Borough for direct and indirect use and service of the water distribution system and chargeable in advance, and the same shall be charged and collected by the Borough.

C. A water usage charge for each non-residential customer, effective for consumption beginning October 1, 2012, shall be ninety-seven dollars and sixty two cents (\$97.62) for usage of six thousand nine hundred ninety-nine gallons (6,999) or less of water per quarter. The usage charges are hereby fixed and officially established as charges by the Borough for direct and indirect use and service of the water distribution system and chargeable in advance, and the same shall be charged and collected by the Borough.

D. A water usage charge for each commercial sprinkler customer, effective for consumption beginning October 1, 2012, shall be one hundred thirteen dollars (\$113.00) for usage of six thousand nine hundred ninety-nine gallons (6,999) or less of water per quarter. The usage charges are hereby fixed

and officially established as charges by the Borough for direct and indirect use and service of the water distribution system and chargeable in advance, and the same shall be charged and collected by the Borough.

E. An excess water usage charge for each residential, commercial and sprinkler customer shall be charged, in arrears, as follows:

(1) For usage of 7,000 to 12,999 gallons, the charge shall be \$7.03 per 1,000 gallons or part thereof.

(2) For usage of 13,000 to 20,999 gallons, the charge shall be \$7.46 per 1,000 gallons or part thereof.

(3) For usage of 21,000 or more, the charge shall be \$8.22 per 1,000 gallons or part thereof.

F. Annual charges for private fire service, sprinkler heads and fire hydrants shall be fixed by resolution of the Governing Body.

G. There shall be an additional fee of twenty dollars (\$20) upon a request by a customer or his representative for a meter reading at times other than the regular reading for a billing period.

BE IT FURTHER ORDAINED, if any part or parts of this Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this ordinance.

BE IT FURTHER ORDAINED, that this Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

ORDINANCE

2012 - 5

AN ORDINANCE OF THE BOROUGH OF HELMETTA AMENDING CHAPTER 40A OF THE CODE OF THE BOROUGH OF HELMETTA ENTITLED "LITTERING; PROPERTY MAINTENANCE"

WHEREAS, the Borough Code ("Code") of the Borough of Helmetta ("Borough") currently contains Chapter 40A, entitled "Littering; Property Maintenance" which governs the maintenance of residential and non-residential structures and premises within the Borough; and

WHEREAS, the Borough Council wishes to amend the Code in order to update the Borough's current provisions regarding property maintenance and littering.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Helmetta, County of Middlesex, and State of New Jersey that Section Chapter 40A of the Code, entitled "Littering; Property Maintenance" is hereby rescinded in its entirety and replaced with the following (Additions are in bold type and underlined and deletions are struck-through):

Chapter 40A – Littering; Property Maintenance.
§ 40A-1 Administration.

- A. Title.** For purposes of this Chapter, these regulations shall be known as the "Property Maintenance Code of the Borough of Helmetta" (the "Code").
- B. Scope.** The provisions of this Code shall apply to all residential and nonresidential structures and premises within the Borough of Helmetta.
- C. Purpose.** The purpose of this Code is to protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance and condition of structures and premises. Structures and premises that do not comply with this Code shall be repaired or altered and maintained to provide the minimum level of health and safety as required herein.
- D. Applicability.** This Code shall apply to all matters affecting or relating to structures and premises, as set forth herein. If different sections of this Code specify different requirements, the most restrictive shall govern.
- E. Maintenance.** Equipment, systems, devices and safeguards required by this Code or previous regulation or code under which the structure or premises were constructed, altered or repaired shall be maintained in good working order.
- F. Application of Other Codes.** Repairs, additions or alterations to a structure shall be made in accordance with the procedures and provisions of the New Jersey Uniform Construction Code and the Uniform Fire Code.
- G. Existing Remedies.** The provisions in this Code shall not be construed to abolish or impair existing remedies of the Borough or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe or unsanitary.
- H. Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Code shall be executed and installed in a workmanlike manner and in accordance with the manufacturer's installation instructions, if applicable.
- I. Historic Buildings.** The provisions of this Code shall not be mandatory for existing buildings or structures designated by the State or Borough as historic buildings when such buildings or structures are judged by the Code official to be safe and consistent with the public health, safety and welfare.
- J. Referenced Codes and Standards.** The Codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference.
- K. Enforcement.** The Borough's Code Enforcement Officer or his/her designee shall enforce the provisions of this Code.
- L. Identification.** The Code Enforcement Officer shall carry proper identification when inspecting structures or premises in the performance of duties under this Code.
- M. Notices and Orders.** The Code Enforcement Officer shall issue all necessary notices or orders to ensure compliance with this Code.
- N. Coordination of Inspections.** Whenever in the enforcement of this Code or another code or ordinance, the responsibility of more than one (1)

Borough official is involved, it shall be the duty of such officials to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure and premises shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction.

§ 40A-2 Definitions.

- A. Scope.** Unless otherwise expressly stated, the terms used herein shall, for the purposes of this Code, have the meanings provided in this section.
- B. Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.
- C. Terms Defined in Other Codes.** Where terms are not defined in this Code and are defined in the New Jersey Uniform Construction Code and the Uniform Fire Code, such terms shall have the meanings ascribed to them as in those Codes.
- D. Terms not Defined.** Where terms are not defined herein, such terms shall have ordinarily accepted meanings such as the context implies.
- E. Parts.** Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," or "rooming unit" are stated in this Code, they shall be construed as though they were followed by the words "or any part thereof."

F. General Definitions:

"Basement" shall mean that portion of a building which is partly or completely below grade.

"Bathroom" shall mean a room containing plumbing fixtures including a bathtub or shower.

"Bedroom" shall mean any room or space used or intended to be used for sleeping purposes.

"Code Enforcement Officer" shall mean the Borough official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

"Dwelling unit" shall mean a single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

"Exterior property" shall mean the open space on the premises and on adjoining property under the control of owners or operators of such premises.

"Extermination" shall mean the control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

“Garbage” shall mean the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

“Guard” shall mean a building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

“Habitable space or rooms” shall mean space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces or rooms.

“Imminent hazard or danger” shall mean a condition which could cause serious or life-threatening injury or death at any time.

“Infestation” shall mean the presence of insects, rats, vermin or other pests within or contiguous to a structure or premises.

“Litter” shall mean any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can, any unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other packaging or construction material, but does not include the waste of the primary processes of mining or other extraction processes, logging, sawmilling, farming or manufacturing.

“Litter receptacle” shall mean a container suitable for the depositing of litter.

“Nuisance” shall mean and includes but is not limited to the following:

(1) Any common nuisance known at common law or in equity or as provided by the statutes of the State of New Jersey or ordinances of the Borough of Helmetta.

(2) Any attractive nuisance, including but not limited to abandoned wells, shafts, basements, excavations, abandoned refrigerators or ice boxes, motorized vehicles, or boats.

(3) Physical conditions hazardous to human life or detrimental to health of person on or near the premises.

(4) Unsanitary conditions or fire hazards.

“Occupancy” shall mean the purpose for which a building or portion thereof is utilized or occupied.

“Occupant” shall mean any individual living or sleeping in a building, or having possession of a space within a building.

“Operable area” shall mean that part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

“Operator” shall mean any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

“Owner” shall mean any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or municipality as holding title to the property;

or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

“Person” shall mean an individual, corporation, partnership or any other group acting as a unit.

“Premises” shall mean a lot, plot or parcel of land including any structures thereon.

“Rooming house” shall mean a building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one (1) or two-family dwelling.

“Rooming unit” shall mean any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

“Rubbish” shall mean combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

“Structure” shall mean that which is built or constructed or a portion thereof.

“Tenant” shall mean a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

“Toilet room” shall mean a room containing a water closet or urinal but not a bathtub or shower.

“Ventilation” shall mean the natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from any space.

“Workmanlike” shall mean executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

“Yard” shall mean an open space on the same lot with a structure.

§ 40A-3 Littering.

- A. Littering Prohibited. It shall be unlawful for any person to throw, drop, discard or otherwise place litter of any nature upon any public or private property other than a litter receptacle.
- B. Receptacles. Litter receptacles and their servicing are required at the following public places which exist in the municipality, including:
 - (1) Sidewalks used by pedestrians in active retail commercially zoned areas, such that at a minimum there shall be no single linear quarter-mile without a receptacle;
 - (2) Buildings held out for use by the public, including schools, government buildings and railroad and bus stations;
 - (3) Parks;
 - (4) Drive-in restaurants;

- (5) All street vendor locations;
- (6) Self-service refreshment areas;
- (7) Construction sites;
- (8) Gasoline service stations;
- (9) Shopping centers;
- (10) Parking lots;
- (11) Campgrounds and trailer parks;
- (12) Marinas, boat moorage and fueling stations;
- (13) Boat launching areas;
- (14) Public and private piers operated for public use;
- (15) Beaches and bathing areas; and
- (16) At special events to which the public is invited, including sports events, parades, carnivals, circuses and festivals.

The proprietors of these places or the sponsors of these events shall be responsible for providing and servicing the receptacles such that adequate containerization is available.

§ 40A-4 General Requirements.

A. Scope. The provisions of this section shall govern the minimum conditions, and the responsibilities of persons, for maintenance of structures, equipment and exterior property.

B. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Code. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit or premises which they occupy and control.

C. Vacant Structures and Land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

D. Exterior Property Areas.

Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

- (1) Grading and Drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon, except approved retention areas and reservoirs.
- (2) Sidewalks and Driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

- (3) Plant Growth and Trees. All premises and exterior property shall be maintained free of plant growth in excess of ten (10") inches (254 mm) and free of weeds. Plant growth shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens. Dead and dying trees and limbs or other natural growth which, by reason of rotting and deterioration or storm damage, constitute a hazard and/or potential hazard shall be removed. Trees shall be kept pruned and trimmed to prevent such conditions.
- (4) Rodent Harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
- (5) Exhaust Vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.
- (6) Accessory Structures. All accessory structures, including detached garages, fences and walls, shall be maintained in a structurally sound condition and in good repair.
- (7) Gates. Gates which are required to be self-closing and self-latching in accordance with the Uniform Construction Code or International Building Code shall be maintained such that the gate will positively close and latch when released from a still position of six (6") inches (152 mm) from the gatepost.
- (8) Swimming Pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
- (9) Motor Vehicles.
 - (a) Except as provided for in other regulations, no inoperative or unregistered motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled or displaying extensive body damage, except that a vehicle may undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes. Painting of vehicles is prohibited unless conducted inside an approved spray booth.
 - (b) It shall be unlawful for any residential property owner to park or permit the parking of any vehicle within the zoned front setback area of any such premises other than upon a designated driveway access.
- (10) Defacement of Property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure

or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore and repair exterior surfaces so damaged, mutilated or defaced.

E. Exterior Structures.

- (1) **General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare or in a manner as to create a blighting problem.
- (2) **Protective Treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other permanent protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.
- (3) **Premises Identification.** All buildings shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. Numbers shall be a minimum of three (3") inches high. All numbering shall conform to the requirements of Chapter 28 (entitled "Numbering of Buildings") of the Revised General Ordinances of the Borough of Helmetta.
- (4) **Structural Members.** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- (5) **Foundation Walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
- (6) **Exterior Walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
- (7) **Roofs and Drainage.** The roof and flashing shall be sound, tight and shall not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and

- downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- (8) Decorative Features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
 - (9) Overhang Extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
 - (10) Stairways, Decks, Porches and Balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
 - (11) Chimneys and Towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
 - (12) Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
 - (13) Window, Skylight and Door Frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. (a) Glazing. All glazing materials shall be maintained free from cracks and holes. (b) Operable Windows. Every window, other than a fixed window, shall be easily operable and capable of being held in position by window hardware.
 - (14) Insect Screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with tightly fitting screens.
Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.
 - (15) Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and rooming units shall tightly secure the door.

- (16) Basement Hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.
- (17) Guards for Basement Windows. Every basement window that is operable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

F. Interior Structures.

- (1) General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two (2) or more dwelling units or two (2) or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
- (2) Structural Members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.
- (3) Interior Surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.
- (4) Stairs and Walking Surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.
- (5) Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (6) Interior Doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

G. Rubbish and Garbage.

- (1) Accumulation of Rubbish or Garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.
- (2) Disposal of Rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in containers with tightly fitting lids. The owner of every occupied premises shall supply covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.
- (3) Disposal of Garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such

garbage in a garbage disposal facility or garbage containers with tightly fitting lids.

(a) Garbage Facilities. The owner of every dwelling shall supply one (1) of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container.

(b) Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

H. Extermination.

(1) Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(2) Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(3) Single Occupant. The occupant of a one (1)-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

(4) Multiple Occupancy. The owner of a structure containing two (2) or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.

(5) Occupant. The occupant and owner of any structure shall be jointly responsible for the continued rodent and pest-free condition of the structure, except that where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

I. Plumbing Facilities and Fixtures.

(1) General. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

(2) Plumbing System Hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the

structure by reason of inadequate service, inadequate venting, cross-connection, back-siphonage, improper installation, deterioration or damage or for similar reasons, the Code Enforcement Officer shall require the defects to be corrected to eliminate the hazard.

J. Water System.

- (1) Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.
- (2) Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

K. Sanitary Drainage System. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

L. Drainage System.

- (1) General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises, shall not be discharged in a manner that creates a public nuisance.

§ 40A-5 Miscellaneous.

Illegal Dumping. It shall be unlawful for any person to discard or dump along any street or road, on or off any right-of-way, any household or commercial solid waste, rubbish, refuse, junk, vehicle or vehicle parts, rubber tires, appliances or furniture; or on private property, except by written consent of the owner of said property, in any place not specifically designated for the purpose of solid waste storage or disposal.

- A. Storage restrictions. It shall be unlawful for any residential property owner to store or permit storage of any bulky household waste, including household appliances, furniture and mattresses, in areas zoned residential, except in a fully enclosed structure or during days designated for the collection of bulky items.
- B. Tires. It shall be unlawful for any residential property owner to store or permit the storage of tires in areas zoned residential, except in a fully enclosed structure or on days designated for the collection of tires.
- C. Uncovered Vehicles. It shall be unlawful for any vehicle to be driven, moved, stopped or parked on any highway unless such a vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom. Any person operating a vehicle

from which any glass or objects have fallen or escaped, which could cause an obstruction, damage a vehicle or otherwise endanger travelers or public property, shall immediately cause the public property to be cleaned of all glass or objects and shall pay the costs therefor.

- D. Construction sites. It shall be unlawful for any owner, agent or contractor in charge of a construction or demolition site to permit the accumulation of litter before, during or after completion of any construction or demolition project. It shall be the duty of the owner, agent or contractor in charge of a construction site to furnish containers adequate to accommodate flyable or non-flyable debris or trash at areas convenient to construction areas and to maintain and empty the receptacles in such a manner and with such a frequency as to prevent spillage of refuse.
- E. Open or overflowing bins. It shall be unlawful for any residential or commercial property owner to permit open or overflowing waste disposal bins on his or her property.
- F. Commercial establishments and residences. It shall be the duty of the owner, lessee, tenant, occupant or person in charge of any structure to keep and cause to be kept the sidewalk and curb abutting the building or structure free from obstruction or nuisances of every kind, and to keep sidewalks, areaways, backyards, courts and alleys free from litter and other offensive material. No person shall sweep into or deposit in any gutter, street, catch basin or other public place any accumulation of litter from any public or private sidewalk or driveway. Every person who owns or occupies property shall keep the sidewalk in front of his or her premises free of litter. All sweepings shall be collected and properly containerized for disposal.

§ 40A-6 Enforcement and Penalties.

- A. Notice of Violation. The Code Enforcement Officer or his/her designee shall serve written notice of violation or order on the person or persons responsible for the erection, construction, alteration, maintenance, repair, use and occupancy of any premises in violation of the provisions of this Code. The notice of violation shall provide information sufficient to inform the violator of the maintenance, repairs or alterations necessary to abate the violation. Violators shall be allowed ten (10) days to abate such conditions before further action is taken, unless in the opinion or the Code Enforcement Officer, the condition to be abated constitutes an imminent hazard, or unless the Code Enforcement Officer determines that special reasons or conditions require a reasonable extension of time to abate. Failure to abate the violation contained in the notice of violation within the timeframe required therein shall be cause for the Code Enforcement Officer to initiate enforcement in the Municipal Court, or shall authorize the Code Enforcement Officer to provide for removal of the same.
- B. Imminent Hazard. In the event that a nuisance or condition exists which, in the opinion of the Code Enforcement Officer constitutes and imminent hazard, such condition shall be immediately corrected or abated by the person responsible hereunder to correct and/or abate such condition. If,

after written notice upon such responsible party, appropriate action is not immediately taken to correct or abate the imminent hazard, the Code Enforcement Officer shall cause such action to be undertaken.

C. Assessment of Costs. In all cases where abatement is accomplished by the Borough in accordance with this section under the direction of the Code Enforcement Officer or Construction Code Official, such officers shall certify the cost thereof to the governing body of the Borough of Helmetta, which body shall examine the certificate and, if found correct, shall cause the cost as shown thereon to be charged against said lands. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

D. Hardship. Except in the case of an imminent hazard, the Code Enforcement Officer, in his reasonable discretion, may withhold strict enforcement of this Code when it is demonstrated that such enforcement would constitute an undue or unnecessary hardship on the owner, operator, or occupant, or where the Code Enforcement Officer determines that strict compliance would be impracticable or unfeasible. It shall be the responsibility of the owner, operator, or occupant to clearly demonstrate to the Code Enforcement Officer why such strict compliance should not be required under the circumstances.

E. Penalties. Unless another penalty is expressly provided by New Jersey statute, every person convicted of a violation of this Chapter or any supplement thereto shall be liable to a penalty of not more than those prescribed by N.J.S.A. 40:49-5. Each separate day that the violation occurs or continues shall constitute a separate offense.