

ORDINANCE #2024-005

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO AMENDING
CHAPTER 312, ARTICLE II OF THE CODE OF THE TOWNSHIP OF
MARLBORO ENTITLED "SMOKING AND TOBACCO PRODUCTS, MUNICIPAL
BUILDING SMOKE FREE ZONES"

BE IT ORDAINED, by the Township Council of the Township of Marlboro that Chapter 312, Article II of the Code of the Township of Marlboro entitled "SMOKING AND TOBACCO PRODUCTS, MUNICIPAL BUILDING SMOKE FREE ZONES" is hereby amended to prohibit smoking therein as follows:

Chapter 312. Smoking and Tobacco Products

Article II. Municipal Building Smoke-Free Zones
[Adopted 8-13-2015 by Ord. No. 2015-11]

§ 312-8. Purposes.

The following are the purposes of this article:

A. The United States Surgeon General has determined that there is no safe level of exposure to secondhand smoke and that nonsmoking Americans exposed to secondhand smoke in public places are at significantly increased risk of heart disease and lung cancer (see U.S. Department of Health and Human Services, the Health Consequences of Involuntary Exposure to Tobacco Smoke: a report of the Surgeon General, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006); and

B. Smoking is the leading cause of death in the United States and the United States Centers for Disease Control and Prevention has determined that reduction of the death and disease caused by tobacco use and exposure to secondhand smoke is one of the six top national healthcare priorities; and

C. Pursuant to N.J.S.A. 40:48-1, Marlboro is given the authority to adopt ordinances for the public health, safety and welfare of the Township, its citizens, residents and guests; and

D. The New Jersey Smoke-Free Air Act (N.J.S.A. 26:3D-63) ("NJSFAA") specifically authorizes local restrictions on smoking "equivalent to, or greater than" those provided in the NJSFAA for purposes of "protecting public health." ; and

E. It is clearly in the public interest to prohibit the use of smoking products and electronic smoking devices in all enclosed indoor places of public access and workplaces and at all public parks and recreation facilities.

§ 312-9. Definitions.

As used in this article, the following terms shall have the following definitions:

ELECTRONIC SMOKING DEVICE

An electronic device that can be used to deliver nicotine, recreational cannabis or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo or pipe.

SMOKING

The burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or other matter or substance which contains tobacco, recreational cannabis or any other substance that can be smoked, or the inhaling of smoke or vapor from an electronic smoking device.

§ 312-10. Municipal Building Smoke-Free Zones.

Smoking is hereby prohibited on the grounds of the Township Municipal Complex and Recreation Center regardless of whether the area is an indoor public place or is outdoors.

§ 312-11. Parks and Recreational Facilities

Smoking is hereby prohibited in all municipal parks, recreational facilities and open space parcels owned by the Township regardless of whether the area is an indoor public place or is outdoors.

§ 312-12. No Smoking Signage

Notice of the prohibitions contained in this article shall be conspicuously posted by signs stating "No Smoking" and shall reference the applicable Code provisions. "No Smoking" signs or the international no-smoking symbol shall be clearly, sufficiently and conspicuously posted in all areas regulated by this article. The signs shall be clearly visible to the public and shall indicate that violators are subject to fine. It shall not be a defense to a charge under this article that the accused did not see such signs.

§ 312-13. Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be subject to a fine of not less than \$100 for the first offense, \$250 for the second offense and \$500 for each subsequent offense.

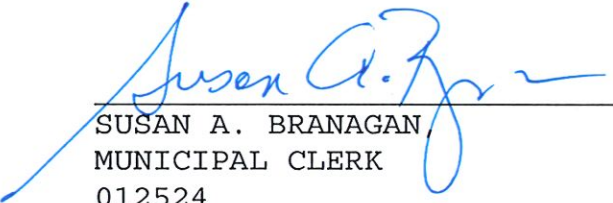
BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall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

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

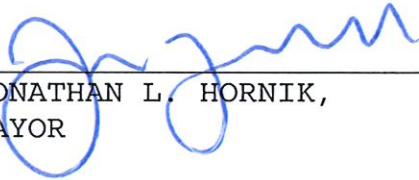
BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

INTRODUCED: JANUARY 25, 2024

ADOPTED: FEBRUARY 15, 2024



SUSAN A. BRANAGAN,
MUNICIPAL CLERK
012524



JONATHAN L. HORNIK,
MAYOR

DATE SIGNED: 2/15/2024

DATE SIGNED: 2/15/2024

TOWNSHIP OF MARLBORO
Administration Department

MEMORANDUM

TO: Jonathan L. Hornik, Mayor
FROM: Jonathan A. Capp, Business Administrator
DATE: January 8, 2024
SUBJECT: 2024 MUNICIPAL BUDGET – LOCAL REVENUES

As you know, during each budget cycle, the Township reviews its user fees and permits relative to the cost of providing services and the amounts being charged for comparable programs in other jurisdictions. This process ensures that the fee charged for a service covers the cost to provide that service, relative to what ‘the market will bear’, and that fee-based programs and services utilized by a few are on the whole not borne by the general taxpayer.

Please find attached departmental requests concerning local revenue proposals for 2024. A summary of the individual recommendations is provided below.

Community Development

Construction Code (Building)

This section providing for partial exemption from Uniform Construction Code fees for qualified religious, charitable and nonprofit organizations shall expire on December 31, 2024.

Planning and Zoning/Code Enforcement

Pursuant to P.L. 2021 Chapter 182, owners/landlords of rental properties/units constructed prior to 1978 are now required to provide a “Lead Safe Certificate” prior to the issuance of a certificate of occupancy. A new section of code is proposed for the inspection and certificate processing, as well as the fee to be collected and turned over to the State of New Jersey.

278-3 Certificates of continued occupancy. Lead inspection required.

Additionally, as indicated in the attached memo of January 2, 2024 from Laura Neumann, Township Engineer, several amendments, summarized below, are requested to clarify and supplement existing provisions of the land use code:

220-04 Definitions of Flex /Warehouse/E-Commerce/Fleet Service/Fulfillment
Chapter 220 of the code employs certain terms (ex. “warehouse” and “flex”) which were not previously defined. In defining these terms, the proposal seeks to narrow the scope of permissible warehouse uses in the LI and IOR zones, as well as ensure that flex buildings properly account traffic impacts and provide for sufficient parking.

220-140 Decks/pools, standby generators and condenser units
Requests for minor variances related to decks, generators and air conditioning units are routinely before the Zoning Board. This proposal will ease the burden on property owners while continuing to encourage the installation of generators and ensure appropriate set backs and screening for generators and air conditioning units.

220-169 Minimum lot areas/1 vs 2 car garages
Clarify that 2-car garages are required for detached single family residential dwellings equal to or greater than 20,000 square feet, and 1-car garages for lots less than 20,000 square feet. Garages 400 square feet or less may not be converted to living space.

Note that there are no license or permit fee impacts associated with these requests.

Administration and Finance

Clerk/Parking

Metered and Annual Parking Permit Fee (Union Hill, Cambridge Square, Texas Road):
The pandemic has resulted in fewer commuters and permit holders to absorb the costs of operating and maintaining the lots which amounted to approximately \$372,000 in 2021. It remains to be seen whether commuter parking registrations will ever rebound to pre-pandemic levels.

In 2021, in order to increase the number of registrants, the Township began accepting multiple permits per household, increased the cap at the Union Hill facility to allow for more Manalapan applicants, and opened up the Texas Road lot to non-residents. Still, revenues have not rebounded post-pandemic. Complicating matters, the costs of operating the lots have increased substantially.

The history of permits sold and total revenue collected is depicted below:

Year	Meters (in \$)	Lot (in \$)	Total Revenue	Lot Permits issued expiring 3/31/XX
2023*	17,875.00	209,229.75	227,104.75	962
2022	20,321.00	211,666.25	220,285.25	979
2021	7,859.00	217,873.50	225,732.50	1,006
2020	12,880.92	251,044.00	263,924.92	1,412
2019	40,746.00	297,837.80	338,583.80	1,613
2018	39,768.00	298,947.00	338,715.00	1,614

* As of September 30, 2023

It is understood that maintaining commuter parking areas is central to economic development, and essential for many families who make the decision to locate in Marlboro. At this time, it is proposed that the Township increase the annual permit fee rates effective October 1, 2024 by approximately 2.9%, from \$237 to \$244 for residents (including Manalapan), \$275 to \$283 for non-residents.

It is also proposed that the Township maintain the \$275 non-resident annual permit fee rate and establish a separate fee category for residents of towns which have entered into a shared services arrangement with Marlboro for parking.

For daily parking, the Township plans to roll out a parking application in 2024 which will allow users to obtain a spot utilizing their phones. The cost of this service has been quoted between \$.35 and \$.50 per transaction. It is proposed that the daily parking fee be increased from \$5.00 to \$5.50 to offset the cost effective October 1, 2024. The existing parking kiosk will still be maintained and available.

Finance/Water

The Township Water Utility obtains approximately 70% of its potable water through a long term contract with the Middlesex Water Company (“MWC”). The cost of these water purchases over the 12 month period beginning October 1, 2022 and ending September 30, 2023 totaled approximately \$5.4 million.

As explained in a memo dated May 25, 2023 (attached), the MWC filed a petition to the New Jersey Board of Public Utilities (NJBPUB) for a 37% increase. The Township has formally intervened in the case in partnership with the Old Bridge Municipal Utilities Authority (OBMUA), a neighboring wholesale purchaser of water from MWC. Historically, the NJBPUB approves an increase every time Middlesex files on the long-held presumption that the MWC is entitled to a highly favorable rate of return on its

capital investment. While the Township is fighting MWC’s May 2023 rate application, an increase of some kind must be anticipated to take effect in the first quarter of 2024.

For budgeting purposes, the Township is anticipating a 20% increase in the cost of purchased water equivalent to approximately \$1.08 million. It is advisable to have a new rate in place as soon as possible in order to spread the increase over a full four quarters of billing. Postponing the increase to a later date would actually require a higher rate to cover the additional expense over a shorter period of time.

- Update § 4-88.1 “Water Service Rates and Fees (Schedule A)” in order to begin raising a very modest amount of additional revenue to offset an inevitable 2024 Middlesex Water Company (MWC) rate increase for purchased water. An increase in the basic user service charge of \$3.00 per quarter (from \$42.00 to \$45.00) effective April 1, 2024 is proposed, an increase of 1.9% for the average residential customer with usage of 27,000 gallons per quarter.
- Water Connection Fee: Following the procedure employed by the Marlboro Township Municipal Utilities Authority (MTMUA), and in accordance with NJSA 40:14B-21, the Township has performed its annual analysis and calculates the water connection fee for 2024 at \$6,500 per service unit (from \$6,260).

It is noted that the Marlboro Utility’s rates still remain below other public and private suppliers in the region.

Some additional minor amendments have been proposed, including separating out the meter installation cost from the meter cost, and establishing the replacement cost of remote meter equipment in the code.

Shade Tree/Community Garden

Clarify definition of a “bed” (40 square feet) and clean-up fee schedule – no net changes in fees to the users.

Police

Extra-Duty Police Officer Rates

These are the rates paid by outside entities requiring traffic control services of the Police Division. The rates were last updated in 2017, and the proposal was prepared following a survey of surrounding jurisdictions. The Township continues to retain 15% of the amount collected to cover SS/Medc and program administration.

Precious Metals (Pawn Shops)

In 2015, the Township substantially updated Chapter 206 of the code entitled “Precious Metals and Secondhand Buyers.” The purpose of the ordinance was to assist law enforcement officials and victims of crime in recovering stolen precious metals and other secondhand goods by requiring minimum identification, reporting, maintenance, and distribution criteria for licensed dealers in these goods. Under the program established by the Police, Pawn Shops applied for a license and were vetted annually. Once a license was issued, licensees were required to make entries in an on-line database designed with the purpose of assisting the Police in identifying criminals and returning stolen property to victims. The cost of the on-line database application was approximately \$3,000 per year, and with 6 “Pawn Shops” operating in Marlboro at the time, the fee was established at \$500 per license (\$3,000 divided by 6). Currently, there are only 2 of these establishments remaining in town, and the cost of the service has increased to approximately \$6,000 per year. As such, a recommendation has been made to increase the license fee to \$3,100 per year, and the renewal fee to \$3,100 over three years, so that it continues to offset the cost of the annual service contract.

Recreation

Teen Travel Camp

After a two year pandemic-era hiatus, the Recreation Department brought back a 4 week “Teen Travel Camp” program in 2023. The program consists of 4 chaperoned trips per week to various entertainment destinations in the region.

The program boasted full enrollment in 2023, and anticipates continued demand for the program. In 2023, the 6th grade recreation program had over 100 campers who will be eligible for the Teen Travel Camp in 2024. The 7th grade camp had 90 campers all eligible for the Teen Travel Camp as well.

At this time, the Department proposes increasing the length of the program from 4 to 6 weeks. The costs of Teen Travel are almost entirely variable in nature, based upon number of participants and trips taken, composed of labor, transportation (coach buses) and ticket purchases. It is therefore proposed that the not to exceed maximum fee amount

for Teen Travel Camp be increased on a prorated basis accordingly, from \$1,860 (4 week program) to a maximum of \$2,900 (based upon a 6 week program).

Indoor Facility Use Fees

Establish facility application process and usage fees for the Township-owned Firehouse located at 78 Tennent Road. A 2 hour minimum for the Building Attendant will apply to both the Firehouse and Morganville Senior Center to reflect the fact that a separate staff member must be assigned and travel to facilities located off of the municipal complex campus.

Outdoor Facility Use Fees

Marlboro Little League (MLL) and American Youth Football (AYF) are private leagues which utilize Marlboro Township fields. With the premise that these private leagues count many Marlboro youth as members, the Township Code has long featured separate discounted outdoor facility utilization rates specific to each of these organizations.

As with all fee and permit categories, the Township has reviewed the costs of servicing the leagues, and is recommending an increase to be implemented over multiple seasons. The recommendation reflects the operational as well as capital infrastructure costs of providing facilities for use by the leagues.

MLL utilizes 5 different fields across the Township, each of which requires regular maintenance by Public Works staff. The capital cost of replacing the infrastructure itself is significant. For example, the facility at Country Park was improved in 2014 at a cost of \$514,397. The facility at Nolan Road Park was improved in 2022 at a cost of \$239,797. Turf fields typically have a useful life of 10-15 years, and, as such must also be replaced every 10-15 years. The football field at the municipal complex utilized by AYF was recently resurfaced at a cost of \$646,618.

On the operating side, Township turf field facilities are inspected by a third party annually at a cost in 2023 of \$3,300. Lighting is an additional operational expense, amounting to more than \$20,000 in 2022.

The Recreation Department has calculated a target fee for each of the leagues, arrived at by applying the approximate number of days usage to the current rates charged for outdoor facility use, as follows:

Marlboro Little League (MLL)	6,000.00
American Youth Football (AYF)*	13,000.00

*includes field lighting

The 2024 proposal continues the gradual process of raising MLL and AYF facility utilization fees to a level more consistent with other private, resident, not for profit entities, over a three year period.

	Current	2025	2026
Marlboro Little League (MLL)	600.00	900.00	1,350.00
American Youth Football (AYF)*	3,600.00	5,400.00	8,100.00

*includes field lighting

No Smoking

An amendment to Chapter 312 of the Township code to extend current prohibitions on smoking (including tobacco, cannabis and vape products) to certain outdoor recreation facilities is proposed. This proposal will not impact any recreation facility usage fees.

As always, please advise if you have any questions. Thank you for your consideration.

attachments

ACTION ITEMS

- 1) AN ORDINANCE AMENDING AND SUPPLEMENTING LICENSING AND PERMITTING FEES AND POLICIES OF THE CODE OF THE TOWNSHIP OF MARLBORO PERTAINING TO PROPERTY MAINTENANCE; UNIFORM CONSTRUCTION CODE; PARKING AT MUNICIPAL FACILITIES; WATER UTILITY SYSTEM CONNECTION FEES; SPECIAL-DUTY ASSIGNMENTS FOR POLICE OFFICERS, PRECIOUS METALS AND SECONDHAND BUYERS AND RECREATION & SWIM PROGRAMS (Admin)
- 2) AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 220 ("LAND USE AND DEVELOPMENT") OF THE CODE OF THE TOWNSHIP OF MARLBORO DEFINING FLEX SPACE AND WAREHOUSES, CLARIFYING PROVISIONS FOR DECKS AND POOLS, ESTABLISHING CRITERIA FOR STANDBY GENERATORS, AIR CONDITIONING UNITS AND USE OF GARAGE SPACE (Eng)
- 3) AN ORDINANCE OF THE TOWNSHIP OF MARLBORO AMENDING CHAPTER 312, ARTICLE II OF THE CODE OF THE TOWNSHIP OF MARLBORO ENTITLED "SMOKING AND TOBACCO PRODUCTS, MUNICIPAL BUILDING SMOKE FREE ZONES" (Rec)

NOTICE OF PENDING ORDINANCE
ORDINANCE #2024-005

The ordinance was introduced and passed upon first reading at a meeting of the governing body of the Township of Marlboro, in the County of Monmouth, State of New Jersey, on January 25, 2024. It will be further considered for final passage, after a public hearing thereon, at a meeting of the governing body to be held at Town Hall, 1979 Township Drive, Marlboro, New Jersey on February 15, 2024. In the event the meeting on February 15, 2024 is a virtual meeting, instructions regarding attendance and participation in the meeting will be posted on the Township's website (<https://www.marlboro.nj.gov/>). During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours of 8:30 a.m. to 4:30 p.m. Monday through Friday at the Municipal Clerk's office for the members of the general public who shall request the same. Copies of the ordinance can be requested by emailing Clerk@marlboro.nj.gov or calling 732-536-0200 ext.: 1225.

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CHAPTER 312, ARTICLE II OF THE CODE OF THE TOWNSHIP OF
MARLBORO ENTITLED "SMOKING AND TOBACCO PRODUCTS, MUNICIPAL
BUILDING SMOKE FREE ZONES"

Amending Chapter 312, Article II of the Code of the Township of Marlboro entitled "SMOKING AND TOBACCO PRODUCTS, MUNICIPAL BUILDING SMOKE FREE ZONES" to prohibit smoking and tobacco products in all municipal buildings, parks and recreation facilities, and all properties owned by the Township and in smoke free zones.

SUSAN A. BRANAGAN,
MUNICIPAL CLERK

(\$27.28)

AFFIDAVIT OF PUBLICATION

Order Number : 9784169

STATE OF WISCONSIN
Brown County

Of the **Asbury Park Press**, a newspaper printed in Freehold, New Jersey and published in Neptune, in State of New Jersey and Monmouth/Ocean Counties, and of general circulation in Monmouth/Ocean Counties, who being duly sworn, deposeth and saith that the advertisement of which the annexed is a true copy, has been published in said newspaper in the issue:

01/30/2024

Keelynn Moran

Legal Clerk

Denise Roberts

Notary Public State of Wisconsin County of Brown

4-6-27

My commission expires

DENISE ROBERTS
Notary Public
State of Wisconsin