

**BOROUGH OF HILLSDALE
RESOLUTION 20111**

**RESOLUTION TO TEMPORARILY MODIFY AND SUSPEND THE
ENFORCEMENT OF THE ZONING ORDINANCE WITH REGARD TO
DEMAREST FARMS ONLY SO AS TO PERMIT “POP UP DRIVE
IN MOVIE THEATER” TO BE OPERATED ON THE “FARM STAND”
PROPERTY**

WHEREAS, the President of the United States has declared both a National Emergency and a Public Health Emergency throughout the country as a result of the COVID-19 pandemic; and

WHEREAS, Governor Murphy has similarly declared New Jersey to be in the midst of a Public Health Emergency and a State of Emergency; and

WHEREAS, as a result thereof, Governor Murphy has issued a number of Executive Orders concerning COVID-19, which have, among other things, implemented certain restrictions on businesses and imposed social distancing requirements on individuals; and

WHEREAS, said restrictions have forced many businesses to close or temporarily suspend operations and have resulted in the public having limited entertainment options; and

WHEREAS, the current restrictions have had a significant negative impact on the ability of these businesses to pay rent, taxes and mortgage payments, to maintain their staffing levels and to generate the income on which these business owners rely; and

WHEREAS, Demarest Farms is a “Commercial Farm” as that term is used in New Jersey’s “Right to Farm Act” which operates under an AMP for On-Farm Direct Marketing Facilities, Activities, and Events [See, N.J.A.C. 2:76-2A.13] pursuant to the determination of the Bergen County Agriculture Development Board (the “BCADB” or “the Farm Board”) which AMP does not permit “Drive-In” movies of any sort; and

WHEREAS, Demarest Farms seeks to operate a temporary “Pop-up” drive in theater, each evening for the period of June 8, 2020 through August 31, 2020 only in order to supplement its income during 2020 where it is claimed that COVID-19, and various Orders and Regulations associated therewith, will have an impact on its business; and

WHEREAS, inasmuch as the Right to Farm Act and the applicable AMP do not permit the proposed, temporary, “Pop-up” Drive-In, Demarest Farms is subject to the Local Zoning Ordinance applicable to the R-1 Residential Zone, which Ordinance does not permit the operation of a Drive-In Movie; and

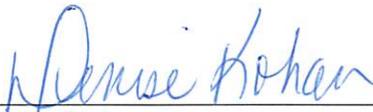
WHEREAS, the Mayor and Council have determined that it is necessary and advisable during the current period of business restrictions to temporarily modify and suspend enforcement of certain regulations related to the Borough’s Zoning Ordinance in order to assist Demarest Farms and to temporarily permit a Drive-In Movie at Demarest Farms; and

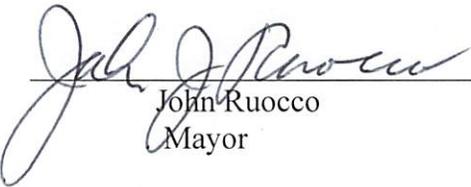
NOW THEREFORE BE IT RESOLVED as follows:

1. Demarest Farms shall be permitted to present a "Summer Drive-In Series" consisting of Drive-In movies up to 7 nights per week between June 8 and August 31, 2020 on the Farm Stand portion of Demarest Farms and to serve ancillary food.
2. There shall be no loudspeaker audio system permitted to be used in connection with the "Summer Drive-In Series". All audio that is utilized during this process shall be by radio transmission to the car radios of the vehicles utilizing the Drive-In facility.
3. Demarest Farms shall in all regards comply with all National or State Executive Orders and all social distancing guidelines or requirements as may apply to public gatherings and events such as those contemplated.
4. Gates may open no earlier than 7:30pm and movies shall start promptly at 8:30pm. Each evening the event shall immediately end at the conclusion of the movie and the parking lot shall be closed and all cars shall have left the facility no later than ½ hour after the conclusion of the movie.
5. No greater than 100 cars shall be permitted at the Drive-In on any evening.
6. The location of the movie screen and vehicle parking for the movie shall be as permitted by the Hillsdale Police Department ("HPD") and shall substantially comply with locations that have already been shown to the HPD and the public.
7. Demarest Farms shall provide the HPD with parking, traffic and layout details immediately (and in no event later than 24 hours before the first event) so the Chief of Police or his designee may determine if these events may be undertaken safely. Events shall only move forward with his approval which approval shall be in his sole discretion. In the event that the Chief of Police or his designee deems it desirable and in the interest of public safety, Demarest Farms shall pay for any necessary police officers to assure traffic ingress and egress are smooth and safe (with as little impact on residents as possible) and to assure public safety and order are maintained "on site" at all Drive-In events.
8. Social distancing, Covid-19 and food service or similar items must be reviewed and approved by the Hillsdale Health Officer before Demarest Farms may proceed with any drive-in movies. In the interest of public health, there shall be no "idling" of vehicles during the course of the event.
9. By commencing operation, Demarest Farms agrees that the within consent is revocable at will by the vote of the Governing Body and commencement of the Drive-In use does not create any "vested" rights in the entire Summer Drive-In Series and the revocation can be with, or without, cause and at any time.
10. By commencing the Summer Drive-In Series, Demarest Farms agrees that this Resolution, and the uses and consent thereunder, does not serve to provide for any "grandfathered" or "grandfathering" of the Drive In use on the property, and may not be used as "precedent" or presented as having "precedential value" before any hearing by any Municipal, County, or State agency of any sort or the Courts of the State of New Jersey.

Council member	Motion	Second	Yes	No	Absent	Abstain	Recuse
DeRosa, Anthony			X				
Escobar, John		X	X				
Horvath, Zoltan				X			
Lundy, Abby	X		X				
Pizzella, Frank				X			
Trochimiuk, Janetta			X				
Ruocco, John							

Adopted: June 9, 2020

Attest: 
 Denise Kohan
 Municipal Clerk


 John Ruocco
 Mayor