

**Meeting Minutes
Hightstown Borough Council
Business Meeting
September 21, 2015
6:15 pm**

The meeting was called to order by Mayor Quattrone at 6:20 pm and he read the Open Public Meetings Act statement which stated, "Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the *Trenton Times* and the *Windsor-Hights Herald*, and is posted in the Borough Clerk's office."

Roll Call

	PRESENT	ABSENT
<i>Councilmember Bluth</i>	✓	
<i>Councilmember Hansen</i>	✓	
<i>Councilmember Kurs</i>	✓	
<i>Councilmember Misiura</i>	✓	
<i>Councilmember Montferrat</i>		✓
<i>Councilmember Stults</i>	✓	
<i>Mayor Quattrone</i>	✓	

Also in attendance: Debra Sopronyi, Borough Clerk; Henry Underhill, Borough Administrator; and Fred Raffetto, Borough Attorney.

Resolution 2015-231 Authorizing a Meeting Which Excludes the Public

Council President Hansen moved resolution 2015-231, Councilmember Stults seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, and Stults voted yes.

Resolution adopted 5-0.

Resolution 2015-231

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING A MEETING WHICH EXCLUDES THE PUBLIC

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that this body will hold a meeting on September 21, 2015 following the general meeting in the First Aid Building located at 168 Bank Street, Hightstown that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7b of the Open Public Meetings Act.

The general nature of the subject or subjects to be discussed:

Contract Negotiations – Shared Service (Police/Dispatch/Court)
Personnel – Professional Services
Litigation - Affordable Housing Declaratory Judgment Action

Stated as precisely as presently possible the following is the time when and the circumstances under which the discussion conducted at said meeting can be disclosed to the public: December 21, 2015 or when the need for confidentiality no longer September 21, 2015

exists.

The public is excluded from said meeting, and further notice is dispensed with, all in accordance with sections 8 and 4a of the Open Public Meetings Act.

Mayor Quattrone called the public meeting to order at 7:03pm and again read the Open Public Meeting Statement.

The flag salute followed Roll Call.

Councilmember Montferrat had arrived during executive session and was now present; Lt. Frank Gendron and Elizabeth Garcia, Labor Counsel, arrived at this time and were now present.

Mayor Quattrone asked that the agenda be amended to add resolution 2015-245 to the consent agenda.

Council President Hansen moved the agenda as amended for approval, Councilmember Montferrat seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Agenda approved 6-0.

Councilmember Kurs moved the September 8, 2015 open session minutes for approval, Councilmember Stults seconded.

Councilmember Misiura made a correction to page 20 of the minutes.

Council President Hansen moved the September 8, 2015 open session minutes as amended for approval, Councilmember Misiura seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Minutes approved 6-0.

Council President Hansen moved the September 8, 2015 executive session minutes for approval, Councilmember Stults seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Minutes approved 6-0.

Mayor Quattrone opened the public comment period and the following individuals spoke:

Lynne Woods, 315 Park Avenue – recited a conversation that was alleged to have taken place pertaining to the Marchione charges regarding having sex on the job; she used profane language. Mayor Quattrone reminded Ms. Woods that there were children present and she replied “Oh well”. She then commented that she insists that Council members Bluth and Kurs recuse themselves from voting on the Marchione resolution because Scott Jenkins has their election signs on his lawn and there is the appearance of a conflict of interest because he threatened to get Marchione fired.

Bree Marchione, 19 Talmadge Drive, Monroe – commented that she thought the Borough Council would protect her husband, he did nothing wrong. She reviewed the doctor reports from his fitness for duty evaluations.

Scott Caster, 12 Clover Lan – asked for a point of order as the resolution regarding Marchione states that the Borough Council has discussed the matter. The Borough Attorney advised that the discussion will take place at the time of the

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resolution. Mr. Caster commented that he is assuming the resolution is on the agenda for consideration of Council and noted that he supports Mr. Marchione.

Evan Kane, 59 Eddington Lane, Monroe – commented that he supports Mr. Marchione.

Mark Katz, 400 Stockton Street – commented that he supports Mr. Marchione.

Romie Kane, 59 Eddington Lane, Monroe - commented that he supports Mr. Marchione.

Jean Ruggiero Mair, 536 S. Main Street – noted that Esther Vazquez could not attend the meeting but sent a letter for her to read for her; Ms. Mair then read the letter in support of Mr. Marchione.

Tom Sweeney, 101 Hutchinson - commented that he supports Mr. Marchione.

Herbert Smith, 652 Old York Road, East Windsor – commented that he supports Mr. Marchione.

Mary Beth Covell, 128 Broad Street – commented that she hopes Council does what is best for the community.

Nancy Blasco, 1833 Old Stone Mill Road, East Windsor – commented that she supports Mr. Marchione.

There being no further comments, Mayor Quattrone closed the public comment period.

Ordinance 2015-21 First Reading and Introduction – An Ordinance Repealing Ordinance 2005-28

Councilmember Kurs moved ordinance 2015-21 for introduction, Councilmember Stults seconded.

The Borough Attorney explained that the use of Growth Share for Affordable Housing is obsolete and the Borough Council is removing it from the Borough Code.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Ordinance introduced 6-0; public hearing to be held on October 5, 2015.

Ordinance 2015-21

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AN ORDINANCE REPEALING ORDINANCE 2005-28

IT IS HEREBY ORDAINED, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, that Hightstown Borough Ordinance 2005-28 which established Growth Share Affordable Housing Requirements, and amended and supplemented Chapter 26, "Land Use Procedures," of the "Revised General Ordinances of the Borough of Hightstown, County of Mercer, New Jersey" in order to establish a new section thereof to be known as Section 26-11, is hereby repealed.

Ordinance 2015-22 First Reading and Introduction – An Ordinance Amending and Supplementing Chapter 13 "Housing" of the "Revised General Ordinances of the Borough of Hightstown, Mercer County, New Jersey"

Councilmember Stults moved ordinance 2015-22 for introduction, Councilmember Bluth seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

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Ordinance introduced 6-0; public hearing to be held on October 5, 2015.

Ordinance 2015-22

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AMENDING AND SUPPLEMENTING CHAPTER 13 “HOUSING” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, MERCER COUNTY, NEW JERSEY”

WHEREAS, the Housing Official and Inspector have made certain recommendations for revisions to Chapter 13, “Housing” of the Borough Revised General Ordinances of the Borough of Hightstown; and

WHEREAS, the Borough Council has reviewed and concurs with these recommendations;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hightstown as follows:

Section 1. Chapter 13 “Housing” is hereby amended as follows (underline for additions, strikethroughs for deletions):

Chapter 13

HOUSING

Sections:

13-1	GENERAL PROVISIONS
13-2	ADMINISTRATION AND ENFORCEMENT
13-3	HOUSING STANDARDS FOR OWNER OCCUPIED UNITS AND RENTAL UNITS
13-4	ADDITIONAL HOUSING STANDARDS FOR RENTAL UNITS
13-5	INSPECTIONS; NOTICE; HEARINGS
13-6	UNFIT BUILDINGS
13-7	TRANSFER OF PROPERTY
13-8	CERTIFICATE OF COMPLIANCE REQUIREMENT FOR CHANGES IN OCCUPANCY OF RENTED DWELLINGS
13-9	VIOLATIONS AND PENALTIES
13-10	BOARDINGHOUSES AND ROOMING HOUSES
13-11	Reserved
13-12	LICENSING AND REGISTRATION OF RESIDENTIAL RENTAL PROPERTIES

Section 13-1

GENERAL PROVISIONS

Subsections:

13-1-1	Purpose.
13-1-2	Definitions and Word Usage.

Subsection 13-1-1 Purpose.

The purpose of this chapter shall be to establish and maintain every person's right to a decent home, located in a desirable, suitable and well-kept neighborhood environment; to establish minimum standards governing the required plumbing, heating and electrical facilities and their maintenance; to establish minimum standards governing the conditions and maintenance of dwellings and other structural things and conditions on the inside and outside of dwellings and the premises surrounding dwellings; to make dwellings safe, sanitary and fit for decent living; to establish minimum standards governing the conditions of dwellings offered for rent, fixing the responsibilities of both owners and occupants of dwellings; to authorize and command the inspection of dwellings and the condemnation of dwellings unfit for human habitation; and to fix the penalties for its violations.

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However, the Borough, by this section, is not acting as a guarantor of the condition of any property insofar as any potential owner or occupant is concerned, nor shall the Borough be considered to be involved in any manner in the contractual relationships between parties buying, selling or renting property. Inspections by Borough officials are not a substitute for engineering or other inspections which may be required by contract in connection with a change in ownership or occupancy of any property. (1991 Code § 121-1; Ord. No. 823 § 1)

Subsection 13-1-2 Definitions and Word Usage.

a. Whenever the words "dwelling," "dwelling unit," "apartment," "living unit," "rooming house," "hotel," "motel," "rooming unit," "boardinghouse" and "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

b. As used in this chapter:

Basement shall mean that portion of a building located partly or wholly underground and having more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Bathroom shall mean a room which has a floor area, including fixtures, of at least thirty-five (35) square feet and which contains a minimum of one (1) flush water closet, one (1) washbasin and one (1) bathtub or shower stall.

Bedroom shall mean a room or enclosed floor space within a dwelling unit used or designed to be used for sleeping, equipped with a privacy door (which does not have any keyed locks), at least one window allowing access to the outside, and having a ceiling height of at least seven feet over at least one-half of the floor area. Square footage for determining occupancy load shall not include bathrooms, kitchens, dining rooms, living rooms, family rooms, water closet compartments, walk-in closets, laundries, pantries, foyers, hallways or storage spaces.

Boardinghouse shall mean any private dwelling or dwelling unit where the owner, tenant or operator thereof is engaged in keeping one (1) or more roomers or boarders who are not husband and wife or son or daughter, mother or father or sister or brother of the owner, tenant or operator or of the spouse of the owner, tenant or operator and in serving food to some or all of such lodgers for a part of a day or longer period under expressed contract or rate of payment.

Building shall mean any building or structure or part thereof used for human habitation, use or occupancy, including any accessory buildings and appurtenances belonging thereto or usually enjoyed therewith.

Cellar shall mean that portion of a building located partly or wholly underground and having more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dwelling shall mean a building or structure or part thereof containing one (1) or more dwelling units or lodging units.

Dwelling unit shall mean an apartment, living unit or similar designation or any room or group of rooms or any part thereof located within a building and forming a single habitable unit with facilities which are used or designed to be used for living, sleeping, cooking and eating.

Garbage shall mean the animal and vegetable and other organic waste resulting from handling, preparation, cooking and consumption of food.

Habitable room shall mean a room or enclosed floor space within a dwelling unit used or designed to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

Historic landmark shall mean any building, the location, design, setting, materials or workmanship of which is specifically definable, and which is:

- a. Of particular historic significance; or
- b. Associated with historic personages; or
- c. An embodiment of the distinctive characteristics of a type, period or method of architecture or engineering.

Housing Inspector shall mean the officer or officers who are authorized by the provisions of this chapter to exercise the powers prescribed herein.

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Infestation shall mean the presence within or around a building of any insects, rodents or other pests.

Lodging shall mean rooming.

Lodging house shall mean any building or that part of any building containing one (1) or more lodging units, each of which is rented by one (1) or more persons who are not husband and wife or son or daughter, mother or father or sister or brother of the owner or operator or of the spouse of the owner, tenant or operator.

Lodging unit shall mean a rented room or group of rooms containing no cooking facilities, used for living purposes by a separate family or group of persons living together, or by a person living alone, within a building.

Multiple dwelling or apartment house shall mean any dwelling containing more than three (3) dwelling units.

Occupant shall mean any person in actual possession of and living in the building or dwelling unit, including the owner.

Owner shall mean any person who, alone or jointly or severally with others:

a. Has legal title to any dwelling, dwelling unit, hotel, motel, rooming house, rooming unit or boardinghouse, with or without accompanying actual possession thereof.

b. Has charge, care or control of any dwelling or dwelling unit, hotel, motel, rooming house, rooming unit or boardinghouse as owner or agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall comply with the provisions of this chapter and the rules and regulations adopted pursuant thereto to the same extent as if he were owner.

Plumbing shall include all the supplied piping, facilities, fixtures and equipment; the house sewer from the septic tank, cesspool, curb or property line to the building foundation; the water service from the curb or property line to the building foundation; the system of soil, vent and waste pipes from their connection at the foundation to the house sewer to their connections to the various plumbing fixtures and to their termination through the roof; all hot- and cold-water lines in the dwelling or building; every plumbing fixture, trap, floor drain or any fixture directly or indirectly connected to the plumbing system; the gas piping from the gas meter to the connections to the various gas appliances; and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Rubbish shall mean combustible and noncombustible waste material, including boxes, barrels, sticks, stones, bricks, bottles, cans, metal drums, iron pipe, cold sheet metal, old furniture, unused motor vehicles and boats, auto parts, filth, junk, trash, debris and old lumber or firewood, unless such lumber or firewood is neatly stacked or piled on a support or platform at least eight (8) inches above the ground. It shall also include any other articles which the Housing Inspector, in his judgment, declares to be "rubbish."

Smoke sensitive alarm device shall mean a fire alarm device capable of sensing visible or invisible particles of combustion and providing a suitable alarm audible in all sleeping areas.

Supplied shall mean paid for, furnished or provided by or under the control of the owner or operator.

Utilities shall include electric, gas heating, water and sewage services and equipment therefor. (1991 Code § 121-2; Ord. No. 823 § 2; Ord. No. 2002-20)

Section 13-2

ADMINISTRATION AND ENFORCEMENT

Subsections:

- 13-2-1 Administration.**
- 13-2-2 Enforcing Authority Designated.**
- 13-2-3 Powers of Housing Inspector.**

Subsection 13-2-1 Administration.

The Housing Inspector shall be responsible for the administration of the Housing Code. (1991 Code § 121-3)

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Subsection 13-2-2 Enforcing Authority Designated.

The enforcing authority for the provisions of this chapter shall be the Housing Inspector, who shall be appointed by the Mayor and confirmed by the Borough Council pursuant to law for a term of one (1) year. (1991 Code § 121-4)

Subsection 13-2-3 Powers of Housing Inspector.

The Housing Inspector shall be authorized and empowered to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following, in addition to others herein granted:

- a. To investigate dwelling conditions in the Borough in order to determine which dwellings therein are unfit for human habitation.
 - b. To administer oaths and affirmations, examine witnesses and receive evidence.
 - c. To enter upon premises for the purpose of making examination, provided that such entries are made in such manner as to cause the least possible inconvenience to the persons in possession.
 - d. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter.
 - e. To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.
- (1991 Code § 121-5)

Section 13-3

HOUSING STANDARDS FOR OWNER OCCUPIED UNITS AND RENTAL UNITS

Subsections:

13-3-00	Housing Standards for Owner Occupied Units and Rental Units.
13-3-1	Maintenance.*
13-3-2	Sump Pump and Sewer Line Clean-Outs.
13-3-3	Water Supply.
13-3-4	Plumbing and Heating.
13-3-5	Electrical.
13-3-6	Smoke and Carbon Monoxide Alarms Required.
13-3-7	Fences.
13-3-8	Use and Occupancy of Space.
13-3-9	Ventilation.
13-3-10	Historic Landmarks.
13-3-11	Egress
13-3-12	Signs

Subsection 13-3-00 Housing Standards for Owner Occupied Units and Rental Units.

Standards applicable to dwelling units which are owner-occupied and dwelling units and lodging units which are rented to tenants (all dwellings and dwelling units). (1991 Code AIV; Ord. No. 823 § 3)

Subsection 13-3-1 Maintenance.*

- a. Every foundation, floor, wall, ceiling, door, window, roof or other part of a building shall be maintained in a safe, sanitary, and structurally sound condition so as not to pose a threat to the public health, safety or welfare, and capable of the use intended by its design. Any exterior part or parts thereof shall be maintained weatherproof and properly surface-coated where required to prevent deterioration.
- b. Every inside and outside stairway, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of safely supporting the imposed dead and live loads and shall be kept in sound condition and good repair. As of the effective date of this section, every stairway having four (4) or more risers shall be properly bannistered and safely

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balustraded pursuant to the Uniform Construction Code of the State of New Jersey.

c. Every porch, balcony, roof or similar place higher than thirty (30) inches above the ground used for egress or for use by occupants shall be provided with adequate railings or parapets. Such protective railings or parapets shall be properly balustraded and shall not be less than three (3) feet in height.

d. Every roof, wall, window, exterior door and hatchway shall be free from holes or leaks that would permit the entrance of water within a dwelling or be a cause of dampness.

e. Every dwelling shall be free from rodents, vermin and insects. Rodent or vermin extermination and rodent-proofing may be required by the Health Department.

f. Every building, dwelling, dwelling unit, and all other areas of the premises shall be clean and free from garbage or rubbish and hazards to safety. Lawns, hedges and bushes shall be kept trimmed and not permitted to become overgrown, thereby becoming a hazard to the public health, safety and welfare. Dead or broken limbs which may pose a threat to the safety and welfare of the public shall be removed.

g. The Housing Inspector may order the owner to clean, repair, paint, whitewash or paper any walls or ceilings within a dwelling which have deteriorated so as to provide a harborage for rodents or vermin.

h. Every sidewalk, walkway and driveway shall be maintained in such a manner as not to pose a safety hazard. There must be at least seven (7) foot clearance from the sidewalk to the lowest tree branch overhanging the sidewalk, and shrubbery must not overhang or obstruct the sidewalk.

i. All chimneys, smokestacks and similar appurtenances shall be maintained structurally safe, sound and in good repair. Various and sundry outbuildings, garages and sheds shall be maintained so as to be safe, and any exterior part or parts thereof shall be maintained weatherproof and properly surface-coated where required to prevent deterioration. All sheds erected after the effective date of this section shall be safely anchored. (1991 Code § 121-6; Ord. No. 823 § 3; Ord. No. 2010-05)

* **Editor's Note:** For additional regulations on property maintenance, see Chapter XIV.

Subsection 13-3-2 Sump Pump and Sewer Line Clean-Outs.

No sump pump shall be connected to any sanitary sewer line within the Borough. All sewer line clean-outs shall be at least one (1) foot above floor level. This subsection shall be enforced by the Housing Inspector or the Superintendent of the Advanced Wastewater Treatment Plant in accordance with the provisions of subsection 19-3.1g. of Chapter XIX governing wastewater discharges. Certificates of Compliance, pursuant to Sections 13-7 and 13-8 of this chapter shall be not issued prior to compliance with the provisions of subsection 19-3.1g. of Chapter XIX. (1991 Code § 121-7; Ord. No. 823 § 3; Ord. No. 94-6 § 3)

Subsection 13-3-3 Water Supply.

Every dwelling and dwelling unit shall be provided with a safe supply of potable water meeting the standards set forth in the Potable Water Standards as published by the New Jersey Department of Environmental Protection and Energy. (1991 Code § 121-8; Ord. No. 823 § 3)

Subsection 13-3-4 Plumbing and Heating.

a. All plumbing and heating systems shall be in satisfactory working order.

b. No room heater, heating stove, space heater or tank water heater designed for the use of kerosene, gasoline, oil, gas, wood, coke, charcoal or coal as a fuel shall be used in any dwelling or dwelling unit unless it has an approved direct smoke pipe or flue connection to a properly constructed chimney capable of carrying all of the products of combustion to the outside air. (1991 Code § 121-9; Ord. No. 823 § 3)

Subsection 13-3-5 Electrical.

The electrical system shall be in proper working order so as not to pose a threat of electrical shock, fire or other hazard. All Groundfault Interrupt Outlets shall function as designed. All plates and covers shall be in place. [No extension cords shall be connected to appliances and/or air conditioners.](#) (1991 Code § 121-10; Ord. No. 823 § 3)

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Subsection 13-3-6 Smoke and Carbon Monoxide Alarms Required.

All dwellings and dwelling units shall have a smoke-sensitive alarm device on each level of the structure and outside each separate sleeping area and located on or near the ceiling in accordance with P.L. 1991, c. 92. [A carbon monoxide detector must be located outside all sleeping areas.](#) (1991 Code § 121-11; Ord. No. 823-3)

Subsection 13-3-7 Fences.

Every fence shall be maintained and kept in a condition which shall not pose structural, health or safety dangers. (1991 Code § 121-12; Ord. No. 823-3)

Subsection 13-3-8 Use and Occupancy of Space.

a. It shall be the responsibility of the owner to ensure that the maximum number of occupants in a dwelling unit shall not exceed the following standard:

1. Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space for the first occupant thereof and at least one hundred (100) additional square feet of floor space for every additional occupant thereof, such floor space to be calculated on the basis of total habitable room area.

b.

1. Every room in a dwelling unit occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor space for each occupant thereof. Under no circumstances shall there be more than two (2) occupants in each bedroom of a dwelling unit. Children under the age of two (2) shall not be considered to be additional occupants.
2. Notwithstanding the foregoing, in every lodging unit every room occupied for sleeping purposes by one (1) occupant shall contain at least eighty (80) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least sixty (60) square feet of floor space for each occupant thereof.

c. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet. The floor area of that part of any room where the ceiling is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

d. No room in a dwelling unit may be used for sleeping if the floor level of the room is lower than three and one-half (3 ½) feet below the average grade of the ground adjacent to and within fifteen (15) feet of the exterior walls of the room.

e. A room located below the level of the ground but with the floor level less than three and one-half (3 ½) feet below and the average grade of the ground adjacent to and within fifteen (15) feet of the exterior walls of the room may be used for sleeping, provided that the walls and floor thereof in contact with the earth have been damp proofed in accordance with a method approved by the Housing Inspector and that the windows thereof are at least fifteen (15) feet from the nearest building or wall.

f. Keyed and/or combination locks on interior doors are prohibited. Privacy locks are allowed on bedroom doors, provided that the lock can be opened easily and without the use of force from the outside of the room, or from any hallway or common area, in the event of emergency.

g. Non-habitable spaces, including storage and closet areas, kitchens, hallways and all portions of living rooms, dining rooms, dens, enclosed porches, attics and basements, shall not be used as bedrooms or otherwise occupied for sleeping purposes; notwithstanding the foregoing, attics and basements may be used as bedrooms if they have been rendered habitable pursuant to all requirements of the State Housing Code.

h. The number of bedrooms in a dwelling unit is determined by the number of bedrooms on the tax records for the property.

i. The bedroom cannot be used to pass through to another habitable space, bedroom or kitchen.

j. [Overcrowding – The following factors may be considered by the Housing Inspector as rebuttable presumption of overcrowding, as that term is defined by this chapter and shall support the issuance of a summons and complaint by the](#)

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Housing Inspector, without first issuing a notice of violation:

1. The occupying of areas of a rental dwelling unit prohibited pursuant to section 13-3-8(g) of this chapter, such as basements and attics;
2. The location of mattresses or bedding materials in areas of a dwelling unit prohibited for occupancy pursuant to section 13-3-8(g); and
3. The existence of cooking appliances, and/or refrigeration units, (excluding freezer appliances) in inappropriate areas of a dwelling unit in addition to those located in the kitchen, as determined by the Housing Inspector.

(1991 Code § 121-13; Ord. No. 823 § 3; Ord. No. 2010-05; Ord. No. 2014-14)

Subsection 13-3-9 Ventilation.

All dwellings shall be adequately ventilated; every bathroom and water closet compartment shall have ventilation provided either by a window, skylight or mechanical ventilation system. (1991 Code § 121-14; Ord. No. 823 § 3)

Subsection 13-3-10 Historic Landmarks.

Upon written request of the property owner, an historic landmark may be exempted by the Housing Inspector from strict compliance with the requirements of this chapter if such strict compliance would compromise the historic significance of the property; provided, however, that no exemption shall be granted which, in the opinion of the Housing Inspector, would create a health or safety hazard or allow such a hazard to continue. (1991 Code § 121-15; Ord. No. 823 § 3)

Subsection 13-3-11 Egress

All exit doors shall be readily opened from the side from which egress is to be made, without the use of a key, unless the key is permanently affixed in the lock, and without use of a combination lock, electronic code or similar special knowledge or effort. (Ord. No. 2002-20)

Subsection 13-3-12 Signs

a. Posting of signs for rent, or advertising room or rooms for rent by any means of publication (whether through broadcast media, print media, or by electronic means, including the internet), is prohibited for any property in the Borough of Hightstown for which no license has been issued in accord with Sections 4-1, 13-8, and 13-10 of this Code to qualify that property as a boarding house, rooming house, or rooming unit.

b. Posting of signs, or advertising an apartment or house for rent by any means of publication (whether through broadcast media, print media, or by electronic means, including the internet), is prohibited for any property in the Borough of Hightstown for which a Rental Certificate of Compliance has not been issued by the Housing Inspector, pursuant to Subsection 13-8-1 of this Code. (Ord. No. 2010-05)

Section 13-4

ADDITIONAL HOUSING STANDARDS FOR RENTAL UNITS

Subsections:

- | | |
|----------------|--|
| 13-4-1 | Required Facilities. |
| 13-4-2 | Ventilation and Glass. |
| 13-4-3 | Lighting. |
| 13-4-4 | Minimum Standards for Heating. |
| 13-4-5 | Egress. |
| 13-4-6 | Water Damage. |
| 13-4-7 | Additional Maintenance Requirements. |
| 13-4-8 | Additional Responsibilities Concerning Garbage, Rubbish and Recyclable Materials. |
| 13-4-9 | Additional Responsibilities Concerning Insects and Rodents. |
| 13-4-10 | Owner Responsible. |

Subsection 13-4-1 Required Facilities.

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a. Every foundation, floor, wall, ceiling, door, window, roof or other part of a building in a dwelling unit, hotel, motel and rooming house, shall be maintained in a safe, sanitary, and structurally sound condition so as not to pose a threat to the public health, safety or welfare, that is, free from cracks, holes, breaks, split or splintering boards on woodwork, loose plaster, flaking or peeling paint or other materials. Loose or defective sections shall be removed and replaced so that the sound material is flush and smooth. Floors, walls, ceilings and other exposed surfaces shall be kept clean, free from visible foreign matter, and sanitary at all times. If necessary to accomplish the foregoing, these surfaces shall be kept well painted, whitewashed, papered, covered or treated with ceiling material or other coating as needed. The original design and material shall be matched as near as reasonably possible and when completed shall be aesthetically acceptable. Any exterior part or parts thereof shall be maintained weatherproof and properly surface-coated where required to prevent deterioration.

b. All plumbing fixtures shall function perfectly at all times. The finish of toilets, sinks and tubs shall not be chipped or cracked and shall have a smooth finish. There shall not be any leaks, clogs or broken handles on any fixture. All plumbing fixtures and all floors, walls and ceilings in any room containing plumbing fixtures shall be kept in a sanitary condition at all times.

c. Every water closet compartment floor and bathroom floor shall be constructed and maintained so as to be reasonably impervious to water and permit such floor to be kept in a clean condition.

d. In dwellings containing two (2) or more dwelling units having a common source of heat for domestic hot water, it shall be the responsibility of the owner to make provision for the proper operation of such facilities at all times.

e. Every roof, wall, window, exterior door and hatchway shall be free from holes or leaks that would permit the entrance of water within a dwelling or be a cause of dampness.

f. Every foundation, floor and wall of a dwelling shall be free from chronic dampness.

g. No owner or occupant shall cause any services, facilities, equipment or utilities which are required under this chapter to be removed from, shut off or discontinued in any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies when discontinuance of service is authorized by the Housing Inspector. If any service or utility which the owner has agreed to supply is discontinued, the owner shall take immediate steps to cause the restoration of any such service or utility, unless the owner can prove that the tenant has agreed to supply such service or utility. (1991 Code § 121-16; Ord. No. 823 § 3)

Subsection 13-4-2 Ventilation and Glass.

a. Means of ventilation shall be provided for every habitable room. Such ventilation may be provided either by an easily operable window or skylight having an openable area of at least forty-five (45%) percent of the minimum window area or minimum skylight area as required by this section or by other means acceptable to the Housing Inspector which will provide at least two (2) air changes per hour.

b. Means of ventilation shall be provided for every bathroom or water closet compartment. Such ventilation may be provided either by an easily operable window or skylight having an openable area of at least forty-five (45%) percent of the minimum window area or minimum skylight area as required by this section or by other means acceptable to the Housing Inspector which will provide at least six (6) air changes per hour.

c. All glass panes will be free from cracks and breaks. All panes will be securely anchored and properly glazed within their frames. All voids and cracks around window frames which may allow the entrance of weather or insects shall be sealed. All ground-level windows shall be equipped with latches.

d. Every openable window, exterior door, skylight and other opening to the outdoors shall be supplied with properly-fitting screens in good repair from May 1 to October 1 of each year. Such screens shall have a mesh of not less than No. 16. (1991 Code § 121-17; Ord. No. 823 § 3)

Subsection 13-4-3 Lighting.

a. Every habitable or occupiable room shall have lights available at all times, with an illumination of at least six (6) footcandles. Every required exit shall have lights available at all times, with an illumination of at least three (3) footcandles. All such light shall be measured thirty (30) inches from the floor at the center of the exit.

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b. Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window or skylight area, measured between stops, for every habitable room shall be ten (10%) percent of the floor area of such room. Whenever walls or other portions of structures face a window of any habitable room and are located less than three (3) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be included in calculating the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15%) percent of the total floor area of such room. Skylight-type windows existing on December 1, 1971, may, if less than fifteen (15%) percent of the total floor space, be increased to fifteen (15%) percent, but no skylight-type window shall be installed in lieu of a window where a skylight has not previously existed.

c. Every dwelling shall be provided with electric service.

d. Every habitable room shall contain at least two (2) separate wall-type electric convenience outlets or one (1) such convenience outlet and one (1) ceiling or wall-type electric light fixture. Every such outlet and fixture shall be connected to the source of electric power. No temporary wiring shall be used, except extension cords which run directly from portable electrical fixtures to convenience outlets and which do not lie under rugs or other floor coverings nor extend through doorways, transoms or other openings through structural elements.

e. Every portion of each staircase, hall, cellar, basement, landing, furnace room, utility room and all similar nonhabitable space located in a dwelling shall have either natural or artificial light available at all times, with an illumination of at least two (2) footcandles in the darkest portions.

f. Every portion of any interior or exterior passageway or staircase common to two (2) or more families in a dwelling shall be illuminated naturally or artificially at all times with an illumination of at least two (2) footcandles in the darkest portion of the normally traveled stairs and passageways. In dwellings comprising two (2) dwelling units, such illumination shall not be required at all times if separate switches, convenient and readily accessible to each dwelling unit, are provided for the control of such artificial light by the occupants thereof.

g. Every bathroom and water closet compartment shall have either natural or artificial light available at all times, with an illumination of at least three (3) footcandles. Such light shall be measured thirty-six (36) inches from the floor at the center of the room. Artificial lighting shall be controlled by a wall switch located so as to avoid danger of electrical hazards. (1991 Code § 121-18; Ord. No. 823 § 3)

Subsection 13-4-4 Minimum Standards for Heating.

a. When any part of any premises shall be rented to another for habitation, the premises so rented shall be served by a heating system which can provide heat sufficient to maintain a minimum inside temperature of sixty-eight (68E) degrees Fahrenheit in all habitable rooms, measured at least one (1) foot away from any surface at the coldest portion of the space subject to regular use by occupants of any room when the average temperature outside the rented premises within a twenty-four (24)-hour period is below fifty-five (55E) degrees Fahrenheit.

b. When the heating system is not controlled by the person renting the premises, the owner shall be responsible for providing that, from October 1 of each year to the next succeeding May 1, every unit of dwelling space and every habitable room therein shall be maintained at a temperature of at least sixty-eight (68E) degrees Fahrenheit between the hours of 6:00 a.m. and 11:00 p.m. and at least sixty-five (65E) degrees between the hours of 11:00 p.m. and 6:00 a.m. Such levels of heat shall also be provided by the owner between May 1 and the next succeeding October 1 during any period in which the average temperature outside the rented premises within a twenty-four (24)-hour period is below sixty-five (65E) degrees Fahrenheit. (1991 Code § 121-19; Ord. No. 823 § 3)

Subsection 13-4-5 Egress.

a. Every dwelling, dwelling unit or lodging unit shall have safe and unobstructed means of egress. Each means of egress shall not be through any other dwelling unit or part thereof and shall lead to a safe and open space at ground level accessible to a street.

b. A room used for sleeping purposes under the provisions of this chapter shall be provided with a safe and unobstructed means of egress leading directly to an outside area accessible to a street. (1991 Code § 121-20; Ord. No. 823 § 3)

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Subsection 13-4-6 Water Damage.

Every roof, wall, window, exterior door, foundation and hatchway shall be free from holes or leaks that would permit the entrance of water within a dwelling or be a cause of dampness. (1991 Code § 121-21; Ord. No. 823 § 3)

Subsection 13-4-7 Additional Maintenance Requirements.

- a. The Housing Inspector may order the owner to clean, repair or paint any walls or ceilings within a dwelling when such walls or ceiling have become stained or soiled, or the plaster, wallboard or other covering has become loose or badly cracked or missing.
- b. All exterior parts of the structure which are subject to corrosion shall be kept painted and the Housing Inspector may order the owner to paint the exterior of the premises when the painting is necessary in order to retard leakage, deterioration or excessive dampness.
- c. Nothing herein shall be construed so as to place upon a nonresident owner the responsibility of a tenant to keep in a clean and sanitary condition that part of the dwelling which the tenant occupies and controls.
- d. No owner shall let to an occupant any vacant dwelling, dwelling unit or lodging unit unless it is clean and sanitary.
- e. Every owner of a dwelling containing three (3) or more dwelling or lodging units shall comply with all maintenance requirements of Title 5, Chapter 10 of the New Jersey Administrative Code as they pertain to multiple dwellings. In the event any of the requirements set forth therein are less strict than the requirements of this chapter, this chapter shall control. (1991 Code § 121-22; Ord. No. 823 § 3)

Subsection 13-4-8 Additional Responsibilities Concerning Garbage, Rubbish and Recyclable Materials.

- a. In dwellings containing no more than three (3) dwelling units, it shall be the responsibility of the occupant of each dwelling unit to furnish such receptacles outside the dwelling unit as are needed for the storage of garbage, rubbish and recyclable materials until removed from the premises. In lodging houses and in dwellings containing four (4) or more dwelling units, it shall be the responsibility of the owner to furnish such receptacles outside the lodging units or dwelling units as are needed for the storage of garbage, rubbish and recyclable materials until removal from the premises.
- b. Every occupant of a dwelling unit in a dwelling containing no more than three (3) dwelling units shall be responsible, unless provided for otherwise under a lease agreement, for the periodic removal of all garbage, rubbish and recyclable materials from the premises each week in accordance with the regulations of the Borough for the collection of garbage, rubbish and recyclable materials.
- c. Every occupant of a dwelling unit shall dispose of all solid wastes in the manner required by Chapter XVIII. (1991 Code § 121-23; Ord. No. 823 § 3)

Subsection 13-4-9 Additional Responsibilities Concerning Insects and Rodents.

Every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for extermination of any insects, rodents or other pests whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more dwelling units in any dwelling or in the common parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner. (1991 Code § 121-24; Ord. No. 823 § 3)

Subsection 13-4-10 Owner Responsible.

The owner shall be responsible for compliance with all of the provisions of this chapter not specified as the responsibility of the occupant. (1991 Code § 121-25; Ord. No. 823 § 3)

Section 13-5

INSPECTIONS; NOTICE; HEARINGS

Subsections:

13-5-1 Promulgation of Rules and Regulations.

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13-5-2	Inspections.
13-5-3	Access to Premises.
13-5-4	Search Warrants.
13-5-5	Notice of Violation.
13-5-6	Hearings.

Subsection 13-5-1 Promulgation of Rules and Regulations.

The Housing Inspector may make rules and regulations which interpret or amplify any provision of this chapter or for the purpose of making the provisions of this chapter more effective. No regulation shall be inconsistent with or alter or amend any provision of this chapter, and no regulation shall impose any requirement which is in addition to or greater than the requirements that are expressly or by implication imposed by any provision of this chapter. Rules and regulations shall be subject to the same penalty as other violations of this chapter. (1991 Code § 121-17)

Subsection 13-5-2 Inspections.

The Housing Inspector or his agents or employees shall make inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within the Borough. For the purpose of making inspections, the Housing Inspector or his agents are authorized to enter and examine any dwelling, dwelling unit, rooming unit or premises at such reasonable hours as the circumstances of the case permit. This subsection shall not be construed to prohibit the entry of the Housing Inspector or his agents at any time when an actual emergency exists which tends to create a danger to public health or safety or at any time when an inspection is requested by an owner or occupant. (1991 Code § 121-18)

Subsection 13-5-3 Access to Premises.

Upon presentation of proper identification, the owner, occupant or person in charge of a dwelling, dwelling unit or rooming unit shall give the Housing Inspector or his agents free access to the premises for the purpose of inspection or of making any repairs or alterations which are necessary to effect compliance with this chapter. (1991 Code § 121-19)

Subsection 13-5-4 Search Warrants.

The Housing Inspector or his agents may, upon affidavit, apply to the Judge of the Municipal Court for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this chapter exists on the premises, and if the Judge of the Municipal Court is satisfied as to the matter set forth in the affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation exists. Search warrants may also be applied for and obtained as part of a general program of inspections, for which program reasonable grounds exist. (1991 Code § 121-20)

Subsection 13-5-5 Notice of Violation.

a. Whenever the Housing Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter or of any rule or regulations adopted pursuant thereto, he shall give notice of the alleged violation to the person responsible therefor as hereinafter provided. The notice shall:

1. Be written.
2. Include a statement of the reasons why it is being issued.
3. Allow a reasonable time for the performance of any act it requires.

4. Be served upon the owner or his agent or the occupant, as the case may require, provided that notice shall be deemed to be properly served upon such owner or agent or upon such occupant personally if a copy thereof is sent by certified mail to his last known address or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice or if he is served with such notice by any other method authorized or required under the laws of this State.

b. The notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with rules and regulations adopted pursuant thereto. (1991 Code § 121-21)

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Subsection 13-5-6 Hearings.

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter or of any rule or regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Housing Inspector, provided that such person files in the office of the Housing Inspector a written petition requesting a hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice is served. Upon receipt of the petition, the Housing Inspector shall set a time and place for the hearing and shall give the petitioner written notice thereof. At the hearing the petitioner shall be given an opportunity to be heard and to show why the notice should be modified or withdrawn. The hearing shall be commenced no later than ten (10) days after the day on which the petition is filed, provided that, upon application of the petitioner, the Housing Inspector may postpone the date of the hearing for a reasonable time beyond the ten (10)-day period if, in his judgment, the petitioner has submitted a good and sufficient reason for the postponement. After the hearing, the Housing Inspector shall sustain, modify or withdraw the notice, depending upon his findings as to whether the provisions of this chapter and the rules and regulations adopted pursuant thereto have been complied with. If the Housing Inspector sustains or modifies the notice, it shall be deemed to be an order. Any notice served pursuant to this section shall automatically become an order if a written petition for a hearing is not filed in the office of the Housing Inspector within ten (10) days after the notice is served. The proceedings at the hearing, including the findings and the decision of the Housing Inspector, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Housing Inspector. The record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Housing Inspector may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the State. Whenever the Housing Inspector finds that an emergency exists which requires immediate action to protect public health or safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding the other provisions of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately but, upon petition to the Housing Inspector shall be afforded a hearing as soon as possible. After such hearing, depending upon his findings as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with, the Housing Inspector shall continue such order in effect, modify it or revoke it. (1991 Code § 121-22)

Section 13-6

UNFIT BUILDINGS

Subsections:

- 13-6-1 Legislative Findings; Purpose.**
- 13-6-2 Definitions.**
- 13-6-3 Powers of the Housing Inspector.**
- 13-6-4 Standards for Finding of Unfitness.**
- 13-6-5 Petition; Issuance of Complaint; Hearing.**
- 13-6-6 Order for Abatement or Demolition.**
- 13-6-7 Failure to Comply with Order.**
- 13-6-8 Removal or Demolition by Borough.**
- 13-6-9 Damaged Buildings; Repair or Demolition by Borough.**
- 13-6-10 Recovery of Costs.**
- 13-6-11 Summary Judgment.**
- 13-6-12 Service of Complaints or Orders.**
- 13-6-13 Compliance Required.**
- 13-6-14 Remedies; Injunctive Relief.**

Subsection 13-6-1 Legislative Findings; Purpose.

It is hereby found that there exist in the Borough buildings that are unfit for human habitation or occupancy, or use, due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitation facilities, or due to other conditions rendering such buildings, or parts thereof, unsafe and unsanitary, or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents of the Borough. It is hereby declared that this section is in the exercise of the police powers of the municipality to repair, close or demolish, or cause or require the repairing, closing or demolition of such building or buildings, or parts thereof, in the manner herein provided. (1991 Code § 121-32; Ord. No. 823 § 5)

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Subsection 13-6-2 Definitions.

As used in this section:

Building shall mean any building or structure, or part thereof, used for human habitation or otherwise, or intended to be so used, including any outhouses and appurtenances belonging thereto or usually adjoined therewith.

Housing Inspector shall mean the Housing Inspector and such assistants as shall be designated in writing.

Owner shall mean the holder or holders of the title in fee simple.

Parties in interest shall mean all individuals, associations and corporations who have interest of record in a dwelling, and any who are in possession thereof.

Public authority shall mean any authority having jurisdiction in the municipality or any officer who is in charge of any department or branch of the government of the Borough of the County or the State relating to health, fire or building regulations, or to other activities concerning dwellings in the Borough. (1991 Code § 121-33; Ord. No. 823 § 5)

Subsection 13-6-3 Powers of the Housing Inspector.

The Housing Inspector is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers in addition to others granted herein:

- a. To investigate the building conditions in the municipality in order to determine which buildings therein are unfit for human habitation, occupancy or use.
- b. To administer oaths and affirmations, examine witnesses and receive evidence.
- c. To enter upon premises for the purpose of making examinations with the consent of the owner, his designated agent or occupant thereof, or failing that, pursuant to a properly issued search warrant in such manner as to cause the least possible inconvenience to the persons in possession.
- d. To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this section.
- e. To delegate any of his functions and powers under this section to such officers and agents as he may designate. (1991 Code § 121-34; Ord. No. 823 § 5)

Subsection 13-6-4 Standards for Finding of Unfitness.

The Housing Inspector may determine that a building is unfit for human habitation, occupancy or use if he finds that conditions exist in such building which are dangerous and injurious to the health or safety of the occupants of such building, the occupants of neighboring buildings or other residents of the Borough. Such conditions may include defects therein increasing the hazards of fire, accident or other calamity; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanness. (1991 Code § 121-35; Ord. No. 823 § 5)

Subsection 13-6-5 Petition; Issuance of Complaint; Hearing.

A petition may be filed with the Housing Inspector by a public authority or by at least five (5) residents of the Borough charging that any dwelling is unfit for human habitation as defined in this section. The Housing Inspector shall then undertake a preliminary investigation of the dwelling which is the subject of the petition. The Housing Inspector may, on his own motion, conduct a preliminary investigation whenever it appears to the Housing Inspector that any dwelling is unfit for human habitation. The Housing Inspector shall issue and cause to be served upon the owner and parties in interest of such a dwelling, as defined in subsection 13-6.2, a complaint if the preliminary investigation discloses a basis for such charges. The complaint must state the charges and contain a notice that a hearing will be held before the Housing Inspector at a place identified in the complaint not less than seven (7) days nor more than thirty (30) days after the serving of the complaint, and that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place identified in the complaint. The rules of evidence prevailing in the courts need not control in hearings before the Housing Inspector. (1991 Code § 121-36; Ord. No. 823 § 5)

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Subsection 13-6-6 Order for Abatement or Demolition.

If, after notice and hearing, the Housing Inspector determines that the dwelling under consideration is unfit for human habitation, he shall state, in writing, his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest an order requiring:

- a. The repair, alteration or improvement of the building to be made by the owner, within a reasonable time, which shall be set forth in the order, or, at the option of the owner, that the owner vacate or have the building vacated and closed within the time set forth in the order.
- b. If the building is in such condition as to make it dangerous to the health and safety of persons on or near the premises and the owner fails to repair, alter or improve the building within the time specified in the order, that the owner shall remove or demolish the building within a reasonable time as specified in the order issued by the Housing Inspector. (1991 Code § 121-37; Ord. No. 823 § 5)

Subsection 13-6-7 Failure to Comply with Order.

If the owner fails to comply with an order to repair, alter or improve, or at the option of the owner, to vacate and close the building, the Housing Inspector may cause such building to be repaired, altered or improved or to be vacated, closed and boarded up, and may order utilities disconnected if the dwelling is to be vacated, closed and boarded up. The Housing Inspector may post a placard on the main entrance of any building with the following language: "This building is unfit for human habitation or occupancy or use; the use or occupation of this building is prohibited and unlawful." (1991 Code § 121-38; Ord. No. 823 § 5)

Subsection 13-6-8 Removal or Demolition by Borough.

If the owner fails to comply with an order to remove or demolish the building, the Housing Inspector, with the approval of the Borough Council, may cause such building to be removed or demolished or may contract for the removal or demolition thereof after advertisement and receipt of bids therefor. (1991 Code § 121-39; Ord. No. 823 § 5)

Subsection 13-6-9 Damaged Buildings; Repair or Demolition by Borough.

Any building or buildings, or parts thereof, which have been damaged to such an extent that nothing remains but the walls, or parts of the walls and other supports, shall, regardless of the safety and sturdiness of those remaining walls or parts thereof, be deemed inimical to the welfare of the residents of the municipality wherein it is located, and the municipality may exercise its police powers to repair, demolish, or cause the repairing or demolishing of the building or buildings, or parts thereof, pursuant to P.L. 1942, (c. 112 C. 40:48-2.3 et seq.), and the procedures set forth therein. (1991 Code § 121-40; Ord. No. 823 § 5)

Subsection 13-6-10 Recovery of Costs.

- a. The amount of:
 1. The cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under this section shall be determined in favor of the Borough.
 2. The cost of repairs, alterations, improvements, vacating, closing, boarding up, removal or demolition, if any, shall be a municipal lien against the real property upon which such cost was incurred. If any money is realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, the amount of the money thus realized shall be deducted from the costs incurred which shall be a municipal lien against the real property.
- b. If the building is removed or demolished by the Housing Inspector, he shall sell the materials of such building. There shall be credited against the cost of removal or demolition thereof, including the clearance and, if necessary, levelling at the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Municipal Tax Assessor or other custodian of the records of tax liens, and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited in the Superior Court by the Housing Inspector, shall be secured in such manner as may be directed by such Court and shall be disbursed according to the order or judgment of the Court to the persons found to be entitled thereto by final order or judgment of such Court. Any owner or party in interest may, within thirty (30) days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or

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the accuracy of the costs set forth in the municipal lien certificate.

c. Nothing in this section shall be construed to impair or limit in any way the power of the Borough to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

d. Nothing in this section is intended to limit the authority of the Construction Official under the "State Uniform Construction Code Act", N.J.S. 52:27D-119 et seq. or any rules or regulations adopted thereunder. (1991 Code § 121-41; Ord. No. 823 § 5)

Subsection 13-6-11 Summary Judgment.

If an actual and immediate danger to life is posed by the threatened collapse of any fire-damaged or other structurally unsafe building, the Housing Inspector may, after taking such measures as may be necessary to make such building temporarily safe, seek a judgment in summary proceedings for the demolition thereof. (1991 Code § 121-42; Ord. No. 823 § 5)

Subsection 13-6-12 Service of Complaints or Orders.

Complaints or orders issued by the Housing Inspector pursuant to this section shall be served upon any person either personally or by certified mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the Housing Inspector in the exercise of reasonable diligence and the Housing Inspector makes an affidavit to that effect, then the serving of the complaint or order upon such person may be made by publishing the same once each week for two (2) successive weeks in a newspaper having circulation in the Borough. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order, and a copy of the complaint or order shall be duly recorded or lodged for record with the Mercer County Recording Officer. (1991 Code § 121-43; Ord. No. 823 § 5)

Subsection 13-6-13 Compliance Required.

No person shall occupy as owner or occupant or rent to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not conform to the provisions of this section, which is established as the standard to be used in determining whether a dwelling is safe, sanitary and fit for human habitation. (1991 Code § 121-44; Ord. No. 823 § 5)

Subsection 13-6-14 Remedies; Injunctive Relief.

Any person aggrieved by an order issued by the Housing Inspector under this section may, within sixty (60) days after the posting and service of such order, bring an action for injunctive relief to restrain the Housing Inspector from carrying out the provisions of the order and for any other appropriate relief. The remedy herein provided shall be exclusive, and no person affected by an order of the Housing Inspector shall be entitled to recover any damages for action taken pursuant thereto, or because of noncompliance by any person with any order of the Housing Inspector. (1991 Code § 121-45; Ord. No. 823 § 5)

Section 13-7

TRANSFER OF PROPERTY

Subsections:

13-7-1 Certificate of Compliance Required for Occupancy.

13-7-2 Fees; Inspections.

Subsection 13-7-1 Certificate of Compliance Required for Occupancy.

Pursuant to N.J.S. 40:48-2.2(a), at least thirty (30) days prior to the scheduled date of a new occupancy of any dwelling house which has been sold or is under contract to be sold, the seller or buyer thereof, or the authorized agent of either, shall apply to the Housing Office for a certificate stating that the building and premises comply with the requirements of this chapter. In the event occupancy is to take place more than one hundred (120) days after the issuance of the certificate, an additional inspection and new certificate shall be required prior to occupancy. No such dwelling shall be occupied prior to the issuance of such a certificate unless such occupancy is permitted in writing, on a temporary basis, by the Housing Inspector, for a term to be determined by him depending upon the particular circumstances of each case; provided, however, that such term shall not exceed a cumulative period of one hundred twenty (120) days. The Housing Inspector may, upon receiving a written petition detailing unique circumstances, and upon good cause shown, permit an extension of the one hundred twenty (120) day term for an additional sixty (60) days. It is the intent of this section to regulate the occupancy not the transfer of real property. A dwelling

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house shall mean an owner-occupied single-family house or an owner-occupied dwelling unit in a building containing more than one (1) owner-occupied dwelling unit, including a condominium unit. See subsection 13-8.1 for Certificate of Occupancy requirements for rental units. (1991 Code § 121-46; Ord. No. 823 § 6; Ord. No. 94-6 § 4)

Subsection 13-7-2 Fees; Inspections.

The Housing Code Certificate required by subsection 13-7.1 hereof shall be secured from the Borough Housing Inspector. At the time of the application for such certificate, a fee of ~~one hundred (\$100.00)~~ one hundred (\$100.00) dollars shall be paid. The fee shall cover the application and initial inspection of the premises and the issuance of the Certificate. In the event that any additional inspections of the premises are required because of a failure of the owner to comply with the provisions of this chapter, an additional fee of ~~fifty (\$50.00)~~ fifty (\$50.00) dollars shall be paid for each additional inspection required. All fees shall be made payable to the Borough and be delivered to the Housing Inspector and turned over to the Borough Treasurer. In the event of cancellation of a requested inspection, the Housing Department must be notified within twenty-four (24) hours prior to the scheduled inspection time. Failure to do so will result in forfeiture of the inspection fee. (1991 Code § 121-47; Ord. No. 823 § 6; Ord. No. 94-6 § 4; Ord. No. 2004-31 § 4; Ord. No. 2008-09 § 7)

Section 13-8

CERTIFICATE OF COMPLIANCE REQUIREMENT FOR CHANGES IN OCCUPANCY OF RENTED DWELLINGS

Subsections:

13-8-1 Certificate of Compliance Required; Exceptions.

13-8-2 Fees; Inspections.

Subsection 13-8-1 Certificate of Compliance Required; Exceptions.

The rental and occupancy of buildings and parts thereof for human habitation or use shall be subject to the following: No person shall rent to another or suffer or permit occupancy by another of any building or part thereof for human habitation or use without first obtaining from the Housing Inspector a certificate stating that the premises, at the time of the proposed rental to or occupancy by such other person, comply with the requirements of the housing standards set forth in this chapter, provided that this section shall not apply to:

- a. Rental or occupancy under a temporary permit issued by the Housing Inspector authorizing rental or occupancy for a specified period, not to exceed sixty (60) days, during the making of repairs, alterations and improvements required by such inspection certificate;
- b. Rentals to or occupancies by students, faculty or staff of nonprofit educational institutions of on-campus premises owned and maintained by such institutions, nor shall it apply to transient occupancies of hotel rooms.

This section shall apply to all dwellings and dwelling units and shall include single-family dwellings, any multiple dwelling or apartment house, or any rented dwelling unit in a commercial or mixed-use building. The certificate required herein shall be obtained prior to a change of occupancy in any such dwelling. (1991 Code § 121-48; Ord. No 823 § 7)

Subsection 13-8-2 Fees; Inspections.

The Housing Code Certificate required by subsection 13-8.1 hereof shall be secured from the Borough Housing Inspector. At the time of the application for such Certificate, a fee of ~~one hundred (\$100.00)~~ one hundred (\$100.00) dollars shall be paid. The fee shall cover the application and initial inspection of the premises and the issuance of the Certificate. In the event that any additional inspections of the premises are required because of a failure of the landlord or owner to comply with the provisions of this chapter, an additional fee of ~~fifty (\$50.00)~~ fifty (\$50.00) dollars shall be paid for each additional inspection required. All fees shall be made payable to the Borough and be delivered to the Housing Office and turned over to the Borough Treasurer. In the event of cancellation of a requested inspection, the Housing Department must be notified within twenty-four (24) hours prior to the scheduled inspection time. Failure to do so will result in forfeiture of the inspection fee. (1991 Code § 121-49; Ord. No. 823 § 7; Ord. No. 2004-31 § 5)

Section 13-9

VIOLATIONS AND PENALTIES

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Subsections:

13-9-1 Violations and Penalties.

Subsection 13-9-1 Violations and Penalties.

a. Notwithstanding the provisions of any other section of this chapter, the Housing Inspector, any member of the Police Department, any other authorized municipal official, and, with respect to subsection 13-3.2, the Superintendent of the Advanced Wastewater Treatment Plant or his designee, may issue Orders, Notices of Violation and Summonses to any person, form or corporation violating any of the provisions of this chapter, the person, firm or corporation to be liable for fines for each separate offense not exceeding one thousand (\$1,000.00) dollars or imprisonment for a period not exceeding ninety (90) days, or both.

b. Each day of a continuing violation of any provision of this chapter shall constitute a separate and additional offense. (1991 Code § 121-50; Ord. No. 823 § 8; Ord. No. 94-6 § 5)

Section 13-10

BOARDINGHOUSES AND ROOMING HOUSES

Subsections:

13-10-1 License Required.*

13-10-2 Definition.

13-10-3 Additional Application Information.

13-10-4 Referral of Application; Issuance of License.

13-10-5 Compliance with Other Standards Required.

Subsection 13-10-1 License Required.*

No person shall manage, conduct or operate the business of keeping a boardinghouse, rooming house or rooming unit without first having obtained a license therefor. (1991 Code § 67-1)

Subsection 13-10-2 Definition.

As used in this section:

Boardinghouse shall mean any building in which three (3) or more persons not related by blood or marriage to the owner or operator of the business are lodged and served meals for a consideration.

Dwelling shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Operator shall mean any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let. "Operator" may be synonymous with the terms "owner," "lessee" and "tenant" if the facts of any situation coincide with the accepted meaning of the words "owner," "lessee" and "tenant."

Owner shall mean any person who, alone or jointly or severally with others, has legal title to any dwelling or dwelling unit as owner or agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this section to the same extent as if he were the owner.

Rooming house shall mean any dwelling or that part of any dwelling containing one (1) or more rooming units in which space is let by the owner or operator for a consideration to three (3) or more persons not related by blood or marriage to the owner or operator of the rooming house.

Rooming unit shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes. (1991 Code § 67-2)

* **Editor's Note:** For license fees for rooming houses and boardinghouses see Chapter IV, subsection 4-1.4.

Subsection 13-10-3 Additional Application Information.

In addition to standard requirements, the application under Chapter IV, Section 4-1 shall disclose:
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- a. The number and location of bedrooms to be used for boarding and rooming and the size of each room.
- b. The number of baths and toilets and their location in the boardinghouse, rooming house or rooming unit. (1991 Code § 67-3)

Subsection 13-10-4 Referral of Application; Issuance of License.

Each application shall be referred to the Health Officer and the Board of Health for inspection, report and recommendation. The Board of Health may request the Police Department to conduct an investigation of the applicant. If the report of the Health Officer or the Police Department discloses a violation of the housing or health codes or an undesirable history, no license shall be issued. If the report of the Health Officer discloses no violation of the housing or health codes and the report of the Police Department is favorable, a license may be issued. (1991 Code § 67-4)

Subsection 13-10-5 Compliance with Other Standards Required.

All rooming houses, rooming units and boardinghouses shall comply at all times with the ordinances, laws, rules and regulations of the Board of Health and with the provisions of the Housing Code, as well as all other laws and ordinances. (1991 Code § 67-5)

Section 13-11 Reserved

Section 13-11, which was created with Ord. No. 1997-20, was deleted in its entirety with Ord. 2000-30.

Section 13-12

REGISTRATION OF RESIDENTIAL RENTAL PROPERTIES

Subsections:

- 13-12-1 Definitions
- 13-12-2 Registration Required
- 13-12-3 Fees
- 13-12-4 Taxes and Other Municipal Charges; Payment Precondition for Registration and Certificate of Occupancy
- 13-12-5 Providing Copy of Registration to Occupants and Tenants
- 13-12-6 Maximum Number of Occupants; Posting
- 13-12-7 Rental Unit Standards
- 13-12-8 Occupant Standards
- 13-12-9 Procedure For Revocation or Suspension of License
- 13-12-10 Violations; Penalties

Subsection 13-12-1 Definitions

Unless the context clearly indicates a different meaning, the following words or phrases when used in this Section shall be defined as follows:

“Agent” shall mean the individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this Ordinance.

“Apartment Complex” shall mean two or more buildings, each containing two or more apartments, which are located within close proximity of each other and are owned by the same owner.

“Apartment” or “dwelling” shall mean any apartment, cottage, bungalow, or room or rooms in a rooming/boarding house, dormitory or other dwelling unit consisting of one or more rooms, whether designed with or without housekeeping facilities, for dwelling purposes, and notwithstanding whether the apartment be designed for residence, for office, for the operation of any industry or business or for any other type of independent use.

“License” shall mean the license issued by the Borough Clerk or designee attesting that the rental unit has been properly registered in accordance with this Ordinance.

“Licensee” shall mean the person to whom the license is issued pursuant to this Ordinance. The term “licensee” includes

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within its definition the term “agent” where applicable.

“Owner” shall mean an individual, firm, corporation or officer thereof, partnership association, or trust who owns, operates, exercises control over or is in charge of a rental facility.

“Person” shall mean an individual, firm, corporation, partnership, association, trust, or other legal entity; or any combination thereof.

“Rental facility” shall mean a building, group of buildings or any portion thereof which is kept, used, maintained, advertised or held out to be a place where accommodations are supplied.

“Reside” shall mean to dwell permanently or continuously, or to occupy a place as one’s legal domicile.

Subsection 13-12-2 Registration Required

(a) Owners of every residential rental facility located within the Borough are required to register with the Borough Clerk or his/her designee, on forms supplied by the Borough. A separate registration shall be required for each rental unit, even if more than one (1) rental unit is contained in the property. Such registration shall contain, at minimum, the following information:

- 1) The name and address of the record owner or owners of the premises and the record owner or owners of the rental business if not the same persons. In the case of a partnership the names of all general partners shall be provided;
- 2) If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation;
- 3) If the address of any record owner is not located in Mercer County, the name and address of a person who resides in Mercer County and is authorized to accept notices from a tenant and to issue receipts therefor and to accept service of process on behalf of the record owner;
- 4) The name and address of the managing agent of the premises, if any;
- 5) The name and address, including the dwelling unit, apartment or room number of the superintendent, janitor, custodian or other individual employed by the record owner or managing agent to provide regular maintenance service, if any;
- 6) The name, address and telephone number of an individual representative of the record owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises or any unit of dwelling space therein, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith;
- 7) The name and address of every holder of a recorded mortgage on the premises;
- 8) If fuel oil is used to heat the building and the landlord furnishes the heat in the building, the name and address of the fuel oil dealer servicing the building and the grade of fuel oil used.
- 9) The number of rental units located in the facility;
- 10) The type of unit being licensed (i.e. room, apartment, single family home, etc.); and
- 11) The full names (first and last) of all tenants residing in the unit, including children over two (2) years of age.

(b) Registration shall cover ~~one~~-year period running from April 1 through March 31. Initial registrations under this Section are due no later than April 30th. Newly acquired units must be registered prior to their rental and ~~annually~~ thereafter.

(c) Inspections shall be performed and a Certificate of Occupancy obtained whenever tenancy changes or ~~annually~~. It shall be the responsibility of the owner to arrange for inspections when there is a change in occupancy. Routine ~~annual~~ inspections will be scheduled by the Housing Officer.

(d) It shall be a violation of this article for a person to knowingly provide false or inaccurate information on any form submitted to the rental housing coordinator pursuant to this article.

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(e) Any change pertaining to this rental (rental status, ownership, tenant, emergency contact) must be reported to the Code Enforcement/Housing Inspector within twenty (20) days.

(f) Any failure to receive notice from the Borough shall not constitute grounds for failing to register.

Subsection 13-12-3 Fees

(a) At the time of registration, ~~and prior to the issuance of a license~~, the owner or agent of the owner must pay a ~~one-year~~ registration fee as follows:

- (1) For one- to three-unit dwellings: ~~\$60.00~~ 100 per unit
- (2) For dwellings of more than three but less than 50 units: ~~\$59.00~~ 90 per unit, to a maximum fee of two thousand (\$2,000.00) dollars.
- (3) For dwellings which include more than 50 units: ~~\$49.00~~ 80 per unit

(b) ~~Fees for Certificate of Occupancy Inspections required under this Section shall be as follows:~~

- ~~(1) For dwellings which include up to 50 units: thirty-five (\$35.00) dollars per rental unit, up to a maximum fee of one thousand two hundred and fifty (\$1,250.00) dollars.~~
- ~~(2) For dwellings which include more than 50 units: twenty-five (\$25.00) per rental unit.~~

One re-inspection is included within the fees listed above, provided that the re-inspection occurs within ~~thirty (30)~~ fifteen (15) days of the initial inspection. Otherwise, re-inspection fees shall be ~~\$25.00~~ \$50 per unit.

(c) If the owner of the property is a Senior Citizen who resides in one unit of a two-unit property and rents out the remaining unit, and who would otherwise qualify under the State of New Jersey property tax deduction under New Jersey Statute 54:4-8.41, there shall be no fee.

(d) The completed rental registration process must be received by April 30th. Beginning May 1st a late fee of \$25.00 per month/per unit will be assessed on all Rental Renewal applications.

Subsection 13-12-4 Taxes and Other Municipal Charges; Payment Precondition for Registration and Certificate of Occupancy

No Certificate of Occupancy shall be issued for any property containing a rental unit unless all municipal taxes, water and sewer charges and any other municipal assessments for that property are paid on a current basis.

Subsection 13-12-5 Providing Copy of Registration to Occupants and Tenants

Every owner shall provide each occupant or tenant occupying a rental unit with a copy of the Registration required by this Ordinance. This particular provision shall not apply to any hotel, motel, or guest house registered with the State of New Jersey pursuant to the Hotel and Multiple Dwelling Act as defined in N.J.S.A. 55:13A-3. Compliance with this provision may be attained by posting a copy of the registration in a conspicuous place within the rental unit(s).

Subsection 13-12-6 Maximum Number of Occupants; Posting

The maximum number of occupants shall be posted in each rental unit. It shall be unlawful for any person, including the owner, agent, tenant, or registered tenant, to allow a greater number of persons than the posted maximum number of occupants to sleep in or occupy overnight the rental unit for a period exceeding 28 days. Any person violating this provision shall be subject to the penalty provisions of Section 13-12.10.

Overcrowding – The following factors may be considered by the Housing Inspector as rebuttable presumption of overcrowding, as that term is defined by this chapter and shall support the issuance of a summons and complaint by the Housing Inspector, without first issuing a notice of violation:

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1. The occupying of areas of a rental dwelling unit prohibited pursuant to section 13-3-8(g) of this chapter, such as basements and attics;
2. The location of mattresses or bedding materials in areas of a dwelling unit prohibited for occupancy pursuant to section 13-3-8(g); and
3. The existence of cooking appliances, and/or refrigeration units, (excluding freezer appliances) in various areas of a dwelling unit in addition to those located in the kitchen.

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Subsection 13-12-7 Rental Unit Standards

All dwelling units shall be maintained in accordance with Chapter 13 ("Housing") of the Revised General Ordinances of the Borough of Hightstown, and with the 2000 International Property Maintenance Code.

Subsection 13-12-8 Occupant Standards

- (a) OCCUPANTS. Only those occupants whose names are on file with the Borough Clerk as provided in the Ordinance may reside in the licensed premises. It shall be unlawful for any other person to reside in said premises, and this provision may be enforced against the landlord, tenant, or other person residing in said premises.
- (b) NUISANCE PROHIBITED. No rental facility shall be conducted in a manner which shall result in any unreasonable disturbance or disruption to the surrounding property owners or of the public in general.
- (c) COMPLIANCE WITH OTHER LAWS. The maintenance of all rental facilities and the conduct engaged in and upon the premises by occupants and their guests shall at all times be in full compliance with all applicable Ordinances and Regulations of the Borough of Hightstown and with all applicable State and Federal Laws.
- (d) PENALTIES. Any landlord, tenant, or other person violating the provisions of this section shall be subject to the penalty provisions of Section 13-12.10.

Subsection 13-12-9 Procedure For Revocation or Suspension of License

Grounds. In addition to any other penalty provision prescribed herein, an owner may be subject to the revocation or suspension of any license issued hereunder upon the occasion of one or more of the following:

- (1) Conviction of a violation of this Ordinance in the Municipal Court or any other Court of competent jurisdiction.
 - (2) Determination of a violation of this Ordinance at a hearing held pursuant to Section 13-12.8(b).
 - (3) Repeatedly renting the unit or units to a tenant or tenants who are convicted of violating the provisions of Section 3-7 of the Revised General Ordinances of the Borough of Hightstown ("Noise Control")
 - (4) Maintaining the rental unit or units or the property of which the rental unit is a part, in a dangerous condition likely to result in injury to person or property.
- (b) Procedure; Written Complaint; Notice; Hearing.
- (1) A complaint seeking the revocation or suspension of a license may be filed by any one or more of the following: Director of Public Safety, Chief of Police, Construction Code Official, Housing Inspector, Zoning Enforcement Officer or any other person(s) or office authorized to file such complaint. Such complaint shall be specific and shall be sufficient to apprise the licensee of the charges so as to permit the licensee to present a defense. The individual(s) filing the complaint may do so on the basis of information and belief and need not rely only on personal information.
 - (2) Upon the filing of such written complaint, the Borough Clerk or his/her designee shall immediately inform the Borough Council and a date for a hearing shall be scheduled which shall not be sooner than 10 nor more than 30 days thereafter. The Borough Clerk or his/her designee shall forward a copy of the complaint and a notice of the hearing date to the licensee and the agent, if any, at the address indicated on the registration form. Service upon the agent only shall be considered to be sufficient notice under this Section.
 - (3) The hearing required by this section shall be held before the Borough Council, unless, in its discretion, the Borough

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Council determines that the matter should be heard by a Hearing Officer who shall be appointed by the Borough Council. If the matter is referred to a Hearing Officer, such officer shall transmit findings of fact and conclusions of law to the Borough Council within 30 days of the conclusion of the hearing. The Borough Council shall then review the matter and may accept, reject, or modify the recommendations of the Hearing Officer based on the record before such hearing officer. In the event that the matter is not referred to a Hearing Officer and is heard by the Borough Council, then the decision of the Borough Council shall be rendered, either dismissing the complaint, revoking or suspending the license or determining that the license shall not be renewed or reissued for one (1) or more subsequent license years. Decisions of the Borough Council shall be rendered no later than the second meeting following either receipt of the Hearing Officer's recommendations or hearing by the Borough Council.

(4) A recorded transcript shall be made of the hearing. Such transcript may be in the form of an audio tape, a stenographic transcript and/or meeting minutes as recorded by the Borough Clerk and approved by Council. All witnesses shall be sworn prior to testifying. The strict rules of evidence shall not apply and the evidential rules and burden of proof shall be those which generally control administrative hearings.

(5) The Borough Attorney or his designee shall appear and prosecute on behalf of the complainant in all hearings conducted by the Borough Council pursuant to this section.

(c) Defenses. It shall be considered to be a defense to any proceeding for the revocation, suspension or other disciplinary action involving a rental license if it may be demonstrated that the owner has taken appropriate action and has made a good faith effort to abate the conditions or circumstances giving rise to the revocation proceeding, including but not limited to institution of legal action against the tenant(s), occupant(s), or guests for recovery of the premises; eviction of the tenant(s); or otherwise.

Subsection 13-12-10 Violations; Penalties

Any person who violates any provision of this Ordinance shall, upon conviction in the Municipal Court of the Borough of Hightstown or such other court having jurisdiction, be liable to a fine not exceeding ~~\$1,000.00~~ \$1,250.00 or imprisonment for a term not exceeding 90 days, or both. Each day that a violation exists or occurs shall be deemed a separate and distinct violation subject to penalty provisions of this Ordinance.

Section 2. Severability. If any sentence, paragraph or section of this Ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 4. Repealer. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Ordinance 2015-23 First Reading and Introduction – An Ordinance Amending Chapter 3 “Police Regulations”, Section 3-10 “Abandoned or Wrecked Vehicles”. And Section 3-11 “Parking of Boats, Trailers and Registered Vehicles” of the “Revised General Ordinances of the Borough of Hightstown”

Council President Hansen Councilmember Kurs moved ordinance 2015-23 for introduction, Councilmember Kurs seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Ordinance introduced 6-0; public hearing to be held on October 5, 2015.

Ordinance 2015-23

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

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AMENDING CHAPTER 3 “POLICE REGULATIONS”, SECTION 3-10 “ABANDONED OR WRECKED VEHICLES”, AND SECTION 3-11 “PARKING OF BOATS, TRAILERS AND REGISTERED VEHICLES” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN”

WHEREAS, the Borough Council finds that enforcement of certain regulations within Chapter 3, Sections 10 and 11 of the “Revised General Ordinances of the Borough of Hightstown” should be enforceable by the Housing Inspector, Construction Official, or the Zoning Officer; and

WHEREAS, the Police Department has determined that such a change in the ordinance is advantageous to the residents of the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hightstown as follows:

Section 1. Section 3-10 “Abandoned or Wrecked Vehicle” is hereby amended as follows (underline for additions, strikethroughs for deletions):

Section 3-10

ABANDONED OR WRECKED VEHICLES*

Subsections:

- | | |
|---------------|---|
| 3-10.1 | Definitions. |
| 3-10.2 | Abandoning Vehicles Unlawful. |
| 3-10.3 | Leaving Non-operating Vehicles on Streets Unlawful. |
| 3-10.4 | Storage on Private or Borough Property Restricted; Exceptions. |
| 3-10.5 | Impoundment; Redemption. |

* **Editor's Note:** For additional regulations on property maintenance, see Chapter XIV.

3-10.1 Definitions.

As used in this section:

“Property” shall mean any real property within the Borough which is not a street or highway.

“Street” or “highway” shall mean the entire width between the boundary lines of every way maintained, when any part thereof is open to the use of the public for purposes of vehicular travel.

“Vehicle” shall mean a machine propelled by other than human power, designed to travel along the ground by the use of wheels, treads, runners or slides and to transport persons or property or pull machinery, including, but not by way of limitation, an automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (1991 Code § 217-1)

3-10.2 Abandoning Vehicles Unlawful.

No person shall abandon a vehicle within the Borough, and no person shall leave a vehicle at any place within the Borough for such time and under such circumstances as to cause the vehicle to reasonably appear to be abandoned. (1991 Code § 217-2)

3-10.3 Leaving Non-operating Vehicles on Streets Unlawful.

No person shall leave any unregistered, partially dismantled, non-operating, wrecked or junked vehicle on a street or highway within the Borough. (1991 Code § 217-3; Ord. No. 2002-04)

3-10.4 Storage on Private or Borough Property Restricted; Exceptions.

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a. No person in charge or control of property within the Borough, whether as owner, tenant, occupant, lessee or otherwise, shall allow unregistered, partially dismantled, non-operating, wrecked, junked or discarded vehicles to be parked or stored anywhere on private property except on a paved or stoned driveway or an approved extension of a driveway, and such vehicles shall not be permitted to remain on the property longer than forty-eight (48) hours, ~~and Moreover,~~ no person shall leave such vehicles on any property within the Borough for a longer period than forty-eight (48) hours.

b. This section shall not apply to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of the business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Borough. (1991 Code § 217-4; Ord. No. 2002-04)

c. If an unregistered, partially dismantled, non-operating, wrecked, junked or discarded vehicle is parked on private or Borough property in any other manner than as permitted pursuant to this Section, then it shall be considered a violation of this Section.

3-10.5 Impoundment; Redemption.

The Chief of Police or any member of the Police Department designated by him is authorized to remove or have removed any vehicle left at any place within the Borough which appears to be present in violation of this section. Such a vehicle shall be impounded until lawfully claimed or disposed of in accordance with applicable statutes. The Chief of Police or any member of the Police Department acting for him shall notify the registered and legal owner, in writing, by personal service or by certified mail, at the last known address of the owner, of the removal of the vehicle, the reason for the removal and the location of the vehicle. The vehicle shall be retained and impounded until the owner or his authorized agent pays the cost of such taking and removal, together with a garage charge of two (\$2.00) dollars for each day that the vehicle is retained and impounded. (1991 Code § 217-5)

3-10.6 Violations and Penalties.

In addition to the penalties set forth in Subsection 3-10.5, a summons may be issued for any violation of the provisions of this Section by any member of the Police Department, or by the Housing Inspector, the Construction Official, or the Zoning Officer. Any person violating any provision of this Section shall, upon conviction, be subject to the fine(s) prescribed in Section 1-5 of the Borough Code, or as otherwise provided by law.

Section 2. Section 3-11 "Parking of Boats, Trailers and Registered Vehicles" is hereby amended as follows (underline for additions, strikethroughs for deletions):

Section 3-11

PARKING OF BOATS, TRAILERS AND REGISTERED VEHICLES

Subsections:

- 3-11.1 Definitions.**
- 3-11.2 Parking in Public Streets Restricted; Repairs.**
- 3-11.3 Storage of Boats, Trailers and Camping Vehicles on Private Property.***
- 3-11.4 Storage of Registered, Operating Vehicles on Private Property**

3-11.1 Definitions.

As used in this section:

Trailer or Camping and recreational vehicle shall mean any boat mounted on a trailer or any vehicle or structure used or intended to be used as a conveyance upon the public streets or highways and duly licensed as such, including self-propelled and non-self-propelled vehicles or structures designed, constructed and reconstructed or added to by means of accessories in such a manner as to permit the occupancy thereof as a dwelling or sleeping place, temporary or permanent, for one (1) or more persons and having no foundations other than wheels, skids, jacks or similar devices so arranged as to be integral with or portable by the trailer or camping and recreational vehicle, including any trailer or camping and recreational vehicle so arranged and installable

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as not be subject to transportation. (1991 Code § 203-1)

3-11.2 Parking in Public Streets Restricted; Repairs.

a. No person shall park any camping vehicle for any period exceeding two (2) hours on any street in the Borough except for the purpose of repair.

b. If any person desires to repair a camping vehicle while it is parked on any street, he shall obtain a permit therefor from the Police Department. Such permit shall not be issued unless the camping vehicle cannot be removed to a garage, service station or other premises for the purpose of repair and shall be granted on request without fee. It shall be valid for a period of forty-eight (48) hours from the issuance thereof but may, for good cause shown, be renewed for an additional forty-eight (48) hour period or periods as necessity may require. Any camping vehicle undergoing repairs while parked in a street shall not be used by any person as a dwelling or sleeping place during such period of repair. (1991 Code § 203-2)

3-11.3 Storage of Boats, Trailers and Camping Vehicles on Private Property.*

Any owner of a boat, trailer or camping vehicle may park or store his equipment on private residential property in the Borough subject to the following conditions:

a. If the boat, trailer or camping vehicle is parked or stored outside of a garage or building, it shall be parked or stored to the rear of the front building line of the lot, on a paved or stoned driveway or an approved extension of a driveway, except that a boat, trailer or camping vehicle may be parked anywhere on private residential property for loading or unloading purposes.

b. At no time shall a parked or stored boat or camping vehicle be occupied or used for living, sleeping or housekeeping purposes or for storage of other than equipment used in connection with the vehicle.

c. Only one (1) of each such vehicle shall be permitted to be parked at one (1) time on any one (1) property. (1991 Code § 203-3; Ord. No. 2002-04)

* **Editor's Note:** For additional regulations on property maintenance, see Chapter XIV.

3-11.4 Storage of Registered, Operating Vehicles on Private Property

Registered, operating vehicles shall be parked or stored on a paved or stoned driveway or an approved extension of a driveway. If a vehicle is parked on private property in any other manner, then it shall be considered a violation of this Section. (Ord. No. 2002-04)

3-11.5 Violations and Penalties.

For any violation of the provisions of this Section, a summons may be issued by any member of the Police Department, or by the Housing Inspector, the Construction Official, or the Zoning Officer. Any person violating any provision of this Section shall, upon conviction, be subject to the fine(s) prescribed in Section 1-5 of the Borough Code, or as otherwise provided by law.

Section 3. Severability. If any sentence, paragraph or section of this Ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 5. Repealer. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Resolution 2015-232 Payment of Bills

September 21, 2015

Council President Hansen moved resolution 2015-232, Councilmember Stults seconded.

Roll Call Vote: Council members Bluth, Kurs, Hansen, Misiura, Montferrat and Stults voted yes.

Resolution adopted 6-0.

Resolution 2015-232

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING PAYMENT OF BILLS

WHEREAS, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the bills be paid on audit and approval of the Borough Administrator, the appropriate Department Head and the Treasurer in the amount of \$ 999,440.42 from the following accounts:

C urrent		\$ 786,759.19
W/S O perating		200,224.25
General C apital		4,000.00
Water/Sewer C apital		0.00
G rant		0.00
T rust		5,777.83
H ousing T rust		0.00
A nimal C ontrol		0.00
L aw E nforcement T rust		0.00
H ousing Rehab Lo ans		2,679.15
U nemployment T rust		0.00
E scrow		<u>0.00</u>
T otal		<u>\$ 999,440.42</u>

Resolution 2015-233 Authorizing the Waiving of Raffle and Bingo Fees for Hightstown Engine Company #1 and Hightstown First Aid

Councilmember Kurs moved resolution 2015-233, Councilmember Misiura seconded.

Mr. Underhill explained that the waiving of fees for raffles and bingo licenses only applies to the Fire and First Aid; it does not apply to other non-profits. The Borough Clerk inquired as to whether it was going to apply to the Ladies Auxiliary for the Fire Department; Mr. Underhill stated that he has spoken with the Fire Department and they feel the Ladies Auxiliary is part of their organization.

Councilmember Kurs moved resolution 2015-232 amending it to add the Hightstown Engine Company #1 Ladies Auxiliary, Council President Hansen seconded.

Roll Call Vote: Council members Bluth, Kurs, Hansen, Misiura, Montferrat and Stults voted yes.

September 21, 2015

Resolution 2015-233

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING THE WAIVING OF RAFFLE AND BINGO LICENSE FEES FOR
HIGHTSTOWN ENGINE COMPANY #1 AND HIGHTSTOWN FIRST AID**

WHEREAS, Hightstown Engine Co. #1 and Hightstown First Aid have requested that the Borough fees for Raffle and Bingo licenses issued to them by the Borough for fundraising purposes be waived; and

WHEREAS, the Borough Council has reviewed their request and finds that waiving the Borough fees for these licenses for Hightstown Engine Co. #1, the Hightstown Engine Co. #1 Ladies Auxiliary, and Hightstown First Aid is appropriate; and

WHEREAS, Hightstown Engine Co. #1 and Hightstown First Aid will be required to pay all applicable fees to the New Jersey Legalized Games of Chance Control Commission and file all appropriate paperwork associated with said licenses with the office of the Borough Clerk.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to waive Borough fees associated with the issuance of Raffle and Bingo licenses for Hightstown Engine Co. #1, Hightstown Engine Co. #1 Ladies Auxiliary, and Hightstown First Aid.

Resolution 2015-234 Adopting the Hearing Officer's Recommendation, Authorizing the Termination of Officer Frank Marchione, and Authorizing the Borough Administrator to Recoup Salary Pursuant to N.J.S.A. 40A:14-149.3

Mayor Quattrone introduced Elizabeth Garcia, Labor Counsel, who handled the matter.

Ms. Garcia then explained to Council that Mr. Marchione was charged with two matters of disciplinary action, and you are only here today to discuss one of them; and that is the one whether or not he is fit for duty. Both of the notices of disciplinary action sought his termination but we are not dealing with the one, as someone eluded to earlier had to do with something that happened ten years ago. The one you are looking at today is the one that had to do with something that happened back in July of 2013, the previous one was dismissed by the Hearing Officer; we are only looking at the fitness for duty matter.

Judge Kreizman held a four day hearing on this matter where evidence was presented by both myself, and by Officer Marchione's attorney; he heard from several witnesses including three experts, all were accepted as either psychological or psychiatric medical experts. During the hearing, Officer Marchione's attorney requested that the evidence provided be kept under seal and the judge granted that. At the conclusion of the hearing, post hearing briefs were submitted and you have seen copies of those briefs; mine was submitted directly to you, and the other was received by a member of the public who publicized it so there was no need for me to send that to you. Judge Kriezman issued his written decision on September 8, 2015 and I immediately forwarded a copy of his recommendations and decision to you. His recommendation, and I am going to quote the last line of his report, is "I find that based on all of the above the Borough of Hightstown has proven by the preponderance of the credible evidence that Patrolman Officer Frank Marchione was and remains unfit for duty as a police officer". Pursuant to the Borough Code, it goes back to you to make the final decision, and it is my recommendation that you accept the Hearing Officer's decision.

Fred Raffetto, Borough Attorney, then addressed the conflict issue that was raised prior to moving the resolution. He noted that under ethics law, particularly N.J.S.A. 40A:9-22.5(d), no local government officer or employee shall act in his official capacity in any matter where he has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity and independence of judgment. The mere fact that there are allegedly campaign signs posted on Mr. Jenkins lawn does not in and of itself create a sufficient personal involvement here that would require Council members Bluth and Kurs to recuse themselves from a vote on this particular matter. Anyone can post anything on

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their lawn; these Council members may have had no knowledge or involvement with those signs having been posted. It is up to the Council members to consider, among themselves, whether they have a direct or indirect financial or personal involvement that could rise to the level of reasonably impairing their objectivity and judgment. Absent that, all Council members here are eligible to vote this evening. In my opinion, the fact that a member of the public has posted the signs is not in and of itself sufficient to require recusal.

Lynn Woods inquired as to whether the Local Finance Board could ultimately decide the matter. The Borough Attorney responded that yes, they would make a determination at the state level.

Council President Hansen moved resolution 2015-234, Councilmember Misiura seconded.

Roll Call Vote: Council members Bluth, Kurs, Hansen, Misiura, and Montferrat voted yes; Councilmember Stults voted no.

Resolution adopted 5-1.

Resolution 2015-234
*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**ADOPTING THE HEARING OFFICER'S RECOMMENDATION, AUTHORIZING THE
TERMINATION OF OFFICER FRANK MARCHIONE, AND AUTHROIZING THE BOROUGH
ADMINISTRATOR TO RECOUP SALARY PURSUANT TO N.J.S.A. 40A:14-149.3**

WHEREAS, Officer Frank Marchione was served with a Notice of Disciplinary Action containing three charges on or about January 15, 2015. The Charges alleged that Officer Marchione was incapable and/or unable of performing his duties as a police officer because he was not fit for duty, he was incapable and/or unable of performing his duties as a police officer because he was prohibited from carrying, using or being near weapons by the Mercer County Prosecutor's Office, and that he no longer qualifies to be a police officer and is unable to perform his duties because he is no longer authorized to carry a firearm, which is a requirements under New Jersey law; and

WHEREAS, the Borough of Hightstown sought Officer Marchione's termination from the Borough of Hightstown;

WHEREAS, Officer Marchione requested a hearing on the charges which took place on February 11, 2015, February 20, 2015, April 14, 2015 and April 15, 2015;

WHEREAS, the hearing officer heard and reviewed the evidence present during the hearings, and on September 8, 2015 found that "based upon all of the above, the Borough of Hightstown has proven by a preponderance of the credible evidence that Patrolman Frank Marchione was and remains unfit for duty as a police officer"; and

WHEREAS, the hearing officer's findings have been reviewed by the Borough Council for the Borough of Hightstown.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Hightstown, County of Mercer, State of New Jersey, that it hereby adopts the hearing officer's findings and recommendations issued on September 8, 2015; and

BE IT FURTHER RESOLVED that Officer Marchione is terminated from employment effective August 22, 2013 as he was and remains unfit for duty as a police officer; and

BE IT FURTHER RESOLVED that the Borough Administrator is hereby authorized to prepare and serve Frank Marchione with a Final Notice of Disciplinary Action terminating him from his employment effective August 22, 2013 within seven (7) days; and

September 21, 2015

BE IT FURTHER RESOLVED that the Borough Administrator, with the assistance of the Borough Solicitor or Labor Counsel, is hereby authorized to take action to recover all pay received by Officer Marchione while he was suspended pursuant to N.J.S.A. 40A:14-149.3.

Consent Agenda Resolutions 2015-235, 2015-236, 2015-237, 2015-238, 2015-239, 2015-240, 2015-241, 2015-242, 2015-243, 2015-244, 2015-245:

Councilmember Misiura moved resolutions 2015-235, 2015-236, 2015-237, 2015-238, 2015-239, 2015-240, 2015-241, 2015-242, 2015-243, 2015-244, and 2015-245 as the consent agenda, Councilmember Kurs seconded.

Roll Call Vote: Council members Bluth, Hansen, Kurs, Misiura, Montferrat and Stults voted yes.

Resolutions adopted 6-0.

Resolution 2015-235

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING THE BOROUGH ENGINEER TO SURVEY, DESIGN, PREPARE PLANS AND PERMITS, AND PERFORM CONSTRUCTION INSPECTIONS FOR NEW CURBS AND SIDEWALKS FROM SOUTH MAIN STREET TO THE MEADOW LAKES PROPERTY ON ETRA ROAD

WHEREAS, It has been proposed to the Borough that the cost for new curbs and sidewalks on Etra Road from South Main Street to the Meadow Lakes property will be paid by another entity, providing that the Borough will pay for the engineering expenses associated with such a project; and

WHEREAS, the Meadow Lakes Community Administration has also agreed to be a party to the project; and

WHEREAS, for the safety of the residents the Borough finds it beneficial to the residents of the Borough to have said curbs and sidewalks constructed; and

WHEREAS, the Borough also finds that it is advantageous for the Borough to cover engineering expenses associated with the project that would consist of surveying, designing, preparing plans and permits, and performing construction inspections, to have the project completed; and

WHEREAS, the Borough Engineer has estimated the cost of said engineering fees not to exceed \$19,000.00; and

WHEREAS, the Treasurer has certified that funds are available for the engineering expenses for this project.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Engineer is hereby authorized to survey, design, prepare plans and permits, and perform construction inspections for new curbs and sidewalks on Etra Road from South Main Street to the Meadow Lakes property.

Resolution 2015-236

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING THE BOROUGH ENGINEER TO SUBMIT AN APPLICATION FOR THE FY2016 NJDOT MUNICIPAL AID GRANT FOR IMPROVEMENTS TO FIRST AVENUE

September 21, 2015

WHEREAS, the Borough of Hightstown wishes to file an application with the New Jersey Department of Transportation for a Municipal Aid Grant for improvements to First Avenue; and

WHEREAS, the Borough Council has authorized the Borough Engineer, Carmela Roberts of Roberts Engineering Group, for an amount not to exceed \$2,800.00, to prepare the application for the FY2016 New Jersey Department of Transportation Municipal Aid Grant application.

NOW, THEREFORE BE IT RESOLVED, that Borough Engineer is hereby authorized to file an application with the New Jersey Department of Transportation for a Municipal Aid Grant for improvements to First Avenue at a cost not to exceed \$2,800.00.

Resolution 2015-237

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING CHANGE ORDER #2 & PAYMENT # 3 – LUCAS CONSTRUCTION GROUP,
INC. (2014 ROAD IMPROVEMENT PROGRAM)**

WHEREAS, on April 20, 2015 the Borough Council awarded a contract for the 2014 Road Improvement Program to Lucas Construction Group, Inc. of Morganville, New Jersey in the amount of \$1,598,913.21; and

WHEREAS, the contractor has submitted change order #2 in the amount of \$99,331.63 for additional work required in order to complete base paving on all roads, additional orangeburg sanitary sewer laterals on Hutchinson Street, water service investigation, and an underdrain on Park Way; and

WHEREAS, the contractor has submitted payment request #3 related to mobilization, sanitary sewer installation, water main installation, and milling and paving for the project in the total amount of \$270,845.34; and

WHEREAS, the amount of this payment for general construction is \$25,696.74 with FY2013 phase cost being \$22,295.00 and FY2014 phase cost being \$3,401.74; and

WHEREAS, the amount of this payment for water and sewer related items is \$245,148.60 with FY2013 phase cost being \$141,041.60 and FY2014 phase cost being \$104,107.00; and

WHEREAS, the Borough Engineer has recommended approval of Change order #2 in the amount of \$99,331.63; and

WHEREAS, the Borough Engineer has recommended approval of payment #3 to Lucas Construction Group, Inc. in the amount of \$270,845.34 following receipt of the certified payrolls; and

WHEREAS, change orders 1 and 2 adjust the contract to a total of \$1,775,096.51; and

WHEREAS, the Treasurer has certified that funds are available for this expenditure.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that Change order #2 in the amount of \$99,331.63 and Payment Request No. 3 to Lucas Construction Group, Inc. of Morganville, New Jersey in the amount of \$270,845.34 following receipt of the certified payrolls is hereby approved as detailed herein, and the Treasurer is authorized to issue same.

Resolution 2015-238

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER*

September 21, 2015

**AUTHORIZING RELEASE OF ESCROW FUNDS – PEDDIE SCHOOL
(BLOCK 53, LOT 1.01)**

WHEREAS, Peddie School deposited escrow funds in the amount of \$18,650.00 for a project at Block 53, Lot 1.01; and

WHEREAS, Peddie School has requested that the escrow funds on deposit with the Borough for Block 53, Lot 1.01 be released; and

WHEREAS, Peddie School decided not to complete this project and it is recommended that the Borough release the remaining escrow funds.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Treasurer is authorized and directed to release the escrow funds on deposit with the Borough to Peddie School for the project at Block 53, Lot 1.01.

A certified copy of this Resolution shall be provided to the following:

- a. Peddie School
- b. Janice Mohr-Kminek, Treasurer
- c. Sandy Belan, Planning Board Secretary
- d. Carmela Roberts, Borough Engineer

Resolution 2015-239

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING THE BOROUGH TO EXECUTE AN AMENDMENT TO THE MUNICIPAL SHARE SERVICES
DEFENSE AGREEMENT**

WHEREAS, the Borough Council of the Borough of Hightstown entered into the Municipal Shared Services Defense Agreement (“MSSDA”) for the purpose as set forth therein, which included retaining a common expert in the Declaratory Judgment action (“Litigation”) that was filed in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Decision”); and

WHEREAS, the MSSDA identified Dr. Robert Burchell, a distinguished professor at Rutgers University, as the expert to be retained; and

WHEREAS, Dr. Burchell became ill and has been unable to complete the obligations under the Research Agreement as set forth in the MSSDA; and

WHEREAS, as a result, Rutgers University has exercised its right to terminate the Research Agreement as permitted under its terms; and

WHEREAS, the MSSDA requires modification to allow the members to retain one or more alternative experts, consultants and/or other professionals for the Litigation; and

WHEREAS, an Amendment to the MSSDA (“Amendment”) has been prepared to effectuate the modification; and

WHEREAS, the Borough Council of Hightstown Borough recognizes that the Litigation requires immediate action and may require further expedited actions by its counsel determined to be necessary and appropriate; and

WHEREAS, the Borough Council of Hightstown Borough has determined that it is in the best interests of the citizens of Hightstown Borough to approve the Amendment, and/or to affirm and ratify the Amendment, and to authorize their designated September 21, 2015

counsel to take actions on behalf of the municipality with regard to the multiplicity of issues raised and associated with the continued implementation of the MSSDA;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Hightstown, Mercer County, as follows:

1. The terms and conditions of the Amendment to MSSDA attached hereto are hereby approved, and/or ratified and confirmed.
2. The Mayor and Borough Clerk, be and are hereby authorized to execute the aforesaid Amendment.
3. The Borough Council of Hightstown Borough hereby authorizes Jeffrey R. Surenian, Esq., to execute an agreement on behalf of Hightstown Borough with Econsult Solutions, Inc.

The Borough Council of Hightstown Borough hereby authorizes Jeffrey R. Surenian, Esq., to execute on behalf of Hightstown Borough with the approval of the Hightstown Borough's designated counsel such other agreement(s) as are advisable to effectuate the purposes of the MSSDA as amended.

4. The Borough Council of Hightstown Borough further authorizes its designated counsel to approve such other changes to the MSSDA as may be necessary to effectuate its purposes, and to take action on behalf of the municipality with regard to the multiplicity of issues raised and associated with the implementation of the MSSDA provided that the action will not require the municipality to appropriate and commit any additional funding for the MSSDA.

In the event such changes and actions require the municipality to appropriate and commit any additional funding for the MSSDA, Hightstown Borough shall only be responsible for such funding if it authorizes same.

5. If additional monies are needed to effectuate the intent and purpose of the MSSDA, no such services shall be authorized by designated counsel without further action from the Hightstown Borough Council
6. This Resolution shall take effect immediately.

Resolution 2015-240

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING ISSUANCE OF BINGO LICENSE #BL-2015-003 TO THE HIGHTSTOWN
HIGH SCHOOL PARENTS ASSOCIATION**

WHEREAS, the Hightstown High School Parents Association wishes to hold a Bingo at 25 Leshin Lane on November 14, 2015; and

WHEREAS, the group has submitted application number BL2015-003 for the bingo along with the required fees; and

WHEREAS, The Hightstown High School Parents Association is currently registered with the Legalized Games of Chance Control Commission, holding registration identification number 209-5-37998; and

WHEREAS, the Borough Clerk and the Police Department have reviewed the application and have determined that the requirements of N.J.S.A. 5:8-53, regarding the applicant, the members in charge of the game, and the game itself, have been met;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Bingo License No. BL2015-003 to The Hightstown High School Parents Association for their bingo to be held on November 14, 2015.

Resolution 2015-241

September 21, 2015

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL-2015-014 TO THE HIGHTSTOWN
HIGH SCHOOL PARENTS ASSOCIATION**

WHEREAS, the Hightstown High School Parents Association wishes to hold an on-premise 50/50 raffle at 25 Leshin Lane on November 14, 2015; and

WHEREAS, the group has submitted application number RL2015-014 for the raffle along with the required fees; and

WHEREAS, the Hightstown High School Parents Association is currently registered with the Legalized Games of Chance Control Commission, holding registration identification number 209-5-37998; and

WHEREAS, the Borough Clerk and the Police Department have reviewed the application and have determined that the requirements of N.J.S.A. 5:8-53, regarding the applicant, the members in charge of the game, and the game itself, have been met;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Raffle License No. RL2015-014 to the Hightstown High School Parents Association for their 50/50 raffle to be held on November 14, 2015.

Resolution 2015-242

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING ISSUANCE OF BINGO LICENSE #BL-2015-004 TO HIGHTSTOWN ENGINE
COMPANY #1**

WHEREAS, Hightstown Engine Co. #1 wishes to hold a Bingo at 140 Main Street on October 23, 2015; and

WHEREAS, the group has submitted application number BL2015-004 for the bingo along with the required fees; and

WHEREAS, Hightstown Engine Co. #1 is currently registered with the Legalized Games of Chance Control Commission, holding registration identification number 209-9-33988; and

WHEREAS, the Borough Clerk and the Police Department have reviewed the application and have determined that the requirements of N.J.S.A. 5:8-53, regarding the applicant, the members in charge of the game, and the game itself, have been met;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Bingo License No. BL2015-004 to Hightstown Engine Co. #1 for their bingo to be held on October 23, 2015.

Resolution 2015-243

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

**AUTHORIZING ISSUANCE OF RAFFLE LICENSE #RL-2015-015 TO HIGHTSTOWN
ENGINE COMPANY #1**

WHEREAS, Hightstown Engine Co. #1 wishes to hold an on-premise 50/50 raffle at 140 Main Street on October 23, 2015; and

September 21, 2015

WHEREAS, the group has submitted application number RL2015-015 for the raffle along with the required fees; and

WHEREAS, Hightstown Engine Co. #1 is currently registered with the Legalized Games of Chance Control Commission, holding registration identification number 209-9-33988; and

WHEREAS, the Borough Clerk and the Police Department have reviewed the application and have determined that the requirements of N.J.S.A. 5:8-53, regarding the applicant, the members in charge of the game, and the game itself, have been met;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is authorized to issue Raffle License No. RL2015-015 to Hightstown Engine Co. #1 for their bingo to be held on October 23, 2015.

Resolution 2015-244

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AUTHORIZING THE ISSUANCE OF AN AUCTION LICENSE - EMPIRE ANTIQUES

WHEREAS, an application for a license to hold an auction on Saturday, October 24, 2015 at 278 Monmouth Street in the Borough of Hightstown has been submitted by Empire Antiques, together with the required fee; and

WHEREAS, the application has been reviewed and approved by the Police Department; and

WHEREAS, it is the desire of the Mayor and Council that a license be issued to Empire Antiques for this event.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized to issue a license to Empire Antiques for their auction to be held on Saturday, October 24, 2015, at 278 Monmouth Street.

Resolution 2015-245

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

APPOINTING AND AUTHORIZING AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES – JON-HENRY BARR, ESQ.

WHEREAS, there exists the need for professional legal services for the Hightstown First Aid Squad pertaining to an investigation into an accident; and

WHEREAS, the Borough Council wishes to appoint Jon-Henry Barr, Esq. of the firm J. H. Barr & Associates, LLC of Clark, New Jersey to protect the interests of and represent the First Aid Squad during the investigation; and

WHEREAS, the cost for the proposed services is at a rate of \$150.00 per hour and shall not exceed \$3,500.00 without further approval by the Borough Council; and,

WHEREAS, the Treasurer has certified funds are available for this expenditure; and,

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for “professional services” without public advertising for bids and bidding, provided that the Resolution authorizing the contract and the contract itself are available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

September 21, 2015

WHEREAS, should the contract exceed \$17,500, the contract will be subject to the provisions of the State's Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, et seq.; and

WHEREAS, the anticipated term of this contract is for one (1) year, and it may only be renewed upon further action of the Borough Council; and

WHEREAS, this contract is intended to be awarded as a "non-fair and open contract" pursuant to and in accordance with the Local Unit Pay-to-Play Law;

WHEREAS, the firm of J. H. Barr & Associates, LLC of Clark, New Jersey will be required to complete and submit a Business Entity Disclosure Certification pursuant to the Local Unit Pay-to-Play law (specifically, at N.J.S.A. 19:44A-20.8), and further submit a certification that the firm is in compliance with the Borough's own Pay-to-Play ordinance (Section 2-59 of the *Revised General Ordinances of the Borough of Hightstown*);

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, as follows:

1. That the Mayor is authorized to execute and the Borough Clerk to attest an Agreement between the Borough of Hightstown and Jon-Henry Barr, Esq. regarding the above-referenced professional legal services, as set forth herein.
2. That this contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because J. H. Barr & Associates, LLC of Clark, New Jersey is a firm whose attorneys are authorized by law to practice a recognized profession.
3. That this contract is being awarded in accordance with the Local Unit Pay-to-Play Law and Section 2-59 of the *Revised General Ordinances of the Borough of Hightstown*, and the Business Disclosure Entity Certification, and other certifications required pursuant to same shall be placed on file with the contract if applicable.

Mayor Quattrone opened the public comment period II and the following individuals spoke:

Lynne Woods, 315 Park Avenue – reviewed RICE notice requirements and commented that Mr. Marchione never received any RICE notices but she has been told that Council has discussed his case in executive session; she then threatened OPMA and Local Finance Board action.

Judy Shane, East Winsor – commented that she is upset with Council's decision.

Jessica Albert, 32 Carnation Road, Monroe - commented that she is upset with Council's decision.

Karen Scarpa, 176D Newport Road, Monroe – gave a review of Jenkins behavior and history in his Hightstown neighborhood.

Scott Caster, 12 Clover Lane – commented that he is embarrassed by Council's decision and that they should not necessarily take the advice of their professionals.

Mary Beth Covell, 128 Broad Street – commented that Council has the facts and she believes they made their decision to protect the residents of the Borough.

There being no further comments, Mayor Quattrone closed the public comment period.

Mayor/Council/Administrative Comments and Committee Reports

Councilmember Stults – reminded everyone about the Vision Meeting to be held on September 30th, at the Firehouse; he encouraged everyone to attend. The Downtown Hightstown window decorating contest is in jeopardy because of short staffing, but they are working with the CAC to try to make it work; and the Saturday before Thanksgiving the poles downtown will be September 21, 2015

decorated. There are three items coming back from the Planning Board that will be on the October 5th Council agenda for discussion; design standards and enforcement, the clothing bins ordinance and the tax exemption ordinance. The Highway Commercial signs are still being reviewed and he reviewed the process being taken for the A-frame signs noting that the Planning Board sub-committee recommended that the moratorium on them be lifted for a three month renewal period, or until the Planning Board comes forward with a new design standard and common renewal date.

Councilmember Bluth – advised that the Triathlon was a success and she will advise as to the funds it brought in when she gets the figures; she swore in a new Commissioner, Mairead Thompson, at the last meeting.

Councilmember Kurs – noted that Fire and First Aid are thankful to the Council for resolution 2015-232; and the First Aid is thankful for the appointment of an attorney.

Councilmember Montferrat – noted that the HPC did not meet, so he has nothing to report.

Councilmember Misiura – advised that the Housing Authority met, but changed their date and he attended the Board of Health meeting; there is a new member on the Board of Health, Mr. Hewitt, who was appointed by the Mayor. The wellness clinic has a new Doctor and the Masonic Lodge location is working out very well for the clinic. The Environmental Commission meets next week.

Council President Hansen – commented that the Cultural Arts Commission has requested to be on the next agenda to give an overview of what they are doing; they will be taking part in the Harvest Fair. The water/sewer meeting was last week and there was discussion regarding grants for the ultraviolet; there are large equipment repairs that are needed.

Mayor Quattrone – thanked Council for doing the tough part of the job; the teal ribbons downtown are for ovarian cancer and were put up by the County, who will return to remove them. The triathlon went well with 247 participants. The Mayor then inquired of the Borough Clerk regarding the road closing permits for the fair. Clerk Sopronyi responded that she is working on them, but there was a delayed start due to lack of the proper documentation from vendors.

Councilmember Kurs – noted that there is interest in a Halloween house decorating contest and Mayor Quattrone noted that it should be done next year, with Stockton Street being closed to traffic for pedestrian safety.

Administrator Underhill – advised that there was a water system repair today on the road project and there was intermittent inconvenience to the residents, they should be done with it tomorrow. The curb and sidewalk project on Etra Road is moving forward and we are waiting for certain information from the County.

Mayor Quattrone – advised that the missing letters on the wall downtown have been ordered and we are waiting for delivery; it is unknown whether they will arrive before the Harvest Fair.

Council President Hansen moved to adjourn at 8:12 pm, Councilmember Bluth seconded. All ayes.

Respectfully Submitted,

Debra L. Sopronyi, RMC
Borough Clerk

September 21, 2015