

Meeting Minutes
Hightstown Borough Council
October 4, 2021
6:30 p.m.

The meeting was called to order by Mayor Quattrone at 6:32 p.m. and he read the Open Public Meetings Act statement which stated, “Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act, pursuant to Public Law 1975, Chapter 231. Said notice was sent to the *Trenton Times* and the *Windsor-Hights Herald*, and is posted on the Borough website.” Do to COVID-19 and self-distancing protocols, this meeting was held remotely through www.zoom.com.

The flag salute followed Roll Call.

	PRESENT	ABSENT
<i>Councilmember Susan Bluth</i>	✓	
<i>Councilmember Joseph Cicalese</i>	✓	
<i>Councilmember Cristina Fowler</i>	✓	
<i>Councilmember Joshua Jackson</i>	✓	
<i>Councilmember Steven Misiura</i>	✓	
<i>Councilmember Frederick Montferrat</i>	✓	
<i>Mayor Quattrone</i>	✓	

Also in attendance: Margaret (Peggy) Riggio, Borough Clerk; Dimitri Musing, Borough Administrator, George Lang, CFO and Fred Raffetto, Borough Attorney.

The Flag Salute followed roll call.

APPROVAL OF AGENDA

Moved by Councilmember Montferrat; Seconded by Councilmember Fowler.

Roll Call Vote: Councilmembers Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Agenda approved 6-0.

APPROVAL OF MINUTES

August 2, 2021 – Public Session

Moved by Councilmember Bluth; Seconded by Councilmember Cicalese.

Roll Call Vote: Councilmembers Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Minutes approved 6-0.

August 2, 2021 – Executive Session

Moved by Councilmember Cicalese; Seconded by Councilmember Fowler.

Roll Call Vote: Councilmembers Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Minutes approved 6-0.

August 16, 2021 – Public Session

Moved by Councilmember Cicalese; Seconded by Councilmember Misiura.

Roll Call Vote: Councilmembers Bluth, Cicalese, Fowler, Misiura and Montferrat voted yes. Councilmember Jackson abstained.

Minutes approved 5-0 with 1 abstention.

August 16, 2021 – Executive Session

Moved by Councilmember Bluth; Seconded by Councilmember Misiura.

Roll Call Vote: Councilmembers Bluth, Cicalese, Fowler, Misiura and Montferrat voted yes. Councilmember Jackson abstained.

Minutes approved 5-0 with 1 abstention.

PUBLIC COMMENT

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

Eugene Sarafin, 628 South Main Street - Spoke against the republican party. Stated that he is happy to see the housing ordinance to inspect rental units.

Michele Epstein, 421 North Main Street - Spoke about truck traffic in town. The Borough needs an ordinance to ban large trucks. We must be proactive and act now because of all of the new warehouses in the surrounding towns.

Jeff Epstein, 421 North Main Street - Taxes and traffic are the two most important issues in town. The Borough needs to increase revenue. Property taxes cannot be the town's only source of revenue. He feels that Peddie needs to contribute more. Suggested that Peddie do what Lawrenceville does; paying for one full time police officer. Questioned what was being taking place with the Ward Street Bridge; he has not seen an update.

Tory Watkins, 68 Meadow Drive - He supports the shared services agreement with Robbinsville.

There being further comments, Mayor Quattrone closed the public comment period.

ORDINANCES

Ordinance 2021-13 Public Hearing and Final Reading An Ordinance Authorizing the Borough of Hightstown to Acquire an Easement for Permanent Access Over a Portion of Certain Real Property Located at 111 Morrison Avenue (Lot 1, Block 57) Within the Borough, In Order to Facilitate the Railroad Avenue, Dey Street, Center Street and South Academy Street Improvement Project

Mayor Quattrone opened the public hearing and the following individuals spoke:

Eugene Sarafin, 628 South Main Street - This is a wonderful ordinance and he supports it.

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

Moved for adoption by Councilmember Jackson; Seconded by Councilmember Fowler.

Roll Call Vote: Councilmember Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Ordinance adopted 6-0.

ORDINANCE 2021-13

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

**AN ORDINANCE AUTHORIZING THE BOROUGH OF HIGHTSTOWN TO
ACQUIRE AN EASEMENT FOR PERMANENT ACCESS OVER A PORTION OF
CERTAIN REAL PROPERTY LOCATED AT 111 MORRISON AVENUE
(LOT 1, BLOCK 57) WITHIN THE BOROUGH, IN ORDER TO FACILITATE
THE RAILROAD AVENUE, DEY STREET, CENTER STREET AND
SOUTH ACADEMY STREET IMPROVEMENT PROJECT.**

WHEREAS, Caroline Muhindi and Miguel Santos, wife and husband, as tenants by the entirety, are the owners of certain real property located at 111 Morrison Avenue in the Borough of Hightstown (the "Borough"), County of Mercer, State of New Jersey, which property is more commonly known and designated as Lot 1, Block 57 on the Hightstown Borough Tax Map (hereinafter referred to as the "property"); and

WHEREAS, the Borough is undertaking a public project involving the construction of improvements to Railroad Avenue, Dey Street, Center Street, and South Academy Street within the Borough (hereinafter referred to as the "project"); and

WHEREAS, in order to facilitate the project, it will be necessary for the Borough to acquire an easement for permanent access over a portion of the property; and

WHEREAS, the area of the easement is described in more detail in a legal description prepared by Roberts Engineering Group, LLC, dated September 7, 2021, a copy of which is attached hereto as Exhibit "A," and

WHEREAS, the location of the easement is depicted in more detail on a map entitled "Proposed Right of Way Easement Plan," dated September 7, 2021, as prepared by Roberts Engineering Group, LLC, a copy of which is attached hereto as Exhibit "B"; and

WHEREAS, pursuant to the New Jersey "Local Lands and Buildings Law," N.J.S.A. 40A:12-1, *et seq.*, a municipality may acquire any real property, capital improvement, personal property, or any interest or estate whatsoever therein (including a permanent easement), by purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement, pursuant to the adoption of an Ordinance; and

WHEREAS, the Mayor and Council have determined that it would be in the best interests of the health, safety

and welfare of the residents of the Borough, and the general public, to move forward to acquire the necessary easement for permanent access upon and across a portion of the property (as described and depicted in the attached Exhibits) in order to facilitate the project.

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

Section 1. That, pursuant to N.J.S.A. 40A:12-1, et seq. the Borough is hereby authorized to acquire an easement for permanent access upon and across a portion of the property (as described and depicted in the attached Exhibits) in order to facilitate the project. This authorization includes utilization of the power of condemnation/ eminent domain, if necessary, in accordance with N.J.S.A. 20:3-1, et seq., in those circumstances where the easement cannot be acquired through amicable negotiations.

Section 2. That the Borough Attorney is hereby authorized and directed to prepare the necessary deed of easement for the property, and arrange for its execution and recording with the Mercer County Clerk's Office. The Borough Attorney is also authorized to institute proceedings before the Superior Court of New Jersey in order to acquire the easement through the power of condemnation/ eminent domain, in accordance with N.J.S.A. 20:3-1, et seq., in any circumstance where the easement cannot be obtained through amicable negotiations.

Section 3. That all relevant Borough officials are authorized to execute any documents that are necessary in order to effectuate the acquisition of the necessary easement concerning the property, either through amicable negotiations or through the power of condemnation/ eminent domain, so long as said documents are in a form satisfactory to the Borough Attorney.

Section 4. That all relevant Borough officials are authorized to undertake all necessary activities in furtherance of the intentions of the within Ordinance.

Section 5. That this Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 6. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 7. That, in the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Ordinance 2021-14 Public Hearing and Final Reading Amending Chapter 12, Entitled "Housing", of the Revised General Ordinances of the Borough of Hightstown

Mayor Quattrone opened the public hearing and the following individuals spoke:

Eugene Sarafin, 628 South Main Street - This is a wonderful ordinance and he supports it.

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

Moved for adoption by Councilmember Montferrat; Seconded by Councilmember Bluth.

Roll Call Vote: Councilmember Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Ordinance adopted 6-0.

ORDINANCE 2021-14

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AMENDING CHAPTER 13, ENTITLED “HOUSING”, OF THE *REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN*

WHEREAS, the Housing Inspector, in coordination with the Construction/Zoning Official recommends certain changes to the Housing ordinance of the Borough; and

WHEREAS, The Mayor and Council of Hightstown Borough have determined that said revision to the Housing ordinance is required pursuant to the request.

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

1. Section 1. The following subsections of Chapter 13, “Housing”, of the *Revised General Ordinances of the Borough of Hightstown* are hereby amended and supplemented as follows (deletions in ~~strikeout~~ text, additions underlined):

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.

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 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 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)

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 be 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 **common area (living room, dining room, etc)** 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 **common area, excluding kitchens, bathrooms, water closet compartments, laundries, pantries, foyers, corridors, closets and storage spaces.**

b. **In addition, the following requirements shall apply:**

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 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

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 § 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.
- 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.

a. The Housing Inspector may order the owner to clean, repair or paint any walls or ceilings within a dwelling when such walls or ceiling have become stained or soiled, or the plaster, wallboard or other covering has become loose or badly cracked or missing.

b. All exterior parts of the structure which are subject to corrosion shall be kept painted and the Housing Inspector may order the owner to paint the exterior of the premises when the painting is necessary in order to retard leakage, deterioration or excessive dampness.

c. Nothing herein shall be construed so as to place upon a nonresident owner the responsibility of a tenant to keep in a clean and sanitary condition that part of the dwelling which the tenant occupies and controls.

d. No owner shall let to an occupant any vacant dwelling, dwelling unit or lodging unit unless it is clean and

sanitary.

e. Every owner of a dwelling containing three (3) or more dwelling or lodging units shall comply with all maintenance requirements of Title 5, Chapter 10 of the New Jersey Administrative Code as they pertain to multiple dwellings. In the event any of the requirements set forth therein are less strict than the requirements of this chapter, this chapter shall control. (1991 Code § 121-22; Ord. No. 823 § 3)

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

a. In dwellings containing no more than three (3) dwelling units, it shall be the responsibility of the occupant of each dwelling unit to furnish such receptacles outside the dwelling unit as are needed for the storage of garbage, rubbish and recyclable materials until removed from the premises. In lodging houses and in dwellings containing four (4) or more dwelling units, it shall be the responsibility of the owner to furnish such receptacles outside the lodging units or dwelling units as are needed for the storage of garbage, rubbish and recyclable materials until removal from the premises.

b. Every occupant of a dwelling unit in a dwelling containing no more than three (3) dwelling units shall be responsible, unless provided for otherwise under a lease agreement, for the periodic removal of all garbage, rubbish and recyclable materials from the premises each week in accordance with the regulations of the Borough for the collection of garbage, rubbish and recyclable materials.

c. Every occupant of a dwelling unit shall dispose of all solid wastes in the manner required by Chapter XVIII. (1991 Code § 121-23; Ord. No. 823 § 3)

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

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

Subsection 13-4-10 Owner Responsible.

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

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

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.

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. 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)

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 cause to be served upon the owner thereof and parties in interest an order requiring:

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

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

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

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

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

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

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

Subsection 13-6-10 Recovery of Costs.

a. The amount of:

1. The cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under this section shall be determined in favor of the Borough.

2. The cost of repairs, alterations, improvements, vacating, closing, boarding up, removal or demolition, if any, shall be a municipal lien against the real property upon which such cost was incurred. If any money is realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, the amount of the money thus realized shall be deducted from the costs incurred which shall be a municipal lien against the real property.

b. If the building is removed or demolished by the Housing Inspector, he shall sell the materials of such building. There shall be credited against the cost of removal or demolition thereof, including the clearance and, if necessary, levelling at the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Municipal Tax Assessor or other custodian of the records of tax liens, and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited in the Superior Court by the Housing Inspector, shall be secured in such manner as may be directed by such Court and shall be disbursed according to the order or judgment of the Court to the persons found to be entitled thereto by final order or judgment of such Court. Any owner or party in interest may, within thirty (30) days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

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

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

Subsection 13-6-11 Summary Judgment.

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

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

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

Subsection 13-6-13 Compliance Required.

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

Subsection 13-6-14 Remedies; Injunctive Relief.

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

Section 13-7
TRANSFER OF PROPERTY

Subsections:

- 13-7-1 Certificate of Compliance Required for Occupancy/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 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)

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)

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

Each application shall be referred to the Health Officer and the Board of Health for inspection, report and

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

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

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

Section 13-11 Reserved

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

Section 13-12

REGISTRATION OF RESIDENTIAL RENTAL PROPERTIES

Subsections:

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

Subsection 13-12-1 Definitions

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

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

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

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

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

“Licensee” shall mean the person to whom the license is issued pursuant to this Ordinance. The term “licensee” includes 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 residential dwelling unit which the owner utilizes as its primary residence. 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 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 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.

(g) Rental registration is required prior to advertising for rent. (See subsection 13-3-12).

(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) 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)

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

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

Section 2. This Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 3. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Ordinance 2021-15 First Reading and Introduction An Ordinance Amending and Supplementing Chapter 26, Entitled “Land Use” Section 10, Entitled “Mandatory Developer Fees”, of the “Revised General Ordinances of the Borough of Hightstown, New Jersey.”

Moved for Introduction by Councilmember Montferrat; Seconded by Councilmember Jackson.

Roll Call Vote: Councilmember Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Ordinance adopted 6-0. Public Hearing scheduled for October 18, 2021.

ORDINANCE 2021-15

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 26, ENTITLED “LAND USE”, SECTION 10, ENTITLED “MANDATORY DEVELOPMENT FEES”, OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”

WHEREAS, the Borough Planner has made certain recommendations for revisions to Chapter 26, “Land Use”, Section 10, entitled “Mandatory Development Fees” of the Borough Revised General Ordinances of the Borough of Hightstown; and

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

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

Section 1. Chapter 26 “Land Use”, Section 10, entitled “Mandatory Developer Fees” is hereby amended as follows (underline for additions, strikethroughs for deletions):

Section 26-10

MANDATORY DEVELOPMENT FEES

Subsections:

- | | |
|----------------|--------------------------------------|
| 26-10-1 | Purpose. |
| 26-10-2 | Definitions. |
| 26-10-3 | Residential Development Fees. |

26-10-4	Non-Residential Development Fees.
26-10-5	Exemptions.
26-10-6	Collection of Fees.
26-10-7	Housing Trust Fund.
26-10-8	Use of Funds.
26-10-9	Expiration of Ordinance.

Subsection 26-10-1. Purpose.

This Section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Section shall be used for the sole purpose of providing very low-, low- and moderate-income housing.

~~In the case of *Holmdel Builder's Association vs. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, *N.J.S.A.* 52:27d 301, et seq., and the State Constitution subject to the Council on Affordable Housing's (COAH's) adoption of appropriate rules and/or approval from New Jersey Superior Court. The purpose of this Ordinance is to establish standards for the collection, maintenance and expenditure of development fees pursuant to applicable affordable housing rules. Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low and moderate income housing. This Ordinance shall be interpreted within the framework of current affordable housing rules on development fees.~~

Subsection 26-10-2. Definitions.

The following terms shall have the meanings indicated:

- a. "COAH" means the New Jersey Council on Affordable Housing.
- b. "Development fees" means money paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in current affordable housing rules.
- c. "Equalized assessed value" means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.
- d. "Judgment of Compliance" means a judgment issued by the Superior Court approving a municipality's housing element and fair share plan in accordance with the provisions of the Fair Housing Act and the rules and criteria as set forth herein. A grant of substantive certification shall be valid for a period of ten years or as otherwise may be determined by the Superior Court in accordance with the terms and conditions therein.

Subsection 26-10-3. Residential Development Fees.

a. Imposition of fees.

1. Within 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. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

2. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a bonus development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. 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 the specified higher percentage of 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.

b. Eligible exactions, ineligible exactions and exemptions for residential development

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units, or by redevelopment agreement or other agreement with the Borough of Hightstown, shall be exempt from the payment of development fees.
2. Developments that received preliminary or final site plan or subdivision approval prior to January 1, 2005 shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
3. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
4. No development fee shall be collected for a demolition and replacement of a residential building resulting from fire, war, or a natural disaster.

~~a. Within all districts of the Borough of Hightstown, developers shall pay a development fee of one and one half percent (1.5%) of the equalized assessed value of the residential development with an assessed value less than \$150,000 and one percent (1.0%) of the equalized assessed value of the residential development with an assessed value equal to or greater than \$150,000, provided no increased density is permitted. Notwithstanding the aforementioned, developers shall pay a development fee of one and one half percent (1.5%) of the equalized assessed value for all rental apartments.~~

~~b. If a “d” variance is granted pursuant to N.J.S.A. 40:55d-70d, then the additional residential units realized (above that which is permitted by right under the existing zoning) will incur a bonus development fee of six percent (6%) rather than the development fee of one and one half percent (1.5%).~~

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

a. Imposition of fees.

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
2. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted below, 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 non-residential purposes.
3. 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 improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b. Eligible exactions, ineligible exactions and exemptions for non-residential development.

1. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
2. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
5. If a property that was exempted from the collection of a non-residential 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

non-residential development fees under these circumstances may be enforceable by the Borough of Hightstown as a lien against the real property of the owner.

~~a. Developers within the Borough of Hightstown shall pay a fee of two and one half percent (2.5%) of the equalized assessed value for nonresidential development in the Borough of Hightstown, including but not limited to service uses, contractors, schools, and churches. Developers shall pay a fee of two percent (2.0%) of the equalized assessed value for retail and office use development, except in those incidents where they provide and maintain outdoor eating or other similar public gathering space; such retail and office uses shall pay a fee of one and one half percent (1.5%).~~

~~b. If a “d” variance is granted pursuant to N.J.S.A. 40:55D-70d, then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of six percent (6%) rather than the development fee of two and one half percent (2.5%).~~

Subsection 26-10-5. Exemptions.

- a. Developers of low and moderate income units shall be exempt from paying development fees.
- b. Developers that have received preliminary or final Approval(s) prior to the effective date of this Ordinance shall be exempt from paying a development fee unless the developer seeks a substantial change in the approval.
- c. Developers who demolish and replace or renovate and re-occupy abandoned housing units shall be exempt from paying development fees, provided the number of housing units on the property does not increase.
- d. Home improvements or expansions shall be exempt from development fees, provided the improvements or expansions do not create any new housing units.
- e. There shall be no fee for improvements to non-residential uses when the improvements do not increase the intensity of the existing use. For instance, there shall be no fee for façade or signage improvements.
- f. Development projects that are the subject of redevelopment agreements, in which case development fee obligations will be negotiated as part of the redevelopment agreement.

Subsection 26-10-6. Collection of Fees.

a. The Borough of Hightstown shall use the following procedures in the collection of fees:

1. Upon the passage of the resolution of memorialization granting of a preliminary, final or other applicable approval for a development, the Planning Board Secretary shall notify the construction code official responsible for the issuance of a building permit of the approving authority’s action.
2. Once all prior approvals have been obtained, the person requesting a building permit application for a non-residential development, only, shall also be provided with a copy of Form N-RDF, “State of New Jersey Non-Residential Development Certification/Exemption,” to be completed by the developer as part of the building permit application. The construction code official shall verify the information submitted by the non-residential developer or developer’s designee. The Hightstown Borough tax assessor shall verify any requested exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

3. The construction code official responsible for the issuance of a building permit shall notify the Borough tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
4. Within 90 days of receipt of that notice, the Borough tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
5. The construction code official responsible for the issuance of a final certificate of occupancy shall notify the Borough tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
6. Within 10 business days of a request for the scheduling of a final inspection, the Borough tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should the Borough of Hightstown fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L.2008, c.46 (C.40:55D-8.6).
8. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

b. Appeal of development fees.

1. A developer may challenge residential development fees imposed by filing a challenge with the Mercer County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the Municipal Finance Officer of the Borough of Hightstown. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
2. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the New Jersey Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Hightstown. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

~~a. Developers shall pay fifty percent (50%) of the calculated development fee to the Borough of Hightstown at the time of issuance of a building permit. At the time of issuance of a Certificate of Occupancy, developers shall pay~~

~~the remaining portion of the fee that is owed to the Borough.~~

Subsection 26-10-7. Housing Trust Fund.

There is hereby created an interest bearing housing trust fund for the purpose of receiving development fees from all residential and nonresidential developers. All development fees paid by developers pursuant to this Ordinance shall be deposited into this fund. No money shall be expended from the housing trust fund unless the expenditure conforms to an approved spending plan.

Subsection 26-10-8. Use of Funds.

- a. Money deposited in the housing trust fund may be used for any activity identified in the Borough's approved housing plan for addressing the Borough of Hightstown's low and moderate income housing obligation. Such activities may include, but are not necessarily limited to: housing rehabilitation, new construction, the purchase of land for low and moderate income housing, extensions and/or improvements of roads and infrastructure to low and moderate income housing sites, assistance designed to render units for more affordable to low and moderate income households and administrative costs necessary to implement the Borough of Hightstown's housing element. The expenditure of all money shall conform to an approved spending plan.
- b. At least thirty percent (30%) of the revenues collected shall be devoted to render units more affordable. Examples of such activities include, but are not limited to: down payment and closing cost assistance, low interest loans and rental assistance.
- c. No more than twenty percent (20%) of the revenues collected each year shall be expended on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities include: personnel, consultant services, space costs, consumable supplies and rental or purchase of equipment directly associated with plan development or plan implementation.
- d. Development fee revenues shall not be expended to reimburse the Borough of Hightstown for housing activities that preceded a first or second round substantive certification.

~~Subsection 26-10-9. Expiration of Ordinance.~~

~~This Ordinance shall expire if:~~

- ~~a. The Borough of Hightstown's petition for substantive certification is dismissed or denied;~~
- ~~b. The Borough of Hightstown's substantive certification or this Ordinance are revoked.~~

Section 2. Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Zoning Ordinance as a whole, or any other part thereof.

Section 3. Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 4. Enactment. This Ordinance shall take effect upon the filing thereof with the Mercer County Planning Board after final passage, adoption, and publication by the Borough Clerk of the Borough of Hightstown in the manner prescribed by law.

RESOLUTIONS

Resolution 2021-152 Authorizing Payment of Bills

Moved by Councilmember Montferrat; Seconded by Councilmember Cicalese.

Roll Call Vote: Councilmembers Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Resolution adopted 6-0.

Resolution 2021-152

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

AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the bills be paid on audit and approval of the Borough Administrator, the appropriate Department Head and the Treasurer in the amount of \$196,668.94 from the following accounts:

Current		\$63,137.36
W/S Operating		58,221.48
General Capital		63,441.85
Water/Sewer Capital		7,224.25
Grant		1,200.00
Trust		400.00
Unemployment Trust		0.00
Animal Control		0.00
Law Enforcement Trust		0.00
Tax Lien Trust		0.00
Public Defender Trust		0.00
Escrow		<u>3,044.00</u>
Total		<u>\$196,668.94</u>

Resolution 2021-153 Authorizing a Share Services Agreement Between the Borough of Hightstown and the Township of Robbinsville for the Construction and Sharing of a New Police/Municipal Court Facility

Moved by Councilmember Bluth; Seconded by Councilmember Fowler.

Discussion ensued.

Councilmember Misiura stated that this is a major step forward. This has been a major effort for both Robbinsville and Hightstown. This will be a much better facility for our Police Department. Commended Mayor Quattrone and his work on getting this done; it was not easy. He fully supports this resolution.

Mayor Quattrone thanked Mayor Fried for working Hightstown on this project. Other municipalities in the state need to be looking toward shared services.

Joy Tozzi, Robbinsville Business Administrator stated that she is excited about this venture. Collaboration is exactly what the State is looking for.

Dave Fried, Mayor Robbinsville Township thanked Council for moving forward with this agreement. We have been sharing a court for some time now and it has been working well. He is excited to continue working with Hightstown Borough.

Roll Call Vote: Councilmembers Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Resolution adopted 6-0.

Resolution 2021-153

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

**AUTHORIZING A SHARED SERVICES AGREEMENT BETWEEN THE
BOROUGH OF HIGHTSTOWN AND THE TOWNSHIP OF ROBBINSVILLE
FOR THE CONSTRUCTION AND SHARING OF A
NEW POLICE/MUNICIPAL COURT FACILITY**

WHEREAS, the “Uniform Shared Services and Consolidation Act,” N.J.S.A. 40A:65-1, *et seq.* (the “Act”), authorizes local units of this State to enter into an agreement with any other local unit or units to provide or receive any service that each local unit participating in the agreement is empowered to provide or receive in its own jurisdiction; and

WHEREAS, as municipal corporations of the State of New Jersey, the Borough of Hightstown (“Hightstown”) and the Township of Robbinsville (“Robbinsville”) are both empowered to establish a police force, a municipal court, and to construct and maintain the facilities necessary to operate the aforesaid; and

WHEREAS, on May 18, 2020, Hightstown and Robbinsville (the “Parties”) entered into a Memorandum of Understanding, subject to further negotiations, for the construction and sharing of a new police/municipal court facility to be constructed in Robbinsville (“New Facility”); and

WHEREAS, negotiations have proceeded and the Parties have reached an agreement upon the terms and conditions to govern the construction and sharing of the New Facility; and

WHEREAS, although the Parties have reached an agreement to share the New Facility, the police force and municipal court of each respective party shall remain separate and distinct to each municipality; and

WHEREAS, a copy of the agreement that has been reached between the Parties, entitled “Shared Services Agreement Between the Borough of Hightstown and the Township of Robbinsville for the Construction and Sharing of a New Police/Municipal Court Facility,” (the “Agreement”), is attached hereto and made a part hereof; and

WHEREAS, the Agreement shall not affect the separate existing agreement by and between the Parties, entitled “Agreement Between the Borough of Hightstown and the Township of Robbinsville to Share Municipal Court Facilities, Employees, Equipment and Supplies,” except to the extent specified in the attached Agreement; and

WHEREAS, the Parties believe that the Agreement is beneficial to the residents of both municipalities, with the potential to increase efficiency and enhance safety and provide cost savings to both municipalities, which furthers the principles underlying the Act; and

WHEREAS, the Agreement will become effective upon the adoption of approving Resolutions by the Governing Bodies of both Parties, as well as the filing of a copy of the Agreement with the Division of Local Government Services in the Department of Community Affairs.

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

1. That the Mayor is hereby authorized to execute, and the Borough Clerk to attest, the attached Agreement on behalf of Hightstown Borough.
2. That, following the full execution of the Agreement, a copy of same shall be filed with the Division of Local Government Services in the Department of Community Affairs, pursuant to N.J.S.A. 40A:65-4(b).
3. That all Hightstown Borough officials and employees are hereby authorized to take any and all actions that are necessary to implement the matters set forth in the Agreement.
4. That a certified copy of this Resolution and a copy of the attached Agreement shall be provided to each of the following:
 - a. Joy Tozzi, Robbinsville Township Business Administrator;
 - b. Chis Nitti, Robbinsville Township Police Chief;
 - c. Bruce R. Darvas, Esq., Robbinsville Township Municipal Attorney;
 - d. Dimitri Musing, Hightstown Borough Business Administrator;
 - e. Frank Gendron, Hightstown Borough Police Chief;
 - f. George Lang, Hightstown Borough CFO; and
 - g. Frederick C. Raffetto, Esq., Hightstown Borough Municipal Attorney.

Agreement Attached hereto and made part thereof. (Attachment 1)

CONSENT AGENDA

Councilmember Jackson moved Resolutions 2021-154, 2021-155 and 2021-156 as a Consent Agenda; Councilmember Misiura seconded.

Resolution 2021-154

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

ACCEPTING MEMBERSHIP OF EMILY MILLER IN HIGHTSTOWN ENGINE CO. NO. 1

WHEREAS, Emily Miller of Hightstown, New Jersey has applied for membership in Hightstown Engine Company No. 1; and

WHEREAS Ms. Miller has undergone and passed the required physical examination, and her membership application has been reviewed and approved by Fire Chief Scott Jenkins;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the membership of Emily Miller in Hightstown Engine Company No. 1 is hereby accepted.

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forwarded to Hightstown Engine Co. #1.

Resolution 2021-155

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

EXTENDING THE GRACE PERIOD FOR PAYMENT OF 2021 THIRD QUARTER TAXES

WHEREAS, 2021 Third Quarter Taxes were due on August 1, 2021, with a ten-day grace period; and

WHEREAS, due to the late receipt of the tax rate from the County, the mailing of the tax bills was delayed; and

WHEREAS, the Mayor and Borough Council finds it to be equitable and proper that the grace period for payment of the 2021 third quarter tax be extended until the 14th day of October, 2021; and

WHEREAS, if the 2021 third quarter tax payment is not received by October 14, 2021, late fees shall be effective from the due date of August 1, 2021, as is required.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the grace period for payment of 2021 third quarter taxes be extended until the 14th day of October, 2021.

Resolution 2021-156

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

AUTHORIZING REFUND OF TAX OVERPAYMENT – 32 NORTON AVENUE

WHEREAS, an overpayment of 2021 taxes were made for Block 10.01/Lot 8, 32 Norton Avenue in the amount of \$1,015.04, by the mortgage company; and

WHEREAS, the property owner is a 100% disabled vet and tax-exempt; and

WHEREAS, the mortgage company, Pinnacle Title Agency, 2200 West County Line Road, Jackson, NJ 08527 has requested that a refund be issued for the overpayment in the amount of \$1,015.04; and

WHEREAS, the Tax Collector has requested that said overpayment be refunded in the amount of \$1,015.04.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Tax Collector and Finance Officer are hereby authorized to issue a refund in the amount of \$1,015.04 to Pinnacle Title, 2200 West County Line Road, Jackson, NJ 08527, representing the tax overpayment as set forth herein.

NEW BUSINESS

Animal Control Officer

Borough Administrator, Dimitri Musing, stated that NJ statute requires all municipalities to have an animal control officer or a shared services agreement in place. He has spoken to several business administrators trying to get a shared services in place. It is very difficult for another municipality to take us on. One option is to purchase our own vehicle and hire our own officer. Mayor Quattrone stated that he has spoken to East Windsor. Mayor Mironov is speaking with her Council to see if they can take on another municipality.

Special Events permit

Administrator, Dimitri Musing presented Council with several special event ordinances from other municipalities. He inquired if Council would like to move forward with this type of ordinance. Discussion ensued. Councilmember Misiura stated that this may be an overburden for some residents. After further discussion, Council agreed that they are interested in some sort of management of events. Borough Administrator, Dimitri Musing, and Borough Clerk, Peggy Riggio, will continue to research options for this ordinance.

First Aid Vehicles

Mayor Quattrone stated that both First Aid vehicles are out of commission. The squad is currently borrowing a vehicle from Roosevelt. We still have 24/7 coverage with Robbinsville so our calls are being answered. The squad has previously come forward requesting the Borough purchase a new ambulance. The Captain from First Aid stated that it is estimated to cost \$8,000 to repair the 2016 vehicle which needs a new transmission. Mayor Quattrone requested to see the estimates.

SUBCOMMITTEE REPORTS

Rugmill Property – Councilmember Misiura stated that they are setting up a meeting with the PRC for next week. He will keep Council apprised of the status.

MAYOR/COUNCIL/ADMINISTRATIVE REPORTS

Councilmember Misiura

Complete Streets Committee - North Main Street residents have been attending meetings regarding truck traffic. We are meeting with the County later this month. This is the first step in fixing this issue. Questioned what control we have on the local roads.

Councilmember Fowler

Downtown Hightstown - Meeting tomorrow to plan events for the coming year. They want to make plans for the holidays. There are several events planned throughout town for Halloween.

Environmental Commission - They have an arborist coming to Association Park this week for a tree seminar.

Councilmember Cicalese

Parks and Rec and Board of Health both meet this week.

Councilmember Montferrat

Construction - The staff is working on property maintenance and other items in town.

Council President Bluth

Cultural Arts Commission - Light up the lake will be October 30th at 6:00. Bring a carved and painted pumpkin to the lake to be displayed on the wall. They also still have calendars for sale.

Peggy Riggio, Borough Clerk

Elections – Election Day is November 2nd. All districts will once again be voting at the Firehouse. There is Early voting this year at various locations throughout Mercer County from October 23 – October 31. Mail in ballots can be returned to the drop box located in front of the Firehouse up until Election day.

League of Municipalities – Will take place November 16 – 18 in Atlantic City.

Fred Raffetto, Borough Attorney

Congratulations on the historic agreement with Robbinsville. This is the first agreement of its kind in New Jersey. It has been in the works for a long time. He is proud and please to be able to assist.

Dimitri Musing, Borough Administrator

Congratulated Mayor and Council on the Robbinsville Agreement. This has been a long time in the making.

With all of the new development that continues around Hightstown, the truck traffic continues to grow. We need to have a comprehensive plan with the County and the State to reroute truck traffic.

Mayor Quattrone

Paving of Stockton Street - he used to receive complaints that the road was in disrepair and needed to be fixed. The County has made the necessary repairs and now he is getting complaints that cars are speeding.

Truck Traffic - he agrees that a solution needs to be found. Questioned what is considered local delivery.

Ward Street Bridge - he met with the County Engineer last week. The County will be repairing the bridge. The estimated cost is \$14,000,000. The bridge will be wider and higher but they will maintain the historic look of the bridge. They will also take walkability and bike ability so it is inline with the Borough. The County will be making a public presentation soon.

EXECUTIVE SESSION

Resolution 2021-157 Authorizing a Meeting that Excludes the Public

Moved by Councilmember Bluth; Seconded by Councilmember Fowler.

Roll Call Vote: Councilmembers Bluth, Cicalese, Fowler, Jackson, Misiura and Montferrat voted yes.

Resolution adopted 6-0.

Resolution 2021-157
BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AUTHORIZING A MEETING WHICH EXCLUDES THE PUBLIC

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that this body will hold a meeting on October 4, 2021, via www.zoom.com, that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7b of the Open Public Meetings Act.

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

Personnel – Professional Services

Stated as precisely as presently possible the following is the time when and the circumstances under which the discussion conducted at said meeting can be disclosed to the public January 04, 2022, or when the need for confidentiality no longer exists.

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

Councilmember Montferrat moved to adjourn to Executive Session at 7:55 p.m.; Councilmember Cicalese seconded. All ayes.

Council returned to public session at 9:00 p.m.

ADJOURNMENT

Councilmember Montferrat moved to adjourn at 9:00 p.m.; Councilmember Fowler seconded. All ayes.

Respectfully Submitted,

Margaret M. Riggio
Borough Clerk

Approved by Hightstown Borough Council: _____

**SHARED SERVICES AGREEMENT BETWEEN THE BOROUGH OF HIGHTSTOWN
AND THE TOWNSHIP OF ROBBINSVILLE FOR THE CONSTRUCTION AND
SHARING OF A NEW POLICE / MUNICIPAL COURT FACILITY**

THIS AGREEMENT ("Agreement") made this ____ day of _____, 2021, by and between the **BOROUGH OF HIGHTSTOWN**, a municipal corporation of the State of New Jersey, with its temporary principal offices located at 156 Bank Street, Hightstown, New Jersey 08520 ("Hightstown") and the **TOWNSHIP OF ROBBINSVILLE**, a municipal corporation of the State of New Jersey, with its principal offices located at 2298 Route 33, Robbinsville, New Jersey 08691 ("Robbinsville") (Hightstown and Robbinsville will be collectively referred to herein as the "Parties").

WITNESSETH:

WHEREAS, the "Uniform Shared Services and Consolidation Act," N.J.S.A. 40A:65-1, *et seq.* (the "Act"), authorizes local units of this State to enter into an agreement with any other local unit or units to provide or receive any service that each local unit participating in the agreement is empowered to provide or receive in its own jurisdiction; and

WHEREAS, as municipal corporations of the State of New Jersey, Hightstown and Robbinsville are both empowered to establish a police force, a municipal court, and to construct and maintain the facilities necessary to operate the aforesaid; and

WHEREAS, on May 18, 2020, Hightstown and Robbinsville entered into a Memorandum of Understanding, subject to further negotiations, for the construction and sharing of a new police/municipal court facility to be constructed in Robbinsville ("New Facility"); and

WHEREAS, negotiations have proceeded and Hightstown and Robbinsville have reached agreement upon the terms to govern the construction and sharing of the New Facility; and

WHEREAS, although Hightstown and Robbinsville have reached agreement to share the New Facility, the police force and municipal court of each respective Party shall remain separate and distinct to each municipality; and

WHEREAS, this Agreement to construct and share the New Facility shall not affect the existing agreement by and between Hightstown and Robbinsville, entitled Agreement Between the Borough of Hightstown and the Township of Robbinsville to Share Municipal Court Facilities, Employees, Equipment and Supplies, except to the extent specified herein below; and

WHEREAS, the Governing Bodies of both Robbinsville and Hightstown find that it is in the best interests of the Parties to continue to collectively provide for the construction of and the sharing of the New Facility by the police forces and municipal courts of each respective municipality, under the terms and conditions referenced herein;

NOW, THEREFORE, with the foregoing Recitals incorporated herein by reference and in consideration of the mutual covenants contained herein, Robbinsville and Hightstown, intending to be legally bound, hereby agree as follows:

1. Agreement to Construct the New Facility. Hightstown and Robbinsville agree to construct the New Facility and to share the costs to construct same as follows:

- A. The costs to construct the New Facility shall be shared based upon a 68%-32% split, with Robbinsville paying 68% of the total costs and Hightstown paying 32% of the total costs, such total costs being memorialized and itemized in an invoice submitted to Hightstown by Robbinsville at the time payment commences. The total costs shall be comprised of any and all costs necessary to pay for the construction of the New Facility, including bonding costs and bond anticipation note costs, if applicable ("Total Costs").
- B. Robbinsville shall bond for the Total Costs for the construction of the New Facility. Hightstown agrees to pay its 32% share of the Total Costs as follows:
 - i. Hightstown's 32% share of the Total Costs shall be paid to Robbinsville over a thirty (30) year period in equal annual installments. Hightstown shall not be responsible to begin making payments until such time as Hightstown's representatives are able to physically occupy the New Facility, which time shall be based upon when the New Facility is completed and ready for occupancy ("Occupancy Date"). Hightstown shall be responsible to begin making annual payments on the Occupancy Date, regardless of whether Hightstown actually occupies the New Facility on that date. Each annual payment thereafter shall be due on the anniversary of the Occupancy Date.
 - ii. Hightstown's 32% share of the five percent (5%) up-front bonding payment shall be paid to Robbinsville over a five (5) year period, coinciding with and in addition to the first five annual payments specified above. There shall be no pre-payment penalty assessed to Hightstown should it complete payment of its share in less than five (5) years.
 - iii. The interest rate that shall apply to both Hightstown's annual payment and the payment of its share of the five percent (5%) up-front bonding payment shall be the interest rate applicable to the bond(s) issued for the construction of the New Facility.
- C. In order to provide for the phase-in of Hightstown's annual payments, should Robbinsville be required to issue a bond(s) prior to Hightstown's first annual payment, Hightstown expressly agrees that Robbinsville may issue a bond anticipation note(s) or seek approval from the New Jersey Department of Community Affairs, Division of Local Government Services, Local Finance Board, to issue a bond(s) with an interest-only payment in the first year.

- D. Upon making its thirty (30) annual payments, as well as payment of its share of the five percent (5%) up-front bonding payment, Hightstown shall not be responsible to pay any further annual rental payments for the remaining twenty (20) years of the original fifty (50) year term of this Agreement. Hightstown shall continue to remain responsible for its share of the utility and operating costs for the duration of the Agreement as provided for in Section 5 below.

2. Ownership of the New Facility. It is expressly agreed by and between the Parties that Hightstown shall have no ownership interest in the New Facility. Hightstown's occupation and use of the New Facility shall be in the nature of a tenant under a lease, subject to the provisions of this Agreement.

3. Use of the New Facility.

- A. Hightstown and Robbinsville shall each enjoy use of the areas of the New Facility allocated separately thereto, as shown on the design plans for the New Facility, identified as Drawing No. SK-1 and dated July 1, 2020 (attached hereto as Exhibit A), for the duration of the initial fifty (50) year term of this Agreement.
- B. Robbinsville shall be permitted to make changes to the shared areas of the New Facility and/or reduce or rearrange the spaces allocated to each Party within the Municipal Court area of the New Facility, as identified in subsection A above, subject to Hightstown's consent, which shall not be unreasonably withheld.
- C. The Chief of Police of Robbinsville, or his or her designee, shall serve as official in command of the overall site of the New Facility. However, such command shall not infringe upon the exclusive control of the Chief of Police of Hightstown over Hightstown's allocated area of the New Facility nor unduly interfere with the operation of the Hightstown Police Department.
- D. Neither Robbinsville nor Hightstown shall have authority to enter into or have control over who has access to the other Party's exclusive allocated areas. However, in the event the New Facility is under direct threat of damage, violence, or other similar threat, the Chief of Police of Robbinsville shall have authority to enter into or control who has access to Hightstown's exclusive allocated area under his authority to command the overall site granted in Section 3C above.

4. Capital Improvement and Maintenance/Repair Costs. Any capital improvement, including any addition to the New Facility for Robbinsville's exclusive use, or maintenance/repair costs for the New Facility shall be paid by Robbinsville unless the capital improvement or maintenance/repair cost is necessitated by the negligence of Hightstown, is made jointly by Robbinsville and Hightstown, or is made at Hightstown's sole request.

5. Utility and Other Operating Costs. Utility and other operating costs, including but not limited to electricity, water, sewer, telephone, and cable/broadband, shall, for the duration of this Agreement, be shared by the Parties based upon the same 68%-32% split governing the payment of the Total Costs above. If Robbinsville constructs an addition to the New Facility for its exclusive

use, Hightstown shall not be required to pay any additional utility and other operating costs resulting from the addition. Utility and other operating costs shall not include equipment purchases, such as telephones, computers, printers, etc., which shall be the sole responsibility of the Party making the purchase, unless otherwise agreed.

6. Term. This Agreement shall commence on _____, 2021, and terminate fifty (50) years from the date the New Facility is completed and ready for occupancy.

7. Option to Extend. At the conclusion of the initial fifty (50) year term the Parties have the option to extend this Agreement for an additional fifty (50) years upon terms and conditions that are mutually acceptable to the Parties at the time of extension. Either Party wishing to extend this Agreement shall provide notice to the other Party of such intention at least ninety (90) days prior to the conclusion of the initial fifty (50) year term.

8. Termination. This Agreement may be terminated only upon mutual written consent of the Parties.

9. Liquidated Damages. In the event Hightstown defaults in violation of the terms of this Agreement, or initiates termination of this Agreement pursuant to Section 8 above, it shall be required to pay liquidated damages to Robbinsville in the amount of its remaining share of the Total Costs outstanding at the time of the default or termination.

10. Separate and Distinct Entities. The sharing of the New Facility by Robbinsville and Hightstown shall not be construed as affecting the separate and distinct nature of the Robbinsville Township Police Division and Hightstown Borough Police Department, as well as the Robbinsville Township Municipal Court and Hightstown Borough Municipal Court. Each of the aforementioned entities shall remain under the authority and control of its respective municipality unless otherwise provided for under a separate agreement(s).

11. Liabilities. Any liability associated with or concerning Robbinsville or Hightstown determined to exist prior to or after the Effective Date of this Agreement, including the payment of architect fees by Hightstown pursuant to the May 18, 2020, Memorandum of Understanding, shall be the sole responsibility of the Party that incurred such liability.

12. Hold Harmless/Indemnification.

- A. Each Party shall defend, hold harmless and indemnify the other Party, its officers, employees and agents, from and against any and all fines, claims and losses, of whatever nature or type, arising out of or in connection with the construction and use of the New Facility under this Agreement. This provision specifically excludes liability imposed under workers compensation and both first- and third-party employment practices insurance; it being the intention of the Parties that each Party shall be responsible for providing workers compensation benefits to its own employees and that each Party would defend against an employment practice claim brought by its own employee or a third party.

- B. Each Party shall notify the other Party if any event occurs which requires or which may require defense and/or indemnification under this Agreement. Each Party shall provide the other Party with legal counsel satisfactory to the Party receiving counsel, which consent shall not be unreasonably withheld, to defend against any such claim or proceeding which may be brought against the Party, its officers, employees and agents, to whom this Section applies. Each Party shall pay, satisfy and discharge any judgment, settlement, compromise, order, or decree, which may be recovered against the other Party, its officers, employees and agents, to whom this Section applies.

13. Insurance.

- A. It is recognized and understood that Robbinsville and Hightstown each participate in a Joint Insurance Fund (“JIF”). Final approval of this Agreement by the Parties is subject to each obtaining insurance coverage satisfactory to the respective JIFs. Each Party agrees to name the other as an additional insured party on any insurance policies that it separately maintains. Each Party shall provide the other with a Certificate of Insurance setting forth the above coverage and naming the other as additional insured promptly upon the execution of this Agreement. In the event that either Party ceases to participate in a JIF, then such Party shall provide alternative insurance comparable to the JIF and subject to the reasonable approval of the other Party.
- B. As sole owner of the New Facility, Robbinsville shall be responsible for the insuring thereof.
- C. Each Party shall be responsible for insuring their own property located within and on the premises of the New Facility.

14. Accounting. Accounting and records maintenance for the Parties shall be the responsibility of each Party to whom the records apply.

15. Existing Agreements. This Agreement shall have no effect on the existing agreement by and between Hightstown and Robbinsville, entitled Agreement Between the Borough of Hightstown and the Township of Robbinsville to Share Municipal Court Facilities, Employees, Equipment and Supplies, entered into pursuant to Hightstown Borough Resolution 2020-152 and Robbinsville Township Resolution 2020-198 (“Existing Agreement”), except that Section 9A of the Existing Agreement shall become null and void for the duration of the fifty (50) year term of this Agreement. All other payments contained in the Existing Agreement shall remain in place for the duration of the Existing Agreement and for any successor agreement that may be agreed upon by and between the Parties.

16. Communications Between the Parties.

- A. Communications between the Parties regarding the construction and use of the New Facility under this Agreement shall be directed to the Business Administrator of the respective Party; however, nothing contained within this section shall prevent the

Business Administrator or Mayor of either Party from contacting their counterpart for the other Party with information or suggestions regarding the construction or use of the New Facility provided hereunder.

- B. The Parties agree to meet at least annually to discuss the construction and use of the New Facility and any other matters that are relevant under this Agreement.

17. Dispute Resolution. Disputes arising out of the construction and use of the New Facility shall be referred to the business administrators for each Party for resolution. In the event the dispute cannot be resolved by the business administrators, then the dispute shall first be attempted to be resolved by non-binding arbitration. For such actions, there shall be a single arbitrator sitting in Mercer County, New Jersey and the arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“AAA”) except as modified herein. Costs and fees of the arbitrator and the AAA shall be divided evenly between the Parties. Any dispute not resolved by arbitration shall be subject to action in the Superior Court of New Jersey pursuant to Sections 19 and 20 below.

18. Notices. All notices, statements, or other documents required by this Agreement shall be hand-delivered or mailed to the following designated municipal representatives:

- A. The designated municipal representative for Robbinsville is:

Township Clerk
Township of Robbinsville
2298 Route 33
Robbinsville, New Jersey 08691

- B. The designated municipal representative for Hightstown is:

Borough Clerk
Borough of Hightstown
156 Bank Street
Hightstown, New Jersey 08520

19. Choice of Law. Any dispute arising under this Agreement or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

20. Venue. Any dispute regarding the terms of this Agreement shall be venued in New Jersey Superior Court, Mercer County.

21. Assignment and Waiver. The rights, duties and obligations of this Agreement may not be assigned without either Party’s prior written consent and it is agreed that a failure or delay in the enforcement of any of the provisions of this Agreement by either Party shall not constitute a waiver of those provisions.

22. Entire Agreement. This Agreement sets forth the entire understanding of the Parties and cannot be changed or modified orally.

23. Modification. This Agreement may only be supplemented, amended or revised in writing, which has been duly authorized by the Parties and signed by the proper authorized representatives thereof.

24. Mutually Drafted. The Parties hereto acknowledge that the drafting of this Agreement is a mutual effort between the Parties and that this Agreement is not to be construed against either Party as the drafter.

25. Severability. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable, in any respect, by any court of competent jurisdiction, the rest of this Agreement shall nevertheless remain in full force and effect.

26. AOC and Assignment Judge Approval. The Parties acknowledge and agree that this Agreement is contingent upon and subject to the approval of the AOC and the Assignment Judge, and that the Agreement shall not become effective until such approval(s) have been received.

27. Filing. A copy of this Agreement shall be filed with the Division of Local Government Services in the Department of Community Affairs.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective officers duly authorized, and have caused this Agreement to be dated as of the day and year written above.

ATTEST:

BOROUGH OF HIGHTSTOWN

Margaret Riggio, Municipal Clerk

Lawrence Quattrone, Mayor

ATTEST:

TOWNSHIP OF ROBBINSVILLE

Michele Seigfried, Municipal Clerk

David Fried, Mayor

Exhibit A

**New Facility Design Plans
Drawing No. SK-1
Dated: July 1, 2020**