



THE BOROUGH OF HIGHTSTOWN PLANNING BOARD

156 Bank Street, Hightstown, NJ 08520
Phone: 609-490-5100 x617 Fax: 609-371-0267

PLANNING BOARD REGULAR VIRTUAL MEETING AGENDA **SEPTEMBER 13, 2021 - 7:30 P.M.**

Join Zoom Meeting: <https://us06web.zoom.us/j/86089092616?pwd=SlhXNkI4aEJWVWkZBL2o2NUhkV1EzQT09>

Please press CTRL and then click the Link below to go directly to Zoom. Put in Meeting ID and Passcode

Meeting ID: 860 8909 2616

Passcode: nynE2L

One tap mobile

+16468769923,,86089092616#,,,,*818561# US (New York)

+13017158592,,86089092616#,,,,*818561# US (Washington DC)

Meeting ID: 860 8909 2616

Passcode: 818561

Find your local number: <https://zoom.us/u/aljFU8CPt>

PLEASE TURN OFF ALL CELL PHONES DURING YOUR ATTENDANCE AT THIS MEETING TO AVOID SOUNDS/RINGING OR CONVERSATIONS THAT MAY INTERFERE WITH THE RECORDING OR THE ABILITY OF ATTENDEES TO HEAR THE PROCEEDINGS. THANK YOU FOR YOUR COOPERATION.

Meeting called to order by Chair Beverly Asselstine

STATEMENT: 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 advertised in the Trenton Times and Windsor-Hights Herald as required by law and is posted on the Hightstown Borough website.

Flag Salute

Roll Call – Planning Board

Approval of Agenda

Approval of Minutes August 9, 2021 - Regular Virtual Meeting

Resolutions 2021-08 - Appointment of Planning Board Attorney for the balance of the year

Public Comment

Public Hearing Application #2021-01 – Community Action Service Center, Inc., dba RISE

114 Rogers Ave, Sign variance

Redevelopment Area Circulation Plan Presentation by Mike Dannemiller, NV5



**THE BOROUGH OF HIGHTSTOWN
PLANNING BOARD**

156 Bank Street, Hightstown, NJ 08520
Phone: 609-490-5100 x617 Fax: 609-371-0267

PLANNING BOARD REGULAR VIRTUAL MEETING AGENDA
SEPTEMBER 13, 2021 - 7:30 P.M.

Old Business

Application #2019-05 – Americana Diner Site Plan agreement

Affordable Housing Plan – Mr. Slauch, subcommittee updates

New Business

Proposed changes to Residential Redevelopment Fees

Proposed changes to Borough Code Chapter 13 – Housing

Committee and Professional Reports

Chairman and Board Member Comments

Adjourn

HIGHTSTOWN PLANNING BOARD REGULAR VIRTUAL MEETING

AUGUST 9, 2021, 7:30 P.M.

OPEN SESSION

Bev Asselstine, Vice-Chairperson, called the meeting to order at 7:39 p.m. and read the Open Public Meetings Act statement: "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 on the Borough's website. Due to Covid-19 and self-distancing protocols, this meeting was held remotely through www.zoom.com."

Flag Salute, led by Mr. Misiura

Roll Call – Planning Board

	PRESENT	ABSENT	LATE ARRIVAL
Mayor Quattrone	X		
Councilman Misiura	X		
VACANT, Chair			
Ms. Asselstine, Vice-Chair	X		
Ms. Jackson	X		
Mr. Laudenberger	X		
Mr. Searing	X		
Mr. Watkins	X		
Mr. Balcewicz, Alt. #1	X		

Also in attendance: Jane Davis – Planning Planning Board Secretary, Jolanta Maiarz – Attorney, Carmen Roberts – Engineer, Brian Slauch – Planner, Peggy Riggio – Deputy Borough Clerk, George Chin, Construction/Zoning Official & Dimitri Musing

Approval of Agenda

Ms. Asselstine asked that the August 9, 2021 agenda be approved with amendments. Nominate new chair to replace vacant seat, and affordable housing sub-committee member.

Motion made by Mayor Quattrone and seconded by Mr. Searing to approve the August 9, 2021 Planning Board Agenda.

Roll Call Vote: Mayor Quattrone, Mr. Misiura, Ms. Asselstine, Ms. Jackson, Mr. Laudenberger, Mr. Searing, Ms. Watkins, Mr. Balcewicz and Mr. Cabot. Motion passed 9-0.

Nominations

Nomination made by Mr. Misiura and seconded by Mayor Quattrone to appoint Ms. Asselstine as Planning Board Chair.

HIGHTSTOWN PLANNING BOARD REGULAR VIRTUAL MEETING AUGUST 9, 2021, 7:30 P.M.

Roll Call Vote: Mayor Quattrone, Mr. Misiura, ~~Ms. Asselstine~~(ABSTAINED), Ms. Jackson, Mr. Laudenberger, Mr. Searing, Ms. Watkins, Mr. Balcewicz and Mr. Cabot. Motion passed 8-0 and one abstention.

Due to Vice-Chair stepping up to Chair, Ms. Asselstine requests a nomination to fill the vacant Vice-Chair position. Nomination made by Mr. Laudenberger and seconded by Ms. Asselstine to appoint Joanna Jackson as Planning Board Vice-Chair. Mr. Misiura closed nominations.

Roll Call Vote: Mayor Quattrone, Mr. Misiura, Ms. Asselstine, ~~Ms. Jackson~~(ABSTAINED), Mr. Laudenberger, Mr. Searing, Ms. Watkins, Mr. Balcewicz and Mr. Cabot. Motion passed 8-0 and one abstention.

Ms. Asselstine requests interest in filling the affordable housing sub-committee vacancy. Joanna Jackson self-nominates without a formal vote or contestation.

Approval of Minutes

Motion made by Mr. Slauch and seconded by Mr. Searing to approve the June 14, 2021 Minutes.

Roll Call Vote: ~~Mayor Quattrone~~(ABTAINED), Mr. Misiura, Ms. Asselstine, Ms. Jackson, Mr. Laudenberger, Mr. Searing, Ms. Watkins, Mr. Balcewicz and Mr. Cabot. Motion passed 8-0 and one abstention

Public Comment

Ms. Asselstine opened the floor for any public comments. There being no comments and no public in attendance, Ms. Asselstine closed the public comment.

Resolutions

As the previous Planning Board Secretary retired mid-year, Ms. Asselstine requests Resolution 2021-07 be amended to edit the title of the Resolution to "Appointing Planning Board Secretary for the balance of the year". Planning Board members welcome Ms. Davis.

2021-07 – Appointing the Planning Board Secretary – Motion made by Mr. Misiura and seconded by Mr. Laudenberger to approve the resolution (#2021-07) with amendment to the title.

Roll Call Vote: Mayor Quattrone, Mr. Misiura, Ms. Asselstine, Ms. Jackson, Mr. Laudenberger, Mr. Searing, Ms. Watkins, Mr. Balcewicz and Mr. Cabot. Motion passed 9-0.

~~Review of Sign Variance Application~~ Incomplete -To be heard during the September Meeting.

HIGHTSTOWN PLANNING BOARD REGULAR VIRTUAL MEETING AUGUST 9, 2021, 7:30 P.M.

Old Business

Affordable Housing – Mr. Slaugh informed the Board that the Affordable Housing Sub-committee had no reports at this time

Railroad Avenue and Borough Hall – On-going discussions with Borough Council. No additional comments except comments submitted by Ms. Jackson. See attached.

New Business

Planning Board Attorney Resignation – Ms. Maziarz will provide replacement options for a new planning board attorney after thanking the Board and Borough. Explained several scenarios and interview processes the Board could follow to hire a new Board Attorney. She assured the Board that her advice would still be available following her time in the Borough. A Planning Board sub-committee will be created to hire a replacement Attorney. Mayor Quattrone volunteers Mr. Misiura & Mr. Laudenberg as sub-committee to choose Attorney replacement. Ms. Asselstine self nominates as the third committee member. Ms. Asselstine asks Ms. Maziarz to solicit proposals for the remaining year term., we will then post an RFP (Request for Proposal) for next year's term.

Committee and Professional Reports

Ms. Roberts – Nothing new to report. Mr. Cicalese inquires about the Stockton Street paving from Oak Lane to Rt. 130. Ms. Roberts explains it will be addressed at the next Council Meeting.

Mr. Slaugh – Nothing new to report.

Ms. Maziarz – Nothing new to report, but thanks the Board again.

Updates on DVRPC Rotary Project – Ms. Asselstine states there are multiple considerations to be made pending awaited reports. The Borough Council grant for Safe Streets would include the Rotary Project in the October application, up for Resolution on August 16, 2021.

Chairman and Board Member Comments

Board members Welcome Ms. Davis as Planning Board Secretary and thanks Ms. Maziarz, she will be missed.

There being no further business, Ms. Asselstine made a motion to adjourn. Seconded by Mr. Quattrone. All ayes. Meeting adjourned at 8:22 P.M.

Submitted by:

Jane Davis, Planning Board Secretary

Resolution 2021-07

*BOROUGH OF HIGHTSTOWN PLANNING BOARD
COUNTY OF MERCER, STATE OF NEW JERSEY*

APPOINTING PLANNING BOARD SECRETARY FOR BALANCE OF THIS YEAR

WHEREAS, there exists a need for a Planning Board Secretary for the Borough of Hightstown Planning Board; and

WHEREAS, it is the desire of the Planning Board to appoint Jane Davis to this position; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Hightstown, as follows:

1. Jane Davis is hereby appointed as Planning Board Secretary for the year 2021 at the rate of \$20.00 per hour. After probationary period, will be increased to \$21.00 per hour.
2. A copy of this Resolution shall be placed on file with the Borough Clerk.
3. A notice of this action shall be published once in an official newspaper of the Borough as required by law.
4. This Resolution is contingent upon the provision of funding in the Borough's 2021 budget, where funds are being made available.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Planning Board at a meeting held on August 9, 2021.

Jane Davis
Planning Board Secretary

Resolution 2021-08

*BOROUGH OF HIGHTSTOWN PLANNING BOARD
COUNTY OF MERCER, STATE OF NEW JERSEY*

APPOINTING AND AUTHORIZING AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES FOR THE BALANCE OF THE YEAR – PARKER MCCAY P.A.

WHEREAS, there exists the need for specialized legal services for the Planning Board during 2021; and

WHEREAS, it is the desire of Planning Board to appoint **Scott T. Miccio, Parker McCay, PC, Hamilton, New Jersey**, as Planning Board Attorney for the remainder of 2021; and

WHEREAS, the cost for the proposed services shall be as stated in the “2021 Hourly Fee Schedule” as approved by the Planning Board; and

WHEREAS, funds for this purpose will be made available in the 2021 budget; and,

WHEREAS, the anticipated term of this contract is for the 2021 calendar year, and it may only be renewed upon further action of the Planning Board; and

WHEREAS, this contract is awarded as a “fair and open contract” pursuant to and in accordance with the Local Unit Pay-to-Play Law.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Planning Board of the Borough of Hightstown that the Planning Board Chairman is authorized to execute and the Planning Board Secretary to attest an agreement between the Borough of Hightstown and Parker McCay, PC, for professional legal services for the remainder of 2021.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Hightstown, as follows:

1. The Chairman and Secretary are hereby authorized and directed to execute an Agreement with Scott T. Miccio, Parker McCay PC, 3840 Quakerbridge Rd, Ste 200, Hamilton, New Jersey 08619.
2. This Contract is awarded without competitive bidding as a “Professional Service” under the provisions of the Local Public Contracts Law, (N.J.S.A. 40A:11-5(a)) as a contract for services to be performed by a person authorized by law to practice a recognized profession that is regulated by law.
3. A copy of this Resolution and Contract shall be placed on file in the Office of the Borough Clerk.
4. Notice of Adoption of this Resolution should be published in an official Borough newspaper.

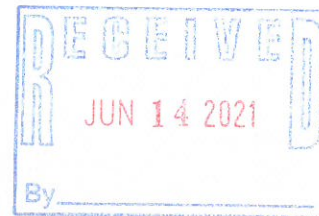
CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Planning Board at a meeting held on September 13, 2021.

Jane Davis
Planning Board Secretary

BOROUGH OF HIGHTSTOWN
156 BANK STREET
HIGHTSTOWN, NJ 08520
609-490-5100, ext. 617

PLANNING BOARD APPLICATION



The applicant must submit 21 copies of the completed application and plans; see checklist for sizes.

The application, with supporting documentation, must be filed with the Planning Board Secretary no less than 31 days prior to the meeting at which the application is to be considered.

NOTE: Some applications may be subject to additional fees, please refer to Chapter 26, Section 10, "Land Use" in the Revised General Ordinances of the Borough of Hightstown

To be completed by Borough Staff

Dated Filed: 6/14/2021 Application Number: 2021-01
Application Fees: 75 #1522 Escrow Deposit: \$250/7521
Scheduled for:
Review for Completeness: _____
Hearing Date: _____

1. APPLICANT

Name: Community Action Service Center, Inc. dba RISE
Address: 116 North Main Street, Hightstown, NJ 08520
Telephone: 609-443-4464
Fax: 609-443-3867
E-mail: lkoppel@njrise.org or nancywl1011@gmail.com

Mailing Address: P.O. Box 88, Hightstown, NJ 08520
Applicant is a: ☒ Corporation ☐ Partnership ☐ Individual

Corporations must be represented by an attorney

Attorney's Name: Eric Broadway, Esq.
Address: 1471 Prospect Street, Ewing, NJ 08638
Telephone: 609-882-4110 or 609-203-0240

If the applicant is a corporation or partnership, please attach a list of the names and address of all persons having a 10% interest or more in the corporation or partnership.

2. The relationship of the Applicant to the property in question is:

☒ Owner ☐ Lessee ☐ Purchaser (under contract) ☐ Other, specify _____

3. If owner is other than applicant, provide the following information:

Owner: _____

Owner's Address: _____

Telephone: _____

4. Type of Application (check all that apply)

A. ☐ SITE PLAN

☐ Waiver ☐ Preliminary ☐ Final

☐ Amendment to an Approved Site Plan

B. ☐ MINOR SUBDIVISION

☐ Preliminary ☐ Final

Number of lots to be created including remainder lot _____

C. ☐ MAJOR SUBDIVISION

☐ Preliminary ☐ Final

Number of lots to be created including remainder lot _____

D. ☒ VARIANCE

☐ Hardship ☒ Use ☐ Substantial Benefit

Section(s) of Ordinance from which a variance is requested:

29-14 Window Signs

E. ☐ Conditional Use

F. ☐ Conceptual Review

G. ☐ Appeal decision of an Administrative Officer

H. ☐ Interpretation of Map or Ordinance

I. ☐ Other

Please specify: _____

5. Explain in detail the exact nature of application: RISE seeks a use variance to erect perforated window signage that cover more than 10% of the window spaces on the front and side of its single story building, located at 114 Rogers Avenue, Hightstown, NJ ("Property"). These sign; however, allow visibility from inside the thrift store to the outside. It seeks this variance to improve the esthetic quality of the building by blocking the storage shelving and ancillary equipment inside the thrift store. Further, Rise submits there is no adverse impact to its security, since it has two 24 hour cameras monitoring the exterior front and side of the building. Further, Rise submits this variance would comply with its neighbors existing signage and window treatments.

6. Waivers requested of Development Standards and/or Checklist Requirements: _____

7. Subject PROPERTY

- A. Address: 114 Rogers Avenue, Hightstown, New Jersey 08520
- B. Block: 33 Lot: 30.01
- C. Zoning District: DTC
- D. Is the subject located on a: To the best of the applicant's knowledge, no.
- ☐ County Road ☐ State Road
- ☐ Within 200 feet of a Municipal Boundary
- E. Use of Property:
- Existing: A Thrift Shop that caters to the local community, with a focus on the underserved and low-income residents
- Proposed: No change. The Variance improves the esthetic quality of the store front.
- F. Are there any existing or proposed deed restrictions, easements, right-of-ways or other dedication? x NO ☐ YES (Attach Copies)
- G. List all maps and other exhibits accompanying this application.
- See attached photographs._

8. Applicant's PROFESSIONALS

- A. ENGINEER: n/a
- Address _____
- Telephone _____
- Email _____
- Fax _____
- B. PLANNING CONSULTANT: n/a
- Address _____
- Telephone _____
- Email _____
- Fax _____
- C. TRAFFIC ENGINEER: n/a

Address _____

Telephone _____
Email _____
Fax _____

D. ARCHITECT: n/a

Address _____

Telephone _____
Email _____
Fax _____

E. List any other expert who will submit a report or who will testify for the Applicant. n/a

Name: _____
Field of Expertise: _____
Address _____

Telephone _____
Email _____
Fax _____

9. The Applicant hereby requests that copies of the reports of the professional staff reviewing the application be provided to the following of the Applicant's professionals: n/a

APPLICANT'S PROFESSIONALS

REPORTS NEEDED

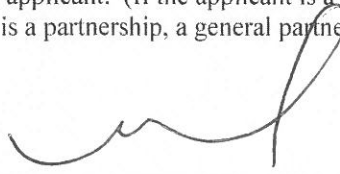
10. ☐ Certification from the Tax Collector that all taxes, water, sewer rents due on the subject property have been paid is provided. **Community Action Service Center, Inc. a charitable organization and exempt from property taxes.**
11. Attach a copy of the Notice that will appear in the official newspaper of the municipality and that will be mailed to owners of all real property, as shown on the current tax duplicate, located within 200 feet in all directions of the property which is subject of this application. The Notice must specify the sections of the Ordinance from which relief is sought, if applicable.

THE PUBLICATION AND SERVICE OF THE AFFECTED OWNERS MUST BE
ACCOMPLISHED **AT LEAST 10 DAYS PRIOR** TO THE DATE SCHEDULED BY THE
ADMINISTRATIVE OFFICER FOR THE HEARING.

An affidavit of service on all property owners and proof of publication must be filed before the application will be complete and a hearing can proceed.

CERTIFICATION

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the corporate applicant and that I am authorized to sign the application for the Corporation or that I am a general partner of the partnership applicant. (If the applicant is a corporation an authorized corporate officer must sign this. If the applicant is a partnership, a general partner must sign this.)

A handwritten signature in black ink, consisting of a series of loops and a long vertical stroke on the right side.

Signature of Owner

114 ROGERS STREET, HIGHTSTOWN NJ 08520 - RISE

(3) Windows

Perforated vinyl graphics applied to glass

Dimensions: 48" H x 24" W

Total area **each** window: 8 SqFt.

Building Elevation: 400 SqFt.



ALL DIMENSIONS NEED TO BE FIELD VERIFIED

(5) Windows

Perforated vinyl graphics applied to glass

Dimensions: 38" H x 40" W

Total area **each** window: 10.55 SqFt.

Building Elevation: 700 SqFt.

HIGHTSTOWN BOROUGH PLANNING BOARD

PLEASE TAKE NOTICE that on Monday, September 13, 2021, at 7:30 PM (and thereafter on such dates as such hearing may be continued), the Hightstown Borough Planning Board ("Board") will hold a virtual public hearing, via Zoom:

Join Zoom Meeting, via the following link:

<https://us06web.zoom.us/j/86089092616?pwd=SlhXNkU4aEJWVkJZBL2o2NUhkV1EzQT09>

Meeting ID: 860 8909 2616; Passcode: nynE2L

One tap mobile +16468769923, 86089092616#,,, *818561# US (New York)

Dial by your location +1 646 876 9923 US (New York)

Meeting ID: 860 8909 2616; Passcode: 818561

Find your local number: <https://us06web.zoom.us/j/86089092616?pwd=SlhXNkU4aEJWVkJZBL2o2NUhkV1EzQT09>

on the application ("Application") of Community Action Service Center, dba RISE ("Applicant") for Planning Board Variance to install and maintain window signs at its property, located at 114 Rogers Avenue, Hightstown, New Jersey (Block: 33, Lot 30.01)("Property").

The Applicant is seeking to install window signs at its Property that advertise its RISE business logo, its charitable offerings and thrift store operating hours. The Applicant's customers consist of local residents, families in need and small convenience stores that serve the local communities in Mercer County, primarily Hightstown and East Windsor. The Applicant's photographs show the proposed signage.

While the Applicant believes its Application is conforming to the neighborhood and zoning requirements, it is requesting a variance from Hightstown Borough's Ordinance Number 29-14.

At the hearing, all interested parties will be given the opportunity to be heard. You may appear either in person, by agent or by attorney and present any input you may have relating to the abovementioned matter and related request for approval.

Copies of the Application and all documents submitted to date concerning this application are on file in the Hightstown Borough Code Enforcement Office at 156 Bank Street, Hightstown, New Jersey 08520 and are available for inspection by the public during business hours, Monday through Friday, 9:00 a.m. through 4:30 p.m., holidays excepted.

Eric Broadway, Esq.
1471 Prospect Street
Ewing, NJ 08638
(609) 882-4110

**Borough of Hightstown
Contribution Disclosure Statement
by Planning Board Applicant**

The following certification is required in accordance with subsection 26-9-5 of the *Revised General Ordinances of the Borough of Hightstown*. Any application not including this certification will be deemed incomplete.

Applicant name: Community Action Service Center, Inc.

Applicant address: 116 North Main Street, Hightstown, NJ 08520

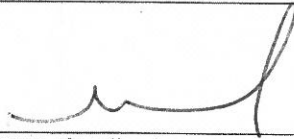
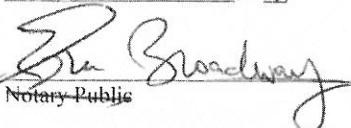
Date of application: June 8, 2021

I HEREBY CERTIFY that the following is a true and complete list of any and all contributions made, during the twelve (12) months prior to the filing of this application, to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee of, or pertaining to, the Borough of Hightstown, including any Mercer County Party Committee or political action committee (PAC) that is organized for the primary purpose of promoting or supporting Borough of Hightstown municipal candidates or officeholders:

Date	Amount	Recipient
		None

(Use additional pages if necessary.)

I FURTHER CERTIFY that I will provide continuing disclosure of any such contributions made following the filing of this Contribution Disclosure Statement and during the pendency of the application and/or approval process.

Subscribed and sworn before me this <u>8th</u> day of <u>June</u> , 20 <u>21</u> .	
 Notary Public	Signature of applicant
My Commission expires: _____	<u>6/8/21</u> Date signed

ERIC BROADWAY

Attorney at Law
State of New Jersey

JD# 022641995

**ESCROW AGREEMENT
PLANNING BOARD
BOROUGH OF HIGHTSTOWN
156 BANK STREET, HIGHTSTOWN, NJ 08520**

This agreement made this **8th** day of **June, 2021** between:

Applicant Name: Community Action Service Center, Inc., a NJ Charitable Organization

Company Name: (if applicable) d.b.a. Rise

Address: 116 North Main Street, Hightstown, New Jersey 08520

Phone: 908-443-3867

E-mail: lkoppel@njrise.org or nancywl1011@gmail.com

Type of Application: Variance for Window Signage

Amount of Escrow: \$250.00

Check Number: 7524

Hereinafter called "Applicant"

And;

The Borough of Hightstown, in the County of Mercer,
A municipal corporation of the State of New Jersey

Hereinafter called the "Borough"

WITNESSTH:

THAT the Applicant has submitted a development application to the Borough's Planning Board for consideration in accordance with the New Jersey Municipal Land Use Law and the Borough of Hightstown Zoning Ordinance and Subdivision Ordinance and Applicant hereby covenant and agrees as follows:

1. Applicant agrees to pay all costs related to the Borough's review and administration of the proposed application with said costs including but not limited to:
 - A. Conceptual review, which entails professional consultant services as, may be required by the Borough.
 - B. Full application professional review by the Borough's Planning Board which entails profession consultant costs for: Planning, Engineering,

Legal and other extraordinary consultant services as may be required by the Borough.

- C. In house application review of the application by the Borough's Department of Health and any other extraordinary review by any other department, office or municipal employee as may be required by the Borough.
2. Applicant understands and agrees to pay all costs as set forth above from the date of initial application submission through the Borough's signature of approved plans which shall include any costs for extensions and revalidations.
 3. Applicant understands and agrees to deposit with the Borough's Planning Board an initial application filing fee in accordance with the fees and permits section of the Ordinance upon submission of the application.
 4. Applicant understands and agrees that the Borough will draw down from said deposit to cover costs as set forth in Section 1 above.
 5. Applicant understands and agrees to pay WITHIN TEN BUSINESS DAYS of receipt of the Borough's statement/billing all additional costs as may be incurred and billed to the applicant by the Borough relative to the review and administration of the application even if the costs of said review and administration exceed the initial filing fee deposit.
 6. Applicant understands and agrees that in the event applicant fails to pay a billed amount the Borough may discontinue Planning Board review and consideration on said application or if Planning Board approval has been previously given the Borough may deny issuance of a construction permit and/or certificate of occupancy or if permit has been previously issued the Borough may initiate a STOP WORK ORDER.
 7. The Borough agrees to refund to applicant any sum deposited with the Borough for review and administration of the application not spent nor needed by the Borough. Said refund will be issued by the Borough in accordance with the refund schedule and following completion of the Borough's review and administration of said application.
 8. APPLICANT AGREES AND UNDERSTANDS THAT IT IS INCUMBENT ON APPLICANT TO PERIODICALLY MONITOR THE STATUS OF SAID ESCROW ACCOUNT. APPLICANT AGREES AND UNDERSTANDS THAT RESPONSIBILITY TO PAY ALL ESCROW CHARGES IS THE APPLICANT'S EVEN IF APPLICANT SELLS OR CONVEYS SAID PROPERTY CITED ABOVE TO ANOTHER PARTY.

Leslie Koppel
Applicant's Name (Printed)


Applicant Signature

Leslie Koppel
Planning Board Secretary

6/8/2021
Date

6/14/2021
Date

Hightstown Planning Board
Regular Meeting
December 9, 2019, 7:30 p.m.

OPEN SESSION

Fred Montferrat, Chairman, called the meeting to order at 7:37 p.m. and read the Open Public Meetings Act statement: "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."

Flag Salute

Roll Call

	PRESENT	ABSENT	LATE ARRIVAL
Mr. Montferrat, Chairman	X		
Mayor Quattrone		X	
Councilman Misiura	X		
Ms. Asselstine	X		
Ms. Colavecchio	X		
Ms. Jackson		X	
Mr. Rosenberg	X		
Mr. Searing	X		
Mr. Laudenberg	X		Sworn in after Roll Call
Mr. Balcewicz, Alt. #1	X		
Mr. Cabot, Alt. #2	X		

Also in attendance: Sandy Belan, Planning Board Secretary, Jolanta Maziarz, Planning Board Attorney Carmela Roberts, Planning Board Engineer and Brian Slaugh, Planning Board Planner.

APPROVAL OF AGENDA

Mr. Montferrat asked that the agenda be amended to add the swearing in of new member, John Laudenberg, replacing Joe Cicalese who elected to the Borough Council.

Mr. Montferrat asked for a motion to approve the amended agenda. Motion made by Ms. Asselstine and seconded by Mr. Cabot to approve the amended agenda.

Roll Call Vote: Mr. Montferrat, Mr. Misiura, Ms. Asselstine, Ms. Colavecchio, Mr. Rosenberg, Mr. Searing, Mr. Balcewicz and Mr. Cabot. Mayor Quattrone and Ms. Jackson were absent. Motion passed 8-0.

OATH OF OFFICE

Ms. Maziarz, Board Attorney, swore in Mr. Laudenberg, new Planning Board Member.

APPROVAL OF MINUTES

Mr. Montferrat asked if there were any corrections or comments to the minutes of the November 12, 2019, Regular Meeting.

Motion made by Ms. Asselstine and seconded by Mr. Misiura to approve the minutes from the November 12, 2019, Planning Board meeting.

Roll Call Vote: Mr. Montferrat, Mr. Misiura, Ms. Asselstine, Ms. Colavecchio, Mr. Rosenberg and Mr. Searing. Ms. Colavecchio, Mr. Laudenberg, Mr. Balcewicz and Mr. Cabot abstained. Mayor Quattrone and Ms. Jackson were absent. Motion passed 5-0, four abstentions.

PUBLIC COMMENT

Mr. Montferrat opened the floor for any public comments.

There being no comments, Mr. Montferrat closed the public comments.

HEARINGS

- 1) Application #2019-05 – Americana Hospitality Group, Block 7, Lots 40.02 and 41 – Preliminary and Final Site Plan Approval

Mark Shane, Shane and White, LLC representing the Americana Diner. Received approval from this Planning Board a few years to expand the Americana Diner, Route 130. Property is in both Hightstown and East Windsor. Received approval several months ago from East Windsor for the proposed renovations. Appearing before this Board for some minor changes to the original plans previously approved by the Board.

All information on notice of publications was submitted to the Planning Board Secretary.

Mr. Shane – Mr. Szalay also testified before East Windsor on this project as well as other municipalities throughout the state.

Testimony – Christopher Szalay, Professional Engineer – Ms. Maziarz swore in Mr. Szalay. Credentials: received bachelor's degree in civil engineering from the University of Rhode Island in 2008; currently work for Menlo Engineering Associates, 261 Cleveland Ave., Highland Park, NJ; licensed professional engineer in New Jersey since 2013. Testified before numerous Boards within the State: Middlesex, Somerset, Hutchinson, Mercer and Monmouth County. Board accepts Mr. Szalay as an expert witness.

Exhibit to be reviewed:

- a) Exhibit A1 – Aerial View of Existing Conditions
- b) Exhibit A2 - Colorized Rendering of the Site Plan

This property is in both the Borough of Hightstown and East Windsor Township. Borough of Hightstown is located on lots 40.02 and portion of lot 41 – total 1.77 acres in the Borough of Hightstown, with total developable area of the area is 6.46 acres including East Windsor. The properties in East Windsor are Lots 9, 10 and 11 within Block 57.

Site is somewhat irregularly shaped lot with frontage on the north side of US 130 between Stockton Street and Town Center Road. Surrounding the properties to the north, south and west are commercial properties. In addition, to the north of our property is a regulated body of water, Rocky Brook, which has

a 150-foot riparian buffer. To the west of the property is the right of way of US 130. To the east of the property are single family residential homes located within the Borough of Hightstown.

Access to the site is by way of curb cuts along Route 130 and the lots with the Borough are located entirely within the R-3 residential district and within the Highway Commercial District within East Windsor Township.

Existing conditions – The property as a whole is developed with a multitude of commercial uses totaling approximately 28,300 square feet of commercial space as well as 228 associated parking spaces, 87 of which are located on Lot 40.02 within existing paved parking area that is associated with the commercial site, located closely to the Americana Diner.

Utilities – Underground detention basin located to the east of the Americana Diner, which collects, conveys, stores and contains stormwater runoff from the existing parking area and discharges it within the Route 130 right of way. Stormwater management improvements along the other two lots which are not contained, currently discharge to through the right of way.

The applicant is proposing to redevelop the entire site and provide a total of approximately 30,800 square feet of commercial uses. The three existing buildings onsite will remain. Some building additions are proposed to the Americana Diner and two existing buildings located to the south as well. Overall the other commercial space will total 30,800 sf and a total of 342 parking spaces are proposed.

We are here today for an Amended Site Plan for the improvements that are located within the Borough of Hightstown. The existing parking lot on lot 40.02 is remain and modified (8 angled parking spaces which will be reconfigured into 7 90-degree spaces).

Mr. Shane noted that one of the reasons for the reconfiguration of the parking is because the applicant is attempting to save a tree.

Mr. Szalay – What was previously approved as a functioning site plan for the parking addition that is to be located on the leased portion of Lot 41 in the Borough of Hightstown. The applicant is attempting to save an existing Oak Tree which is mature and fully developed as well as avoiding relocating an existing transformer. By reconfiguring what was previously approved, we can achieve those two goals as well as maintaining a well-functioning site that circulates safely and adequately.

Also, proposed, in addition to the modifications on Lot 40.02, is a 78-parking space addition onto a portion of Lot 41 within the Borough of Hightstown. Included with these new spaces are 4 ADA spaces near diner and in a level spot. The applicant is also proposing one dumpster that will be in Hightstown Borough (Exhibit A-2). Existing lot 40.02 is located along the eastern portion of the property line and the parking lot addition located within Lot 41 is along the northern portion of the property line. The ADA accessible spaces are located off the northeast corner of the existing Diner and the dumpster is located mid-point of the northern property line.

Screening – proposing six-foot high board-on-board fence along the northern property line to supplement the current landscaping along the eastern and southern property lines. In addition to the existing buffer, we are substantially enhancing the buffer within the East Windsor Township and buffering the residents located within Borough of Hightstown.

Utility Improvements

- a) Proposing for East Windsor a new underground detention basin and utilizing the existing detention basin near the Americana Diner. All runoff will be treated for water quality prior to being discharged into the Route 130 and meet water management regulations. Application submitted to the DEP for approval regarding regulation of discharge into the DOT system.
- b) Other utilities improvements are located within East Windsor Township.

Lighting Improvements

- a) Lighting plan shows five pole mounted light fixtures to be installed in the new parking area. Pole heights are proposed to be 25 feet. Minimum of 0.3 foot-candles, with an average of 0.98 foot-candles and an average minimum uniformity ratio of 3.27.1 are provided within parking areas and access aisles.

Variances

- a) Non-permitted Principal Use – The use of a portion of Lot 41 as a parking lot serving a commercial use is not permitted in the R-3 District. The modification of the existing parking lot on Lot 40.02 to expand it by providing access to the new parking area on Lot 41 is not a permitted change in the non-conforming use of that lot.
- b) Parking Stall Size – The proposed parking stalls measure 10 feet wide by 18 feet long. Borough ordinance requires parking stalls to be a minimum of 20 feet long.

Mr. Shane – At the prior approval, we had a planner testify regarding the Zoning requirement for the non-conforming use at this site. It was approved at that time.

Mr. Szalay reviewed the changes from the previous approved Site Plan.

- a) Layout very similar to the previously approved Site Plans within the Borough. Main changes as discussed earlier have to do with saving existing Oak tree located on the property (Exhibit A-2) and existing transformer which we are maintaining now by providing this green space. Previously, through this green space was a drive aisle that extended toward the exit along Route 130. With this change, we have been able to maintain the existing egress only driveway onto Route 130 rather than modifying to a right-in; right-out driveway, which was part of the previously approved plans.

Mr. Shane – The focus of the original Site Plan and this site plan is parking in Hightstown Borough. The improvements to the site, which were previously in disrepair. These improvements will be made to the benefit of Hightstown Borough.

Ms. Maziarz – It is my understanding from the application and from your testimony so far that you previously received Site Plan approval. I have not been able to locate it or identify it. If the Zoning Board had jurisdiction initially then this application will also be with the Zoning Board. Mr. Misiura must recuse himself.

Mr. Shane – We are not changing the original variance approval for non-conforming use. We are modifying the parking,

Ms. Roberts – I approached this application as Preliminary and Final Site Plan approval tonight. I do not believe the original application received resolution compliance from the Planning Board.

Mr. Slauch – Are the number of parking spaces changing?

Mr. Shane - The original approval was for 157 parking spaces in Hightstown Borough. We are now proposing 158 spaces in Hightstown Borough. Lot 40.02 is owned by the owner and lot 41 is being leased. What is the current status of the lease?

Discussion on the approval of the previous resolution.

Attorney needs to provide additional materials. Grounds to postpone this hearing. Does a resolution expire?

Ms. Maziarz – The Board and professionals need to review the site plan to determine how it has changed from what was originally approved in 2011.

This application is tabled to future meeting no additional notice required.

At this time, Mr. Misiura returned to the dais.

- 2) Application #2019-07 – JKAMQSR, LLC – Amendment to Approved Site Plan, Block 26, Lot 22.01, 119 Franklin St.

George White, Attorney, Turp, Coates, Driggers & White, Hightstown – Amendment to Approved Site Plan – previously here for Zoning Appeal – where the zoning issues related to this application were approved. Tonight's application is to renovate and make architectural improvements. All the improvements are external; no other site work required, all architectural improvements and sign improvements (two variances regarding number of signs permitted).

Two professionals will testify: Cynthia Falls, Architect, gk+a Architects, PC and Creigh Rahenkamp, Professional Planner, Creigh Rahenkamp & Associates.

Ms. Maziarz swore in Ms. Falls, Architect, gk+a Architects, Rutherford, NJ – Master of Architecture from University of Texas, Arlington, 1996; registered architect in New Jersey since 2008 and registered in the New York since 2001. Appeared before multiple boards including East Brunswick, Middletown, Fairhaven, Montclair and throughout northern New Jersey. Board accepts Ms. Falls as an expert witness.

Ms. Falls – Proposing alterations to the Krauser's Convenience Store, 119 Franking St. This will be a combination convenience store and Dunkin Donuts. The Dunkin Donuts will be part of the convenience store, will not include seating or drive thru. Proposing exterior improvements to the façade.

Exhibit A-1 – Color Version of A-4.2 Detail 1 Photo of Existing Conditions; Detail 2 Photo of Existing Façade at Broad St. which fronts residential area; Detail 3 Detail of Proposed Elevation (Franklin St.): removal of existing canopy over the convenience store proposed Dunkin – adding architectural feature to display signage making this more of an end-cap store; Architectural feature will be composed of fiber cement panels with more fiber cement planking accented by pink and white panels on the Dunkin' side.

Two permits are permitted because there are two businesses – Dunkin' and Hightstown Mart.

- a) **Dunkin'** - Internally illuminated: sign area 22.5 sq. ft.; sign height of 2 feet; sign projection of 5 inches; height above grade 18.4 ft. This complies with the Borough ordinance.

- b) **Hightstown Mart** (convenience store): sign area is 32 sq. ft.; sign height **2 inches**; sign projection 5 inches, height above grade 9.11 ft.

Neither of these signs exceeds the allowable 40 sq. ft. These two signs are permitted.

*NOTE CORRECTION: Ms. Falls testified that the sign height (Hightstown Mart) was 2 inches; per the Plans the height is **2 feet**.*

Broad Street signage – Proposing two signs - monolith **DD** sign and **Hightstown Runs on Dunkin'** sign.

- a) DD sign will be on the monolith which projects slightly from the building, but projects less than existing. The canopy projects 2.11 ft. over the building. The DD sign will be less than that now – 8-inch projection. DD sign is internally illuminated.

DD sign - Area 7.6 sq. ft.; sign height 2 feet; sign projection of 5 inches; height above grade 18.4 ft.

- b) Hightstown Runs on Dunkin' will have fiber cement panels which will look like wood but is low maintenance to maintain the look. Hightstown Runs on Dunkin' sign will be illuminated with gooseneck lights. The lights are shielded as required to prevent light spillage over the property line.

Hightstown Runs on Dunkin' sign – area 21.92 sq. ft.; sign height 2 feet, sign projection of 1 inch; height above grade 9 ft.

We think the Hightstown Runs on Dunkin' helps to break up the long facade and gives some interest to the side of the building. The sign will not project any further than the current canopy.

Board Discussion

- a) Existing condition on the Broad St. side – vent in the middle of the building
- b) Two existing trees
- c) Canopy on Franklin St. and Dunkin' sign
- d) Lighting in the area
- e) Two separate business – convenience store and Dunkin' Donuts

Ms. Falls response:

- a) Parking lot - LED lights which will be relocated. There is no sidewalk, most of the lights are there for security.
- b) Both trees will remain, which is part of the reason the DD sign will be a little higher (three feet) than the existing building.
- c) Proposing two signs on the Broad Street side of the building (DD and Hightstown Runs on Dunkin'). Internally lighted signs are permitted.

Some Planning Board members questioned the two separate businesses.

Ms. Falls – It's a convenience store that has "convenience" projects and a Dunkin's Donuts. Each business will have its own point of sale cash register. There is no wall separating the two businesses.

They each operate as a separate business: convenience store (Hightstown Mart), service area/register (Dunkin' Donuts).

Mr. Rosenberg stated he would like to go on record as saying I had a very different idea as to what this was when the zoning appeal was approved. It was approached as a convenience store just selling Dunkin' Donut products. One business.

Ms. Falls – I was not present for the zoning appeal. It was positioned as a 60%-40% split.

Mr. White - There was a discussion of the split between the two businesses as far as what the orientation would be – two separate point of sale systems due to the Dunkin Donuts franchise requirements. Dunkin Donuts products sold through separate register. We did have testimony as to the separation of the square footage based on the different businesses that would be operating.

Ms. Maziarz added that she also had the same observation regarding the two business as some Board members do.

Mr. Slaugh – Hightstown Runs on Dunkin sign reviewed the plans. Effectively, you have an element that is only supported on the corner according to the architectural design. Generally, that is an oddity. Normally the whole piece would go down to the ground, and it would be more like a fin or a pier that supports the entire piece. That is not the case here. Is this how this was designed.

Ms. Falls – Yes, that is correct.

Ms. Asselstine – The Dunkin sign on the Franklin Street side is elevated higher than all the other signs in the center. Is that within the guidelines of the sign ordinance in terms of height? Also elevated and illuminated.

Mr. Montferrat – How does this merge into the other façade that will remain the same? The green and white and that will change height wise and will not match with the other signage and canopy.

Ms. Falls – We are describing this as more like an end cap of a retail center which frequently are different than the rest of the centers. Again, this is a requirement that Dunkin Donuts has for branding. There is various signage on this building.

Ms. Asselstine – I think it is important going forward that we think about that since we can't really address the fact that it has been there since the 70's. You mentioned the franchise requirements?

The Dunkin in Robbinsville does not use the orange and pink color scheme. It has a much more subdued gold and black color scheme which is more in keeping with the architecture of the building.

Ms. Falls – Dunkin no longer approves sites that do not get their signage with their branding. Everything is about branding. All Dunkin's will be renovated to be consistent with the new signage, look and corporate name change. More modern cleaner look.

Ms. Asselstine – Hightstown is more historic town.

Mr. Slaugh – This is not mounted on the roof, so this is technically not a roof sign.

Ms. Maziarz swore in Creigh Rahenkamp, Creigh Rahenkamp & Associates, Riverton, NJ: Qualified previously on the zoning interpretation. Creigh Rahenkamp, Planner – Credentials - planner for 37 years; licensed in New Jersey for 23 years. I have appeared in over 100 matters before Superior Court; lecturer at Rowan University and consultant on the residential site improvement standards. Board accepts Mr. Rahenkamp as an expert witness.

Mr. Rahenkamp reviewed the Variance issues:

I presented the planning testimony on original application it was presented as a single business with two points of sale. There is a single owner for all of this phase, but because of the franchise product delivered through Dunkin' Donuts, they have their own cash register system. Calling it two businesses was an effort to deal with the signage.

The overall purpose of signage is to communicate to the public what they can expect from a particular store. This is a relatively unique situation, that comes with a relatively small number of retail users who nest within the space of other businesses (for example Dunkin Donuts and Subway). When this occurs, you essentially now have two different functions occurring within the business. It is both a convenience store and a Dunkin Donuts. While it is a single business, because of the two different functions, it is important to be able to communicate to the public that both product lines are available within this store. We must communicate with two separate signs when we are addressing the public and do it aesthetically and not overbearing. You don't want the two signs right next to each other, which would obviously clash in terms of their overall look. You have a corporate logo and a more modest convenience store sign. You want to create a separation.

The effort with the architecture is to add a vertical element at the corner. It is common to have a vertical element at the end of a building that carries some additional mass, and to use that opportunity to give a building a different look rather than simply a straight strip center. This adds a vertical element. This gives us the opportunity to split the signage. Dunkin Donuts messaging on the vertical element that is being added and maintain the Hightstown Mart sign at the same elevation of the other signs (Exhibit A-1) – same height and background banding.

DD on side of building (modest signage) – plan to retain the two trees on Broad St.

Hightstown Runs on Dunkin' - This is adding different colors and material in the middle with a sign that mentions both the community and the use.

Soffit light will be removed; gooseneck light on sign DD. If additional lights are needed, will add modern LED hidden fixtures. This will be an improvement over existing conditions.

Buffering between residential and commercial zone (currently a non-conforming existing condition) – we did not plan to address it since it is an existing condition.

Mr. Rahenkamp - The existing green roof turns the corner. It would stick out further than the additional architectural vertical element.

Board Questions:

Mr. Balcewicz – Did you consider a lower vertical sign rather than extending 18 feet – lower the Dunkin sign on the front and the corner DD sign on the side? LED lights - color

Mr. Rahenkamp – The point in having a vertical element is that it is going to extend above the peak of the roof.

Ms. Falls – LED fixture on the side of the building comes in 4-5 different color temperatures. Will use warm temperature. All lights will be LED.

Mr. Slaugh recommends a color temperature of 3200 Kelvin or less (lower end of the LED range).

Mr. Rosenberg – The problem I have are the two signs – it is one business. From an aesthetic standpoint, it seems like your goals butt up directly without sign ordinance goals (using words like pops and modern which are not what we want in our signage). The Borough specifically did away with neon because it pops. We don't have lights that pop because they draw unnecessary attention. We want to maintain the historic character. You will be able to see this across the lake. Do not think it fits in with the character we are trying to achieve. Whether or not you can do it legally that's a different discussion. From an aesthetic point it simply does not fit in and two signs on one frontage is not permitted. Do not see how you can get around that.

Mr. Rahenkamp – It is better to have two separate elements, rather than trying to jam them together. That is the essence of the variance.

Variances Requested:

- a) Two signs where only one is permitted
- b) Interpretation as to whether that applies to both façades or one façade? I believe it applies to both façades.

Mr. Slaugh agrees with Mr. Rahenkamp's interpretation.

Ms. Asselstine – Illuminated sign on Board St. (DD Sign) – corner not visible.

Ms. Falls – DD Sign (Broad St.) - Applicant would agree to restricted hours on the lighting.

Mr. White – Dunkin is adamant about the Dunkin on the front be back lite with white background. The DD Sign on the side could be adjusted to goosenecks lights to restrict potential for commercial lighting shining toward residential area.

Ms. Falls – We can also change the brightness on the other lights.

Mr. Rahenkamp – The intent here is not to have a very bright sign; it should not have any glare.

Mr. Slaugh suggested a limit would be 300 nits.

Ms. Asselstine – The two signs on Board St. - one is the branded DD sign and the other is not is another Hightstown Runs on Dunkin is not a Hightstown Mart. I like the gooseneck better there and it is much more subtle. It is two signs for the same business on one façade. That seems unnecessary.

Ms. Falls – We are describing that more as an architectural feature to break up the brick wall. Again, it is a sign not unlike some of the others – example – Welcome to Hightstown sign in front of the building. It is not unsimilar to what you see in a lot of towns.

Mr. Rahenkamp – The subtitle is smaller, is externally illuminated and is part of an architectural feature. It does not scream Dunkin.

Mr. Slaugh – Isn't the architectural feature the actual thing that is changing the side not the façade?

Mr. Rahenkamp - No, the whole point of this is you have a further change in materials and letters that creates the horizontal element within that bound. It's the three elements together that create the visual interest.

Further discussion on the design of the DD and Hightstown Runs on Dunkin signs.

- a) Looks like a piece of the awning was removed to build a random structure on the side;
- b) Comes across more as a marquee element. I understand what they are trying to achieve here.
- c) If you have a DD sign it should be pushed back so the edge lines up with the front façade of the building. It looks unbalanced.
- d) On Broad St. you really aren't getting a lot of traffic, don't understand the Broad St. signage.
- e) Hightstown is an historic town and we trying to embrace that these days. We want to be our own entity. We don't want to be a highway commercial, which that was at one time. The town has changed.

Mr. White stated that the DD sign is visual as you come down Franklin St.

Mr. Slaugh – If you look at the aerial in my review and you see the trees would obstruct the sign.

Mr. White – The applicant is willing to remove the entire center element (Hightstown Runs on Dunkin) which eliminates the need for the variance (two signs on one façade). The intent of the signage was town recognition. If it is problematic as far as having dueling signs on the Board St., we can remove the entire element from the center of the building, leaving just the signage proposed with the branding.

Board Comments:

- a) Have you addressed the Police Chief's Comments - Related to double parking in the fire zone lane in the center and the increase in traffic?

Ms. Maziarz – This is site plan approval, so that should be addressed now.

Mr. Rahenkamp – The Police Chief simply concerned about an increase in activity, no mention of design changes.

Ms. Colavecchio – Removing gooseneck sign. We have a Mural Arts Program and I believe that wall could be used in a different way more to benefit of the town.

Open Public Comment

Frank Rivera, 110 Broad St. – Two signs on a brick wall. Aesthetics are upside down. We need to do something that fits historic Hightstown. The first thing you will see driving into Hightstown is "Hightstown Runs on Dunkin" – nothing tackier. The Borough was founded in 1721, will celebrate 300th anniversary in 2021. All this additional signage and lighting is an eyesore. This is overreach by any stretch of the imagination. Other members of the Cultural Arts Commission could not be here tonight, but they are also opposed.

There being no further comments, Mr. Montferrat closed public comment.

Board Discussion

- a) I support the removal of the center sign (Hightstown Runs on Dunkin) on Broad St. and the use of gooseneck over the DD instead of being back illuminated would reduce the impact on Board St.
- b) Hours of operation
- c) Lower the proposed DD and Dunkin' signs

Mr. Misiura asked that Mr. Slaugh review the self-illumination/brightness of the proposed lighting to determine the appropriate level for Hightstown.

Ms. Roberts – They are currently in compliance with ordinance regarding height. It is the number of signs.

Ms. Falls - Three-foot difference from the other façade.

Mr. Misiura – We are concerned with the historic nature of the town; this strip mall is not historic. Adding some variety to the individual businesses may make it more typical of Hightstown where you have individual buildings right up against each other and not these strips of buildings. I think this may improve it. We may disagree with the style, but I don't have an issue with the two businesses and the signage.

Mr. Montferrat – This area is heavily used, and the Dunkin Donuts will enhance the other businesses in that area. Make some minor changes so you get what you want, and we are preserving our community as we see our master plan and moving forward how we would like to see the rest of the downtown move forward.

Mr. Slaugh – The difference in signs is greater than three feet. Ms. Falls noted she misunderstood – the element being added at the end is three feet higher than the existing roof.

Mr. Searing – Really do not like the elevation of the Dunkin sign itself. In my opinion it would be much better if it was lowered to the roof level with white background. Reduce that elevation – looks so out of place. Would also like to see the DD lowered to be in line with the Dunkin on the site. Ideally, I would also like to see gooseneck lights on top of the Dunkin instead of the illuminated sign.

Mr. Slaugh – DD will be gooseneck, but the Dunkin will be internally lite as well as the Hightstown Mart.

Mr. White – All the signs are internally illuminated right now.

Mr. Rosenberg – We have two signs on one façade? Mr. Slaugh agreed that this is considered one façade.

Mr. Rosenberg – The ratio 60/40. The signage is reversed. Does not apply to our ordinance. Not aesthetically appealing.

Subsequent to the motion, applicant agreed to remove the second sign (Hightstown Runs on Dunkin) from the façade on Broad Street. Therefore, only one variance is required for the two signs on the Franklin Street façade.

Ordinance 29-18.A - Sign Variance - Permits one façade sign for each street frontage that has direct vehicular access from that street. The applicant proposes to install two signs on the front (Franklin Street). Variances is required for having more than one sign per façade for each building.

Motion made by Ms. Asselstine and seconded by Mr. Cabot to approve Application #2019-07 – JKAMQSR, LLC – Amendment to Approved Site Plan with Variances, Block 26, Lot 22.01, 119 Franklin St. with the following conditions:

- a) Broad Street – Internally illuminated signs – The Board Planner will work with the applicant to determine appropriate lighting;
 - a. Signs will be turned off at the close of business (operating hours 5:00 a.m. to 11:00 p.m.);
 - b. Security lighting will be no hotter than 3200 Kelvin

Applicant will revise the Plans and resubmit for resolution compliance, so the Borough has a record.

Roll Call: Mr. Montferrat, Mr. Misiura, Ms. Asselstine, Ms. Colavecchio, Mr. Laudenberg and Mr. Cabot voted yes. Mr. Rosenberg, Mr. Searing and Mr. Balcewicz voted no. Mayor Quattrone and Ms. Jackson were absent. Motion passed 6-3.

3) Proposed Condemnation Redevelopment Area: Bank Street Redevelopment Expansion II

Ms. Maziarz swore in Brian Slauch, Planning Board Planner, Redevelopment Preliminary Investigation Hearing.

The purpose of the public hearing is for the Borough of Hightstown Planning Board to conduct a preliminary investigation, pursuant to N.J.S.A. 40A:12A-1 et seq. (Local Redevelopment and Housing Law), to determine a need for redevelopment and revitalization of Block 8, Lots 12-14 (158 N. Academy Street and 168 Bank Street) and Block 18, Lots 8-12 (156 Bank Street) on the tax assessment maps of the Borough of Hightstown.

Borough Council has entered into a Redevelopment Agreement with PRC Group, new owner of the Rug Mill Redevelopment site. PRC Group proposes to expand the redevelopment area.

The land areas we are discussing include:

- a) Yellow Georgian House on Bank St. and N. Academy
- b) First Aid Squad located on Bank St.
- c) Other side of Rocky Brook – Mechanic St. DPW buildings and the current Municipal on Bank St. and Mechanic.

PRC Group has acquired the yellow Georgian House (158 Academy St., block 8, Lot 12) – possible use as community center for the development, leasing/sales office.

Historical Society is currently in the redevelopment area. Renovation and additions for new Borough hall, which may free up that space for other things. This is intended to determine whether those areas meet the eligibility criteria under the law for expanding this Bank Street area.

Mr. Slauch reviewed his findings – “DRAFT - Preliminary Investigation of an Area In Need of Redevelopment – Main Street Redevelopment Bank Street Sub-Area 1, Second Expansion” (attached)

Properties involved area: Block 8, Lots 12-14 (western end Bank St.); Block 18, Lots 8-12 (portion currently owned by Municipality).

Environmental Constraints reviewed by Mr. Slauch

Properties Block 18, Lots 8-12, owned by the Borough of Hightstown are eligible designation under Criterion C and H:

(C) "Land that is owned by the municipality, the county, a local housing authority, redevelopment agency, or redevelopment entity, or unimproved land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital."

(H) "The designation of the delineated area is consistent with smart growth planning principals adopted pursuant to law or regulation."

Properties Block 8, Lots 13 and 14 (First Aid Squad) Criterion D applies:

(D) "Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals or welfare of the community."

Facility itself is obsolete for a modern emergency medical technician and other first aid and emergency use services. Memorandum Hightstown First Aid Building Evaluation, dated 10/14/2019 **attached**.

Reversion clause in the title – property reverts to JCP&L who own the building.

Property Block 8, Lot 12 (158 Academy Street) - Criterion D, E and H apply:

PRC Group has indicated that the prior owner did extensive interior renovations; structural problems created in the house itself, as well as an odd arrangement of rooms which makes it difficult to adapt for another use, such as a community center.

The Board could adopt these findings and make a resolution to the Borough Council that you found the criteria had been met based on this report.

(E) "A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of real property therein or other conditions, resulting in the stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare."

Process:

Planning Board would adopt the findings and make resolution to the Borough Council.

Borough Council would also pass a resolution which would be sent to the State Commissioner of Department of Community Affairs. Since Hightstown Borough is in a “smart growth area,” it would become effective upon receipt.

Two resolutions from the Borough Council (1) dealt with just the western end and not the municipal properties; (2) also included the butrist for the Railroad Bridge, which was removed in the second resolution which added the municipal property.

Open Public Comment

Mr. Montferrat opened Public Comment.

Sneah Sukhadia, 24 Campton Dr., East Windsor, Acting Captain, First Aid Squad – Volunteer service to the community; provide a response time that is half compared to our contracted, which is largely due to our location. Building is inspected every year by the Fire Marshal. We rarely have any issues. We are first responders, and we understand safety very well compared to the general public. We spend a lot of time in this building. If we felt it was not safe, would not be staying overnight and spending so much time in the facility.

Brian Slauch met with our colleague and went through the building. When they went through no issues were brought up at that time.

Issues:

- 1) Obsolete for current EMS services – multiple levels, not ADA compliant, lack of storage, limitations within the building itself. Reviewed the architect’s memo.

Mr. Montferrat added that it is not about the services you are providing to the community; it is more about the building itself.

Mr. Misiura – This is not about shutting down the squad. The developer expressed some interest in that property since it is across the street. They are looking at acquiring as much property as they can to expand their development. The Borough would find another location for the First Aid Squad which may involve identifying a piece a property where a new facility could be built. Working out some type of deal with the developer to help fund. This gives us future options for these properties.

Mr. Sukhadia - We can fit everything we need inside; it is cramped but it suits are current needs. We try to be inclusive. I also work per diem at other EMS agencies. It is more the less the same there. Newer building may have more space. The building is more like our “home” away from home.

Mr. Misiura – As the process moves forward the squad will be involved in discussions.

Mr. Sukhadia - Current location is in the middle of town, which helps with response times.

Closed Public Comment

Ms. Maziarz – Board would vote on whether to recommend that this study area be designated as a condemnation area in need of redevelopment. After vote is taken, I have prepared a resolution which can be adopted tonight and be sent to the Borough Council.

Mr. Balcewicz suggested that this resolution also include relocating the First Aid Squad.

Ms. Maziarz – Since this is a recommendation to the Borough Council on the Area in Need of Redevelopment, the Planning Board could make a recommendation regarding the relocation of the First Aid Squad.

Mr. Cabot – Asked if there were any hope in saving the yellow house?

Mr. Misiura – The developer has not made any recommendations. They do understand the importance and the history of the property.

Mr. Slaugh – These recommendations would be more a part of the redevelopment agreement or redevelopment plan.

Mr. Slaugh reviewed the redevelopment process going forward.

Motion made by Ms. Asselstine and seconded by Mr. Misiura to recommend to the Borough Council that the Preliminary Investigation of An Area in Need of Redevelopment Bank Street Sub-Area 1 Second Expansion that all of the criteria in the study area should be designated as a condemnation area in need of redevelopment.

Roll Call: Mr. Montferrat, Mr. Misiura, Ms. Asselstine, Ms. Colavecchio, Mr. Rosenberg, Mr. Searing, Mr. Laudemberger, Mr. Balcewicz and Mr. Cabot voted yes. Mayor Quattrone and Ms. Jackson were absent. Motion passed 9-0

Ms. Maziarz read the following resolution into the record: Resolution #2019-13 Resolution Recommending the Designation of the Bank Street Sub Area 1 (Block 8, Lots 12, 13 and 14; Block 18, Lots 8-12) as a Condemnation Area In Need of Redevelopment Pursuant to the New Jersey Local Redevelopment and Housing Law.

Motion made by Ms. Asselstine and seconded by Ms. Colavecchio to adopt Resolution 2019-13 as presented by Ms. Maziarz at the Planning Board meeting, December 9, 2019.

Roll Call: Mr. Montferrat, Mr. Misiura, Ms. Asselstine, Ms. Colavecchio, Mr. Rosenberg, Mr. Searing, Mr. Laudemberger, Mr. Balcewicz and Mr. Cabot voted yes. Mayor Quattrone and Ms. Jackson were absent. Motion passed 9-0

A copy will be forward to the Planning Board Secretary for signature by the Chairman and Secretary and then forwarded to the Borough Council for further action.

OLD BUSINESS – None

NEW BUSINESS – None

COMMITTEE AND PROFESSIONAL REPORTS

Mr. Montferrat – Subcommittee to discuss “flag lots.” Several residents have discussed with the Zoning Officer selling property and would like to advertise as flag lots that can be subdivided – shared driveway (Oak Lane and South Main St.). Suggested it be handled on a case by case basis.

Mr. Slauch – Flag lot issues - do not have access to utilities, lots usually larger than normal lot even once subdivided, house orientation issues and requires buffering for back yard.

Ms. Asselstine – The Kickoff Meeting for the Mobility Plan with the Community Advisory Committee is scheduled for December 12th from 5-7 at the Fire House Hall. Received Municipal Aid Grant for Railroad Avenue and connection to rear of the new municipal site.

Ms. Roberts reported that the water main on Stockton will be completed by the end of next week. Curbs and sidewalks will extend to the intersection of Dutch Neck Road.

There being no further business Mr. Montferrat asked for a motion to adjourn. Motion made by Mr. Laudenberger and seconded by Mr. Rosenberg. All ayes. Meeting adjourned at 10:45 p.m.

Respectfully submitted,

Sandra Belan
Planning Board Secretary



The Borough of Hightstown

156 Bank Street, Hightstown, New Jersey 08520

Phone – (609) 490-5100

Fax – (609) 371-0267

TO: Jane Davis, Planning Board Secretary
FROM: Peggy Riggio, Borough Clerk
DATE: September 8, 2021
RE: Proposed changes to Residential Redevelopment Fees

At its meeting August 16, 2021, Borough Council discussed proposed changes to the Residential Redevelopment Fees. The proposed changes are attached. Borough Council voted to forward the proposed changes to Planning Board for their review and comments. I ask that this be included on the Planning Board's next agenda. Kindly forward Planning Board's comments following their discussion so Borough Council can act accordingly.

Thank you.

Subsection 26-10-3. Residential Development Fees.

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

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

Subsection 26-10-4. Non-Residential Development Fees.

- a. Within all zoning districts in the Borough of Hightstown, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- b. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- c. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

Subsection 26-10-5. Exemptions.

- a. Developers of low and moderate income housing units shall be exempt from paying development fees on the low and moderate income housing units.

b. Home improvements or expansions shall be exempt from the 1.5% development fee, provided the improvements or expansions do not create any new housing units.

c. Developers who demolish and replace or renovate and re-occupy abandoned housing units shall be exempt from paying the 1.5% development fee, provided the number of housing units on the property does not increase.

d. The 2.5% nonresidential development fee shall not apply to an increase in equalized assessed value of a nonresidential property resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

e. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% nonresidential development fee, unless otherwise exempted.

f. Nonresidential developments shall be exempt from the payment of 2.5% nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S. 40:55D-8.1 through 8.7), as specified in the N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.

g. A developer of a nonresidential development exempted from the 2.5% nonresidential development fee pursuant to the Statewide Nonresidential Development Fee Act shall be subject to the fee at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.

h. If a property which was exempted from the collection of a 2.5% nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough as a lien against the real property of the owner.



The Borough of Hightstown

156 Bank Street, Hightstown, New Jersey 08520

Phone – (609) 490-5100

Fax – (609) 371-0267

TO: Jane Davis, Planning Board Secretary
FROM: Peggy Riggio, Borough Clerk
DATE: September 8, 2021
RE: Proposed changes to Borough Code Chapter 13 - Housing

At its meeting September 7, 2021, Borough Council discussed proposed changes to Chapter 13 of the Borough Code. The changes are attached. Borough Council voted to forward the proposed changes to Planning Board for their review and comments. I ask that this be included on the Planning Board's next agenda. Kindly forward Planning Board's comments following their discussion so Borough Council can act accordingly.

Thank you.

Hightstown Borough Revised General Ordinances

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 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.

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.

Hightstown Borough Revised General Ordinances

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.

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

Hightstown Borough Revised General Ordinances

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)

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 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

Hightstown Borough Revised General Ordinances

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 Ground fault 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, with the exception of use of a portable generator in times of emergency. (1991 Code § 121-10; Ord. No. 823 § 3; Ord. No. 2015-22)

Hightstown Borough Revised General Ordinances

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

All dwellings and dwelling units shall have a ~~smoke sensitive alarm device~~ 10-year sealed battery-powered single station, or hardwired if required at time of construction, smoke alarms shall be installed 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; Ord. No. 2015-22) Tenants/residents shall test monthly to confirm operating and functional.

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 and/or tenant 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 is to be calculated on the basis of total habitable room area, excluding kitchens, bathrooms, water closet compartments, laundries, pantries, foyers, corridors, closets and storage spaces.

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 an additional fifty (50) square feet of floor space for each the second 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

Hightstown Borough Revised General Ordinances

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 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; Ord. No. 2015-22)

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

Hightstown Borough Revised General Ordinances

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.

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 §

Hightstown Borough Revised General Ordinances

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.

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.

Hightstown Borough Revised General Ordinances

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)

C. If heat is not operating properly to maintain required temperature the landlord is responsible for relocation of tenants until heat is restored.

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)

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.

Hightstown Borough Revised General Ordinances

- 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.

Hightstown Borough Revised General Ordinances

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)

The owner shall be responsible to relocate tenants if violations and/or emergency causes dwelling unit to be deemed un-inhabitable.

Section 13-5

INSPECTIONS; NOTICE; HEARINGS

Subsections:

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

Hightstown Borough Revised General Ordinances

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)

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.

Hightstown Borough Revised General Ordinances

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)

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)

Hightstown Borough Revised General Ordinances

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)

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

Hightstown Borough Revised General Ordinances

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.

Hightstown Borough Revised General Ordinances

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 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)

Hightstown Borough Revised General Ordinances

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/Transfer of Title.

13-7-2 Fees; Inspections.

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

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. A Certificate of Compliance is still required for any dwelling house which has been sold and in which occupancy is not immediately planned. The new owner has to obtain the Certificate of Compliance within ten (10) business days after closing on the house. The Housing Inspector needs to determine the safety of the house and inform First Responders of any hazardous conditions in the dwelling unit. 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. A dwelling 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; Ord. No. 2018-03)

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 fully completed application for such certificate, a fee of one hundred (\$100.00) dollars shall be paid, if submitted a minimum of 10 business days prior to the closing date. For fully completed applications submitted less than 10 business days prior to the closing date, a fee of one hundred fifty (\$150.00) dollars shall be paid. For fully completed applications submitted less than 5 business days prior to the closing date, a fee of two hundred (\$200.00) 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) dollars shall be paid for each additional inspection required. All fees shall be made payable to the Borough of Hightstown and be delivered to the Borough Offices 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; Ord. No. 2015-22; Ord. No. 2018-03)

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 **annually and/or** 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) 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) 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; Ord. No. 2015-22)

Hightstown Borough Revised General Ordinances

Section 13-9

VIOLATIONS AND PENALTIES

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, firm 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:

- 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)

Hightstown Borough Revised General Ordinances

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)

Hightstown Borough Revised General Ordinances

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 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

"Owner-occupied" shall mean a portion of a rental facility, dwelling, commercial unit or dwelling unit will be considered owner-occupied if the owner makes their primary residence therein. A person may have only one primary residence.

"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.

"Rent or Rented" Shall mean occupied by any person other than the owner, regardless of whether there is a

Hightstown Borough Revised General Ordinances

written or oral agreement and regardless of whether the owner receives consideration for the occupancy

"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) Registrations shall cover a 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, in any event, at least once every two years. It shall be the responsibility of the owner to arrange for inspections when there is a change in occupancy. Routine biennial inspections will be scheduled by the Housing

Hightstown Borough Revised General Ordinances

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.

(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.

(Ord. No. 2015-22)

Subsection 13-12-3 Fees

(a) At the time of registration, the owner or agent of the owner must pay a one-year registration fee as follows:

- (1) For one- to three-unit dwellings: \$100.00 per unit
- (2) For dwellings of more than three but ~~less than~~ **not more than** 50 units: \$90.00 per unit, to a maximum fee of ~~two thousand (\$2,000.00)~~ **two thousand five hundred (\$2,500.00)** dollars.
- (3) For dwellings which include more than 50 units: \$80.00 per unit, **to a maximum fee of seven thousand five hundred (\$7,500) dollars**

(a) Annual inspection for rental properties with 25 and more units will consist of: common areas and a minimum of 20 percent of rental units, chosen by the Housing inspector, will be inspected. If units fail another 20 percent will be chosen and inspected until all units pass or entire complex has been inspected.

(b) Inspection at change of tenant must be completed and certificate of occupancy issued prior to tenant moving in

(b) One re-inspection is included within the fees listed above, provided that the re-inspection occurs within fifteen (15) days of the initial inspection. Otherwise, re-inspection fees shall be \$50.00 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 Statue 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.

(Ord. No. 2015-22)

Rental registration required prior to advertising for rent. See subsection 13-3-12

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

Hightstown Borough Revised General Ordinances

and sewer charges and any other municipal assessments for that property are paid on a current basis. (Ord. No. 2015-22)

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). (Ord. No. 2015-22)

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:

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.

(Ord. No. 2015-22)

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.

Hightstown Borough Revised General Ordinances

- (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 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

Hightstown Borough Revised General Ordinances

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

a. **General Penalty.** Except as otherwise set forth herein, any person who shall violate any of the provisions of this chapter shall be subject to penalties as set forth in Section 1-5 of the Revised General Ordinances of the Borough of Hightstown. Each violation of any of the provisions of this chapter and each day that such violation shall continue shall be deemed to be a separate and distinct offense.

b. **Payable violations.**

Subsection 13-3-1	Maintenance.
Subsection 13-3-3	Water Supply.
Subsection 13-3-2	Sump Pump and Sewer Line Clean-Outs.
Subsection 13-3-4	Plumbing and Heating
Subsection 13-3-5	Electrical.
Subsection 13-3-6	Smoke and Carbon Monoxide Alarms Required
Subsection 13-3-7	Fences
First offense	\$100
Second offense	\$200 Court appearance required
Subsequent Offenses	Not to Exceed \$2,000 Court appearance required
Subsection 13-3-12	Signs
Subsection 13-4-4	Minimum Standards for Heating
Subsection 13-4-5	Egress.
Subsection 13-4-7	Additional Maintenance Requirements
Subsection 13-4-8	Additional Responsibilities Concerning Garbage, Rubbish and Recyclable Materials
Subsection 13-4-9	Additional Responsibilities Concerning Insects and Rodents
Subsection 13-4-10	Owner Responsible
First offense	\$150
Second offense	\$300 Court appearance required
Subsequent Offenses	Not to Exceed \$2,000 Court appearance required
Subsection 13-3-8	Use and Occupancy of Space.
Subsection 13-6-13	Compliance Required

Hightstown Borough Revised General Ordinances

Subsection 13-7-1	Certificate of Compliance Required for Occupancy/Transfer of Title
Subsection 13-8-1	Certificate of Compliance Required
Subsection 13-12-2	Registration Required
Subsection 13-12-6	Maximum Number of Occupants; Posting
Subsection 13-12-8	Occupant Standards
First offense	\$250
Second offense	\$500 Court appearance required
Subsequent Offenses	Not to Exceed \$2,000 Court appearance required

- c. Lien to be Placed on Property. In addition to the foregoing, and all other remedies available to the Borough, the Borough Treasurer, upon appropriate notification from the Mayor and Council and appropriate certification from the enforcement officer, shall place a lien on any property determined by the enforcement officer to be in violation of the provisions of this code, in the amount of any and all administrative expenses and any and all actual expenditures for work necessary in order to maintain the property and/or abate the violation, including the cost of removal of any offensive construction materials, refuse, hazards, overhanging objects or any other offending physical object. The lien placed upon such lands shall be added to and become and form a part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes. Costs shall be in addition to any penalties imposed for any violation of this Chapter.

(Ord. No. 2015-22; Ord. No. 2018-03)