

**ORDINANCE NO. 3536**

**INTRODUCED BY: MAYOR JOSEPH P. SCARPELLI AND COMMISSIONER THOMAS J. EVANS ON BEHALF OF THE BOARD OF COMMISSIONERS**

**INTRODUCED ON: DECEMBER 19, 2023**

**PUBLISHED: DECEMBER 28, 2023**

**PUBLIC HEARING: JANUARY 16, 2024**

**PUBLISHED: JANUARY 25, 2024**

**TOWNSHIP OF NUTLEY  
COUNTY OF ESSEX**

**ORDINANCE NO. 3536**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF NUTLEY IN THE COUNTY OF ESSEX CREATING CHAPTER 112, MUNICIPAL WATER AND SEWER UTILITY, OF THE TOWNSHIP CODE**

**WHEREAS**, it is the intention of the Township of Nutley (the “Township”) to create a combined utility to administer and operate water and sewage facilities, including all contractual relationships relating thereto, within the Township, with its rights, duties and responsibilities set forth in the Township Code as the “Municipal Water and Sewer Utility” within the Department of Public Works; and

**WHEREAS**, the Township has determined that the creation of the Township of Nutley Water and Sewer Utility will allow the Township to more efficiently maintain operations, and utilize resources; and

**WHEREAS**, the Board of Commissioners hereby finds and declares that it is in the best interest of the Township and its residents to establish the Township of Nutley Water and Sewer Utility.

**NOW, THEREFORE, BE IT ORDAINED**, by the Board of Commissioners of the Township of Nutley, County of Essex, State of New Jersey, being the governing body thereof, as follows, that:

**SECTION 1.** Part I, Administrative Legislation, Chapter 112, Municipal Water and Sewer Utility, of the Code of the Township of Nutley is hereby created as follows:

Section 112-1 Established and Purpose.

There is hereby established a combined water and sewer utility to be called the “Township of Nutley Water and Sewer Utility” in accordance with N.J.S.A. 40:62-47, et seq. and 40A:26A-1, et seq. all other enabling legislation, regulations and codes. The Township of Nutley Water and Sewer Utility shall be responsible for the operation, functioning and maintenance of the Township water and sewerage systems; shall be empowered to make such improvements as may be necessary to effectuate the foregoing and have the authority to establish, charge and collect fees for connections, usage and services for direct or indirect use of the water and sewerage systems and shall have all such other powers and duties as may be specified and prescribed.

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Section 112-2 Operation, Division Head.

Except as otherwise provided in this Section, the Township of Nutley Water and Sewer Utility shall operate as a division within the Department of Public Works. The Director of Public Works shall select a Superintendent for the Water and Sewer Utility Division, who shall serve at the pleasure of the Director. The Superintendent of the Water and Sewer Utility Division shall report to the Director of Public Works and shall receive such compensation as established by the Board of Commissioners. Additional Water and Sewer Utility Division staff may be hired in accordance with normal Township procedures and in accordance with the Department of Public Works budget. The Water and Sewer Utility Division may retain consulting professionals as deemed necessary by the Director. The organization of the Water and Sewer Utility Division and its function shall be in accordance with the organizational chart, which shall be filed with the Township Clerk, and shall be updated by resolution of the Director of Public Works as required.

Section 112-3 Billing and Collection

All billing and collection of water and sewer rents, rates and charges on behalf of the Township of Nutley Water and Sewer Utility shall be performed by the Department of Revenue and Finance as authorized by its Director. Billing and collection operations shall be overseen by the Tax Collector in coordination with the Chief Financial Officer. The Chief Financial Officer shall provide reports on a regular basis, but not less frequently than once per fiscal quarter, containing all collections, revenues, expenses and balances of the Township of Nutley Water and Sewer Utility. All such reports shall be circulated to the Director of the Department of Public Works, the Director of the Department of Revenue and Finance, and the Superintendent of the Sewer Utility Division and the Board of Commissioner.

Section 112-4 Establishment of Usage Rates.

Rates for the connections, user fees and services are set by separate ordinances of the Township, which are herein incorporated by reference. Such rates, including but not limited to connections, meters, and usage may be subject to periodic review and change as recommended by the Director and Superintendent of the Water and Sewer Utility Division.

Section 112-5 Operation of the Utility.

The anticipated revenues from the operation of the Township of Nutley Water and Sewer Utility and the appropriations therefor shall be set forth in a separate section of the Township budget and maintained in the water and sewer utility fund as established by ordinance. Dedicated revenues shall not be stated in the Township budget in an amount which is in excess of the appropriation

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therein for the purposes to which the same are applicable, or in excess of the amount actually realized in cash from the same source during the preceding fiscal year, unless the Director of the Division of Local Government Services shall, upon application to the Board of Commissioners, determine that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the fiscal year and shall certify such determination in writing to the Township.

Section 112-6 Appropriations for the Utility.

Appropriations for the Township of Nutley Water and Sewer Utility shall be in the form and detail prescribed by the regulations of the Township and in accordance with the Local Finance Board and the Division of Local Government Services, and shall include, at least:

- (i) operations,
- (ii) interest and debt retirement, and
- (iii) deferred charges and statutory expenditures.

Section 112-7 Utility Operations; Surplus; Deficit.

If, in any year as a result of operations of such utility there shall be a surplus, or such surplus can be reasonably anticipated, then such surplus, when authorized by the Board of Commissioners, may be included in the budget as an item of miscellaneous revenue, under the caption of "Surplus from the Township of Nutley Water and Sewer Utility". Any such surplus may be transferred to the general fund upon the recommendation and approval of the Director of Revenue and Finance in coordination with the Director of the Department of Public Works. If in any year, as result of such operation, there shall be a deficit or anticipated deficit, then an appropriation for such deficit shall be included in the budget under the caption "Deficit of the Township of Nutley Water and Sewer Utility". If any anticipated deficit shall exceed the appropriation therefor, the excess shall be provided in the budget for the following year. This section shall not, however, supersede the specific dedication of receipts from the Township of Nutley Water and Sewer Utility as provided in any law which authorizes the establishment or creation if such utility unless so directed by the Board of Commissioners.

**SECTION 2.** Repeal of All Inconsistent Ordinances. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

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**SECTION 3.** Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end, the provision of this Ordinance are hereby declared to be severable.

**SECTION 4.** Effective Date. This Ordinance shall take effect upon its final passage and publication in accordance with applicable law.

<b>Record of Vote</b>	<b>Commissioner John V. Kelly, III</b>	<b>Commissioner Thomas J. Evans</b>	<b>Commissioner Alphonse Petracco</b>	<b>Commissioner Mauro G. Tucci</b>	<b>Mayor Joseph P. Scarpelli</b>
<i>Yes</i>		X	X	X	X
<i>No</i>					
<i>Not Voting</i>					
<i>Absent/Excused</i>	X				