

Minutes of a Council Meeting of the Borough of Hillsdale in the Council Chamber held on May 1, 2018, at 7:30 PM.

The meeting was called to order by Mayor Ruocco who also led the Salute to the Flag.

OPEN PUBLIC MEETING STATEMENT:

This is a meeting of the Hillsdale Borough Council on this 1st day of May, 2018. Notice of the time and place of this meeting has been provided to The Ridgewood News and The Record; a copy was posted on the bulletin board outside of this meeting room and provided to any interested parties.

Please notify the Municipal Clerk for any disability requirements necessary for attendance at Mayor and Council meetings. The fire exits are located through the double doors to your left. Please silence all cell phones.

ROLL CALL:

Council Members DeRosa, Horvath, Lundy, Segalas, Council President Pizzella (Attorney Madaio, CMFO DeJoseph, Borough Clerk Kohan) Absent: Council Member Segalas and Karcich.

PROMOTIONS/PROCLAMATIONS/RECOGNITIONS

Pascack Valley Cheerleaders

Councilman Anthony DeRosa

Council Member DeRosa said we have been here before recognizing several coaches of our robotics team, Pascack Regional Teams and we are here to celebrate and recognize the Cheer Team. We have recognized national titles, league titles, some pretty impressive accomplishments. The team before is comprised as a regional team, River Vale and Hillsdale and they have gone undefeated in their season. To top that, they have competed for the first time in the league championship and won it right out of the box. Congratulations for that. Cheerleaders are the heart for any team and in a very difficult spot to be when the team may be down to keep spirits up. These young women are great examples of what dedication, perseverance and hard work can accomplish. As he said before, the people come to Hillsdale because among other reasons, we have great schools at the grade school and high school level. He thanked them for all they do for our community, teachers and administration as well. You have parents at home and they are the ones who brought you to countless practices and events and asked for a hand to the parents for helping out. He presented a plaque to the team for their achievement of Big North National Cheerleading Champions for 2018 in recognition from the Borough of Hillsdale.

OATH OF OFFICE/APPOINTMENTS:

[Hillsdale Fire Department](#) – Jake Prusha

Fire Chief Patrick Doody

Mayor Ruocco administered the Oath of Office to Jake Prusha as a member of the Hillsdale Fire Department.

PRESENTATIONS:

Pascack Valley Regional High School

Superintendent Erik Gundersen

Superintendent Gundersen said this is an annual event where I come and update the Borough Council on the great things that are taking place in the Regional High School District and entertain any questions you may have. Council Member DeRosa is a faithful attendee to our Board meetings and the Board of Education appreciates that. He is there just about every single Board meeting listening attentively to what we are discussing, offering your commentary and it is a great opportunity for us to have dialogue during the meeting and also sometimes before and after the meeting to make sure we are communicating on the same page on the important topics. I have had the opportunity of meeting with the Mayor a few times and Mr. DeJoseph and I often communicate as well along with the Police Chief and the Captain who we are often in contact with. A couple of things we are excited about recently in the Regional High School District in the earlier part of March in light of a horrible and tragic event in Parkland, Florida; I can't tell you how proud I am of our student body in Pascack Valley and Pascack Hills. Today I will focus a little more on Pascack Valley just because we are in Hillsdale, how the students in our school district took charge of the walk out event, approached our administration about what they wanted to do to make a statement both to our local residents as well as to the national scene about their feelings regarding gun violence in schools. The students organized that event, that walk out that morning, 100% on their own. They established groups of individuals that coordinated the various activities that really implemented an effective and very peaceful organized walk out at the schools and he

wanted to commend the students at Hillsdale and River Vale for really embarking on a positive experience for all.

This spring we also had a wonderful theater production from TV Theater, How to Succeed in Business without really trying every single year that group puts on a phenomenal performance; a theater program, a music program; arts in Hillsdale are continuing to thrive. The students really enjoy performing and I want to thank the residents of the two towns coming out and supporting TV Theater. Just recently, last week, we had our senior citizens and it is always nice to see whether they are grandparents or whether they are simply senior citizens who may have had children pass through Pascack Valley years ago come back and see what our students are doing throughout the school day and it was really touching; a senior citizen came to attend our Board Meeting yesterday and she named every single teachers classroom that she went to and highlighted and thanked the students who took her on a tour throughout the buildings. It was really touching to recognize that our senior citizens population really is interested in what is taking place in the daily lives of our young people. That was a really nice event.

Many of you may have heard the news of our Virtual Day; this is our third go round and if you recall four years ago we embarked on something bold, ambitious and the Department of Education said no, not so fast. Two years ago we embarked on our version of Virtual Day, 2.0 which did count as a school day and allowing us keep our training up with regards to virtual instruction and after this horrible winter that we all experienced, we ran out of snow days and so what we tried to do and what we implemented successfully was not a virtual snow day but a virtual make up day. Instead of having all the students come to school on the Friday of spring break, we invited them all to attend school virtually. According to New Jersey school statutes, schools have to be open and available to students and so our teachers were in school, our administration was in school, our buses ran, and we only had about a dozen students in each building actually physically attend school. Despite the fact that we had spring break, we had about 86% of our student body engaged in learning on that day virtually. I believe that was a tremendous success, a testament to what our teachers were doing to engage our students and it was a nice way of being able to have a school day even though students were not physically present.

You also may have heard about our students and I thank you for recognizing our PV cheerleaders who have done a phenomenal job in competition cheerleading this year. The Hillsdale Town Council always does a nice job of bringing in and recognizing student groups that really have gone above and beyond. Our students, entrepreneurial organization have continued to place in state competition as well as the national competition; our robotics team just competed at the international competition in Detroit; our research and molecular students, and these students are performing authentic research are going to be competing at the International Science and Engineering Fair later on this month as well, and of course the Cheerleading Team that had a banner season.

Many of you may know that the vision of the Pascack Valley Regional High School District is all about creating and innovative space and fostering that culture innovation inquiry and individuality throughout all of our students and we do that in a variety of different ways. Our focus on expanding opportunities in both in the career world, college world for our students is really continuing to expand. We are offering more advanced placement, more new enrollment courses never before; our internship program is growing and we are the only school district on the east coast to join this nationally recognized network of internship programs called CAPS, the Center for Advanced Professional Studies. We are able to network with schools around the country on what they are doing and following best practices with regard to expand these internship opportunities. We are excited about offering these opportunities to seniors and want to get these career experiences in place for our Juniors, Sophomores and Freshmen and that network will help us do that.

Another big area for us is our wellness initiative; we have a wellness center at Pascack Valley and Hills High School that is relatively unique. We have employed a really interesting physician, family and liaison counsellor, which is unique to our district. It is a position in the wellness center that is solely focused on connecting students who have social and emotional issues with their parents, opening up lines of communications within the family and linking those families and students to supports outside of the school district that many families are not aware of. It is proving to be beneficial to the family dynamics within our district. Our staff is trained in the Columbia Suicide Awareness Protocols and we are bringing in Kate Fagan, Author of What Made Matty Run. You may be familiar with the tragic thing that occurred in the Northern Highlands Region several years ago with the University of Pennsylvania student who committed suicide. This author has written a book that paints a picture of how complex and how difficult it is to comprehend the causes of teen suicide. It allows her at her speaking on May 3 to make a clear picture of other individuals more aware of the signs and symptoms to look for and recognize that it is an illness that sometimes contributes to these tragic events. It is taking place at Pascack Hills High School on May 3rd; 6:00 PM is the mental health resource fair and 7:15 PM will be the keynote speaker.

We have a focus on equity, we are trying to make sure that throughout our district we are treating and paying attention to various needs of our students, regardless of what their ethnicity is, what their gender is, what their

sexual orientation is, what their race is, their socio economics status may be. We are making sure we are addressing the needs of the students that are coming from different experiences and not just focusing on the overall majority of students. He thanked the Hillsdale Town Council for supporting our efforts with regard to our special education programs; we have a variety of special education programs within our district that allow our own students to stay close to home, attract students from sometimes far away that create a revenue stream for us. I want to particularly thank Hillsdale for working with us in creating milestones program, the singular apartment in the center of Hillsdale which is allowing our 18 – 21 year old population once again stay close to home, get job training within the municipality and allowing us to continue the education that we are mandated to provide for those students up until the age of 21.

We are also starting to improve our communications and as part of my efforts of my coming to speak to you and the other three Councils, we had open dialogues between all four Police Chiefs; I also meet annually with the religious leaders in the region as well to make sure we have open lines of communication and make sure we are being sensitive as a school district to religious needs and we have overhauled our website and perhaps you are receiving our news briefs from the Superintendent which are coming to you providing you with a lot of information about the great things that are taking place within our district.

We have some improvements coming along next year particularly with regard to security. We are expanding our program and are going to be providing coverage not just throughout the school day but also after school hours and this comes after a very successful implementation that many individuals have been critical of the fact that we have not provided that type of coverage after school. That will be coming and he wanted to thank the Hillsdale Police Department for working along with us in making this a reality. There will be additional cameras, enhanced monitoring systems, strobe lights and different types of alarms on the exterior of Pascack Valley High School next year to alert individuals that there is a lock down; we will be implementing construction to the tune of \$700,000 starting this summer which will be securing the open breezeways at Pascack Valley High School, securing the front lobby more than it is right now, doing other things around the building to secure the physical environment. We work very closely with the Captain, the Chief on constantly improving our security. The capital projects you are going to see the Pascack Valley old field turf which is now over a decade old ripped up and we are expecting that to be replaced in the course of one month. We want to get this done right after Memorial Day so we can have as much time as possible for sports to get on there in the summer and up and running for the fall season. The football field right now; we will have repairs at a future date for track but it is not quite ready for repairs and of course it is an expensive item as well. We are going to be increasing the power grid at Pascack Valley as well, it needs to be enhanced. I mentioned the security enhancements and we will be embarking on our music renovations. It is in this year's upcoming budget but will take place next summer. The whole music room will be renovated. That concludes my report.

We are proud of Officer Caron, he will tell you he does what he was trained to do and that is absolutely the case. It goes to show that having an ongoing presence not just in the front of our building but having one of the SLEOS'S throughout the day in the hallways and outside the building allows them to respond very quickly when anything happens. In this particular case, about two weeks ago, a girl during the common lunch was choking on a French fry and started to panic and saw him walking down the hallway, he recognized what was taking place, did the Heimlich maneuver and she is fine. It is a testament to the training they received both on the police force and I believe they continue to receive as Special Officers Class 3. Huge congratulations to Roger Caron and am confident that any of our SLEO's would have responded in a similar manner.

Council Member DeRosa thanked him, there is so much you have to do these days and is not directly linked to education. We appreciate your efforts and time.

Mayor Ruocco said he attended the senior citizens program and it was well run, well done and it is a testament to the students, willingness to ask questions of the seniors as well as the seniors uninhibited willingness to share their experiences from the '40's, '50's, '60's for the students.

Mr. Gundersen said it is great for the students to hear the visitors in the classrooms whether it is in the social studies classroom that lends itself well in talking about history perhaps but even in the science classrooms. The seniors will be talking about what their courses were like and how much they changed and how much technology has changed and it opens up some great dialogue between students and senior citizens.

Council Member Segalas has joined the Council at this time.

INITIAL PUBLIC COMMENT (Time limited, new topics only, one topic per speaker):

Mayor Ruocco opened the Initial Public Comment at this time.

Isaac, 22 Sherwood Drive –

He is working on his Citizenship in Community merit badge and he needed to attend a Council meeting.

Mayor Ruocco said seeing no one, he closed the portion of the meeting to the public.

APPROVAL OF MINUTES:

Council Meeting Minutes March 6, 2018

Council Meeting Minutes March 16, 2018

Closed Session Minutes April 3, 2018

Closed Session Minutes April 13, 2018

Motion by Council Member Lundy, Second by Council Member DeRosa.

Roll Call Vote:

Ayes: Council Members Horvath, Lundy, Segalas, DeRosa, Council President Pizzella,

Nays: None

Absent: Council Member Karcich

PROFESSIONALS REPORT/MONTHLY DEPARTMENT HEAD REPORTS:

(The following correspondence on file in Borough Clerks Office)

[Hillsdale Police Report – April 2018](#)

[Hillsdale Fire Department – March 2018](#)

[Borough Engineer Report – April 2018](#)

Chief Robert Francaviglia

Fire Chief Patrick Doody

Borough Engineer Christopher Statile

Mayor Ruocco indicated that Chief Francaviglia is absent but substituting is Captain Sean Smith.

Captain Smith said he had a brief report for the month of April. There were 90 dispatch shifts all covered with non-sworn personnel; in April there were 153 motor vehicle stops which resulted in 77 summonses, 2 criminal arrests. The Chief and I transported a child to school who won the Ride to School Award because they committed a good deed; the student was from the Smith School. Sergeant Smith and Officer Buesser addressed the seniors at their monthly luncheon regarding the department's initiative regarding safe streets. This program will focus on pedestrian and motor vehicle safety in our downtown area. The DARE program is currently in session with Officers Sayers and Camporale instructing the Hillsdale's 5th grade students about dangers of alcohol and drugs. Cops and Bobbers which we announced last Council meeting is scheduled for Sunday, May 20, at 10:00 AM at the Woodcliff Lake Reservoir. He congratulated Dispatcher Kim Haffler, she has 20 years' service to the Borough and is the longest serving dispatcher. We tremendously value her service and a wonderful asset to the Police Department and the town. She had an interesting event that occurred on Friday night, there was an aggravated assault in Park Ridge which resulted in a knife/axe fight. Officers responded to Park Ridge because they were requested and at the same time the victim was on its way to seek shelter at our Police Department and walked in with a wound that was taken care of and later transported to the hospital. No serious injuries, however, Kim was serving as Dispatcher that night and had to witness that horrible incident.

Mayor Ruocco said Fire Chief Doody is not here but we have Deputy Chief Tom Kelly.

Deputy Kelly said we have been making a big effort on recruitment; we have had two events with the Ambulance Corps, one at Pascack Valley High School with about a dozen attending. We had another event at the firehouse last Tuesday, we had a decent turnout. He did not know how the ambulance corps made out, the fire department has three Cadet Applications with another on the way. We are very pleased with that number. We have a Cadet to Regular today and we have another Cadet to Regular on my desk waiting to be notarized and another one waiting to be filled out. The Cadet Program is an incredible success and that is what keeps the fire department going. We have also had an initiative trying to get qualified members who haven't been there for a while to come back, coming more and we are having some success with that program. We are going to keep pushing and doing our best to get numbers back up. On May 14, we will have the Hook & Ladder Golf Outing at Edgewood Country Club, golf and dinner. Anyone interested can go to our Facebook page or call the Chief at 358-5051 and leave a message; we will get back right away. That is always a fantastic event. We also had the Pancake Breakfast before and during the Fishing Contest which is always a great event. Everything is going well across the street and appreciates all the support.

Mayor Ruocco asked Deputy Chief Kelly if he sensed that they are making progress with respect to the coverage during the day because I know that is a problem.

Deputy Chief Kelly said daytime is always a problem. Twenty years ago more people worked locally and it is not just us, it is everybody. We are all evolving as to how we are getting it done. We never had a daytime that was not covered. We always have as many people as we wish; there's people who can't leave all the time, but if they are here for a structure fire, or a rescue call or something above an alarm, they are o.k. When we have work, we have never really had an issue getting the manpower we need. People who are further away, they are coming from further away. We rely on mutual aid and all the towns work very well together; the Chiefs all know each other and we reach out to each other all the time. We had a good day time response for a while and the 18 to 20 year olds who weren't working at the time we had a lot of them. Now they have gotten older and working full time and aren't around during the day and the kids in school will be there and it goes in cycles. We have ups and downs. We would like a couple of DPW men go to school and respond that would really help. Hiring Bill Haffler a Firefighter is a huge help to us.

Council Member Segalas said Westwood had an issue with their ladder truck and is not available to us.

Deputy Chief Kelly said it is his understanding our ladder truck will be up tomorrow but it is something we have to have our eye on. It is the most expensive piece of equipment in the Borough. Woodcliff Lake is covering if we need it that is why we have mutual aid.

DPW Superintendent Haffler was pleased that the Superintendent of Schools spoke about the Class 3 Program and we know we have a former Police Chief and Captain to patrol the school.

He said if you take a deep breath, you can smell progress. He spoke with the roof contractor this evening and we are about three days from being complete. We had a small issue today with a roof drain and it was repaired by the town plumber. The Borough's landscape contract for this year is in full swing; the town landscaper has all the ballfields completed and is starting work on the outskirt parts, downtown was taken care of, mulch by the train station and they are going to finish up the work at the pool area. We started a new mulch program due to all the damage, trees had to be taken down and moved to the pool area; we contracted for a tub grinder and they are grinding all of that into usable mulch and we will be using that at all of our parks and start a pilot program delivering and pick up mulch for the town residents at no cost.

Council Member Segalas asked if they are doing any of the ash trees in the mulching because we had an issue with infestation.

Superintendent Haffler said yes.

Mayor Ruocco said that is a concern from the Environmental Commission.

Superintendent Haffler said we are working on the tree list we have with the contractor. We started MSI training program for all of my men at the garage; that is the insurance company that we have so they do our training and for any type of training that we have to have, they do it and we have to go through them and the classes that are held throughout the state and the county. He will also hold several here where other towns can come to. I also had a representative from Bergen JIF come in to take a look at certain areas around the Borough that are a concern from previous years to try to mitigate those problems. The recycling contract from 2017 was put in and completed and I had a few Superintendents around the area to come in and help me.

Administrator DeJoseph thanked the DPW for fixing the fire truck; it went over and beyond the normal repair.

Superintendent Haffler said the parts are not easy to come by and every truck manufacturer uses different motors, whatever it is, but then they may take a Acme steering box and make a plate to convert it to go with a Detroit motor, so the Acme steering box, a run of the mill steering box has to be taken off, sent out and have it rebuilt or find the actual box and find a new way to mount it to the truck. This happens when companies go out of business and they are gone and that is what we run into because there are no cross reference numbers and any way to match it up. We have a very good mechanic that has a lot of different places for parts; help to try to find the parts.

Borough Engineer Statile said we will be starting the survey work on the pedestrian walkway at Piermont Avenue and tomorrow the crew will be working on that. Once the plans are complete, we will send them to the DOT for approval so that we can go out to bid. We provided a list on the 2018 Road Program to Administrator DeJoseph and the Public Works Director to finalize their list of streets for this year's program. He would like to get that project out to bid as soon as possible. Once the list is provided to us, we will go out to bid within a week. The firehouse sewer line, we finalized those plans and the Administrator is reviewing them with several contractors to get proposals to replace the line. Lincoln Avenue improvements, Woodcliff Lake received a DOT grant this

year and we will decide whether or not we will participate on our half of the street. The Administrator asked them to fine tune their estimate if they could possibly squeeze in some parts of our street within their grant allotment. Public Service is doing a lot of work on site; there is noise generation from their properties during the day but everything is limited to on site work on buildings, foundations. Centennial Field we took our second quarter sampling but has not received the results yet. Public Service originally planned to replace all underground electrical wire up on the hill but because of the high cost will end that project and begin to repair electrical outages as they occur. Residents will notice the difference because there will be more outages. Those conductors are taking a beating right now and every once in a while the conductors break and there is no service. They don't have the money to do it this year, they abandoned the project in River Vale as well.

Mayor Ruocco said this decision not to repair could be a temporary one, they could decide on doing full repair in a year.

Engineer Statile said yes, it could be next year. If they get a lot of complaints from residents they may advance the project. They are planning to replace two gas mains, one on Oakland Street and the main on Holdrum Street and those will be done later in the year. We are going to offer roadway restoration work at the curb and will be having a preconstruction meeting later this year. These are gas mains subject to corrosion and are very old. The Administrator is currently hawking contractors for repairs to the band shell; he has several and is trying to get a better price. Once he receives those and they are within budget limitations they can be awarded and work will get underway. The 2017 Bergen County Open Space for the monument down town, we were assisting ex-Mayor Frank and the architect to get some of the work done there. There is no cost to the Borough but was not sure the project would be underway this year. A grant we submitted in 2016 for the regional trails program from the DEP, it is a federal program, and he has been emailing them constantly asking when they have some type of decision on this program; a federal audit is delaying this. This week he received a response from the state and they are asking us three questions; one if we will continue with the project, the trail extension to Park Ridge, whether we have financial support for the project and we can do the job in two years. The answer was yes to all of those questions.

Mayor Ruocco said we have several Mayors, Woodcliff Lake Mayor and myself have received inquiries from the press as well.

Mayor Ruocco said at a meeting of Community Development last week, she once again went through the explanation why we didn't qualify because we are not a low or moderate income area. She explained the improvements we want to do to the band shell; we would have needed to say it will only be used by the handicapped. I don't know how you can say that.

Engineer Statile said he would put that in his letter also.

Mayor Ruocco said the Mayors at the meeting didn't believe what they were hearing but there is consistency in what you are being told and what I am being told.

Engineer Statile said handicapped improvements by virtue of the fact that they are helping the handicapped are considered helping low and moderate income people, it doesn't matter because we get money for ramps and ramps, and ramps and by virtue of the fact that they are helping those people they are considered low and moderate income people. I don't believe she is correct. We are proposing to provide handicapped playground equipment which automatically qualifies. The other program we filed a letter of intent was for Memorial Field. The actual grant application isn't due until June 18 and if wish to make any changes, we have time to do so.

He was in contact with DOT regarding the RR crossing which is in terrible shape, we are not interested in closing any of our crossings and they will get back to me in June if there is any funding available.

Mayor Ruocco said it has gotten worse in the past few months, you can feel it when you go over it. He asked if this will be fixed before the fall.

Engineer Statile said yes, it is only one crossing. They can fix it quickly. Storm Water Management Seminar; he sent letters about that to the Council and he ask at the July meeting if everyone took it, it is required. On LSRP, we have a woman who works for us as a consultant and can go with us as an advocate.

Mayor Ruocco said when he attended the meeting, the LSRP acts in lieu of the DEP but didn't know they could actually make the decision.

Engineer Statile said in this case, he did not believe the LSRP could amend the air quality permit. In a case where you are pulling out a gas tank in the street at a gas station, the LSRP takes over and takes the role of DEP. In our case a permit has already been issued and we are going to be amending that permit.

COMMITTEE REPORTS:

Councilman - Anthony DeRosa
Councilman – Zoltan Horvath
Councilman - Scott Karcich
Councilwoman - Abby Lundy
Councilman – Steven Segalas
Council President – Frank Pizzella

Councilman DeRosa said he will provide his report next Tuesday.

Councilman Horvath said he will provide his report next Tuesday.

Councilwoman Lundy said the same.

Councilman Segalas said there is a Share Services Meeting Friday.

NEW BUSINESS:

2018 BUDGET ORDINANCE – (ADOPTION):

[18-07 \(Adoption\)](#)

CALENDAR YEAR 2018 - ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

Motion to open public hearing on Ordinance 18-07 by Council Member DeRosa, Second by Council Member Lundy and unanimously carried.

I will now open the meeting to the public. If anyone desires to be heard regarding Ordinance No. 18-07, please raise your hand to be recognized, come forward to the microphone and state your name and address for the record.

I entertain a motion that the public hearing on Ordinance No. 18-07 be closed and that it be resolved that this ordinance was posted on the bulletin board on which public notices are customarily posted and published in the Ridgewood News. Copies of said ordinance were made available to the general public. Now, therefore, be it resolved that this ordinance be adopted and the Borough Clerk is authorized to advertise the same according to law.

Motion to close public hearing on Ordinance 18-07 by Council Member Lundy, Second by Council Member DeRosa, and unanimously carried.

Motion to adopt Ordinance No. 18-07 by Council Member Lundy, Second by Council Member DeRosa.

Roll Call Vote:

Ayes: Council Members Lundy, Segalas, DeRosa, Horvath

Nays: None

Absent: Council Members Karcich and Council President Pizzella

BUDGET AMENDMENT PRESENTATION:

[2018 Budget Amendment Update](#)

Council Member Abby Lundy

Council Member Lundy said we had to make some changes to the budget as introduced at the last meeting. We accommodated those changes which encompass some additional salary and some other funding that we had to do. The result of these adjustments on the budget is a total municipal tax increase of \$71.00 or 2.88%.

Administrator DeJoseph said with the amendment is the hiring of a SLEO III police officer for the local school starting May 1. Next week there will be a resolution authorizing the PBA agreement as well as the hiring of the SLEO III police officer from now to the end of the school year.

Mayor Ruocco said that is in the amended budget but after that it is zero because the revenue is coming in from the school to cover the appropriation.

BUDGET INTRODUCTION AMENDMENT RESOLUTION:

[R18116](#) Resolution to Amend Budget

WHEREAS, the local municipal budget for the year 2018 was approved on the 3rd day of April, 2018; and

WHEREAS, the public hearing on said budget was held as advertised; and

WHEREAS, it is desired to amend said approved budget; and

THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Hillsdale, County of Bergen the following amendments to the approved budget of 2018 be made:

	<u>FROM</u> Introduced/Approved Budget	<u>TO</u> Budget Amendment #1
<u>ANTICIPATED REVENUES:</u>		
General Revenues		
Surplus Anticipated	\$ 2,199,000.00	\$ 2,225,000.00
Misc. Revenues - Public and Private Revenues Offset with Appropriations		
Hillsdale BOE Class III Police Officers	-	19,000.00
Total Misc. Revenues - Public and Private Revenues Offset with Appropriations	143,910.15	162,910.15
Amount to be Raised by Taxes for Support of Municipal Budget:		
(a) Local Tax for Municipal Purposes including Reserve for Uncollected Taxes	9,212,729.23	9,234,729.23
Total Amount to be Raised by Taxes for Support of Municipal Budget	9,814,423.19	9,836,423.19
Total General Revenue	\$ 14,756,541.15	\$ 14,823,541.15
<u>GENERAL APPROPRIATIONS:</u>		
Operations - within "CAPS"		
Affordable Municipal Housing - Salaries & Wages	\$ -	\$ 1,500.00
Affordable Municipal Housing - Other Expenses	-	38,500.00
Administration of Public Assistance	8,000.00	16,000.00
Total Operations - within "CAPS"	9,363,453.00	9,411,453.00
Total General Appropriations for Municipal Purposes within "CAPS"	10,207,453.00	10,255,453.00
Operations - excluded from "CAPS"		
Public and Private Programs Offset by Revenues		
Hillsdale BOE Class III Police Officers		
Salaries and Wages	-	17,000.00
Other Expenses	-	2,000.00
Total Public and Private Programs Offset by Revenues	149,410.15	168,410.15
Total Operations - excluded from "CAPS"	1,960,088.15	1,979,088.15
Total General Appropriations for Municipal Purposes excluded from "CAPS"	3,774,088.15	3,793,088.15
Total General Appropriations	\$ 14,756,541.15	\$ 14,823,541.15

BE IT FURTHER REOLVED, that two certified copied of this resolution be filed forthwith in the Office of the Director of Local Government Services for their certification of the municipal budget so amended.

A hearing on the budget amendment will be held at the Municipal Building on May 8, 2018 at 7:30 pm at which time and place objections to said Budget Amendment may be presented by tax payers or other interested persons.

Motion by Council Member DeRosa, Second by Council Member Lundy.

Roll Call Vote:

Ayes: Council Members Horvath, DeRosa, Lundy, Segalas
 Nays: None
 Absent: Council Member Karcich and Council President Pizzella

CORRESPONDENCE:

1. Email from Declan Henry in regards to holding a bake sale on Memorial Day to raise funds for his Eagle Scout Project.

Motion to receipt and file: Motion by Council Member Segalas, Second by Council Member Lundy, and unanimously carried.

DISCUSSION –

Train Station Grant
 Blue Playground

Council President Pizzella
 Council President Pizzella

PUBLIC COMMENT:

Mayor Ruocco opened the meeting to the public at this time, not seeing anyone, the Mayor closed the meeting to the public.

ORDINANCES:

18-08 (Adoption)

An Ordinance to Provide for and Determine the Rate, Amount and Method of Payment of Compensation to Persons Holding Certain Office and Positions of Employment in the Borough of Hillsdale, County of Bergen, State of New Jersey

BE IT ORDAINED by the Borough Council of the Borough of Hillsdale, in the County of Bergen, and State of New Jersey as follows:

SECTION 1. The rate of compensation of persons holding any of the hereafter named offices and positions of employment, which compensation shall be on an annual basis unless otherwise specified, is hereby fixed and determined to be as set opposite the title of each of the hereinafter named offices and positions of employment. Whenever there shall be set forth a minimum and maximum rate of compensation the employee or officer shall be compensated at an annual rate within such range.

SECTION 2. Each employee set forth in this Section shall receive annual compensation as set forth below.

	TITLE	MAXIMUM
1	Mayor	\$ 9,000.00
2	Councilmembers	\$ 6,000.00
3	Police Chief	\$ 175,000.00
4	Police Captain	\$ 167,000.00
5	Police Lieutenant	\$ 156,060.00
6	Borough Administrator	\$ 46,818.00
7	Borough Clerk	\$ 75,480.00
8	Certified Municipal Financial Officer and Qualified Purchasing Agent	\$ 93,942.00

9	Assistant Managers-Finance	\$	57,528.00
10	Tax Assessor	\$	22,860.00
11	Tax Collector	\$	46,410.00
12	Assistant Managers-Finance	\$	19,890.00
13	Confidential Administrative Assistant- <i>per hour</i>	\$	19.38
14	Executive Assistant- <i>per hour</i>	\$	20.00
15	Municipal Housing Liaison		\$2,000.00
16	Superintendent of Public Works	\$	93,000.00
17	Acting Recycling Coordinator	\$	2,000.00
18	Licensed Sewer Operator	\$	5,000.00
19	Class III Police Officers (2017-2018 School year)	\$	41,256.00
20	Class III Police Officers (2017-2018 School Year (Hourly))		Not to exceed \$30.00/hr
21	Fire Official	\$	10,404.00
22	Municipal Judge	\$	18,977.00
23	Court Administrator	\$	53,458.00
24	Court Violations Clerk- <i>per hour</i>	\$	20.81
25	Prosecutor	\$	12,191.00
26	Alternate Prosecutor per court session	\$	200.00
27	Public Defender	\$	4,370.00
28	Alternate Public Defender per case	\$	200.00
29	Welfare Director		15,817.00
30	Community - Seniors Activity Director	\$	14,745.00
31	Recreation Director	\$	16,296.00
32	Construction Official	\$	22,188.00
33	Building Sub-Code Official	\$	22,187.00
34	Zoning Official- <i>per hour</i>	\$	30.60
35	Board Secretary- <i>includes preparing minutes-per meeting</i>	\$	50.00
36	OEM Coordinator	\$	2,000.00
37	OEM Deputy Coordinator	\$	2,000.00
38	Volunteer Ambulance Corps Stipend	\$	600.00
39	Volunteer Fire Department Stipend	\$	600.00

40	Fire Chief	\$	3,400.00
41	Deputy Fire Chief	\$	2,650.00
42	Senior Captain	\$	1,650.00
43	Junior Captain	\$	1,350.00
44	First Lieutenant	\$	1,050.00
45	Second Lieutenant	\$	900.00
46	Third Lieutenant	\$	750.00
47	Forth Lieutenant	\$	600.00
48	Mechanic (per apparatus)	\$	200.00
49	Advisor	\$	500.00
50	Fit Test Administrator	\$	200.00
51	Air Bank Tech	\$	400.00
52	Radio Tech	\$	250.00
53	Training Advisor	\$	350.00
54	Cadet Advisor	\$	350.00
55	Driver (per apparatus)	\$	50.00
56	Board Clerk	\$	1,300.00
57	Education beyond Fire Fighter 1	\$	35.00

		MINIMUM	MAXIMUM
58	Borough Temporary or Per-Diem Worker	\$ 10.00	\$ 50.00
59	DPW Seasonal or Per-Diem Worker	\$ 10.00	\$ 100.00

SECTION 3. If an employee performed a unique assignment of exceptional value to the Borough requiring significant time and effort in addition to his/her usual responsibilities, the Borough Council may grant a bonus not to exceed \$5,000 to this employee.

SECTION 4. The compensation fixed and determined by this Ordinance for the persons holding the respective offices and positions of employment herein named, shall, except as otherwise provided by statute, ordinance or resolution, be in lieu of all other fees, costs and charges received and collected by such offices and employees shall remit such funds promptly to the Borough Treasurer.

SECTION 5. All ordinances and resolutions inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies.

SECTION 6. This Ordinance shall take effect immediately after final passage (in accordance with state law), approval (in accordance with state law), and publication of notice thereof as required by law, and the provisions of this Ordinance shall be retroactive to January 1, 2018, unless otherwise noted.

Motion to open public hearing on Ordinance 18-08 by Council Member Lundy, Second by Council Member DeRosa, and unanimously carried.

I will now open the meeting to the public. If anyone desires to be heard regarding Ordinance No. 18-08, please raise your hand to be recognized, come forward to the microphone and state your name and address for the record.

I entertain a motion that the public hearing on Ordinance No. 18-08 be closed and that it be resolved that this ordinance was posted on the bulletin board on which public notices are customarily posted and published in the Ridgewood News. Copies of said ordinance were made available to the general public. Now, therefore, be it resolved that this ordinance be adopted and the Borough Clerk is authorized to advertise the same according to law.

Motion to close public hearing on Ordinance 18-08 by Council Member Lundy, Second by Council Member Horvath, and unanimously carried.

Motion to adopt Ordinance No. 18-08 by Council Member DeRosa, Second by Council Member Lundy.

Roll Call Vote:

Ayes: Council Members Lundy, Segalas, DeRosa, Horvath

Nays: None

Absent: Council Members Karcich and Council President Pizzella

RESOLUTIONS:(Consent Agenda): R18110 through R18113:

[R18110](#) Resolution Authorizing Mayor and Borough Clerk to Extend the Janitorial Services Contract

WHEREAS, there is a need for janitorial services in the Borough, specifically in Borough Hall, the Police Department, the Public Library, Stonybrook Swim Club, the Fire Department; and

WHEREAS, the Borough of Hillsdale is interested in extending their contract for Janitorial Services with Excellent Building Services, 70 South Jefferson Street, Orange, NJ 07050 in the amount of twenty-six thousand two hundred ninety-two dollars, \$26,292.00 for the period of August 1, 2018 through July 31, 2019; and

WHEREAS, the Mayor and Council at its sole discretion, in accordance with N.J.S.A. 40A 11-1 et seq., the Mayor and Council may, by adoption of resolution, extend the contract for one (1) year period if they determine; that the contract service is being performed in an effective and efficient manner; and if any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the twelve (12) months preceding the most recent quarterly calculation available at the time the contract is renewed and the terms and conditions of the contract remain substantially similar; and

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

1. The contract for janitorial services as outlined in the bid proposal is hereby awarded to Excellent Building Services effective August 1, 2018 through July 31, 2019.
2. The Borough Attorney is hereby authorized to prepare contracts and/or other documents pursuant to the award of this contract.
3. The Mayor and Clerk are hereby authorized to execute contracts and/or documents pursuant to the award of this contract.

[R18111](#) Resolution Authorizing contracts with Certain Approved Cooperative Pricing System Vendors Pursuant to N.J.S.A. 40A:11-11 – Non-OEM Automotive Parts & Accessories for Light Duty Vehicles – Tonsa Automotive Corp Contract Number 86004

WHEREAS, N.J.S.A. 40A:11-11(5) authorizes contracting units to establish a Cooperative Pricing System (“CPS”) and to enter into Cooperative Pricing Agreements for its administration; and

WHEREAS, the Borough of Hillsdale, pursuant to N.J.S.A. 40A:11-11(5) and N.J.A.C. 5:34-7.11(c), may by resolution and without advertising for bids, purchase any goods or services for any contracts under the CPS and entered into by the Lead Agency; and

WHEREAS, the Borough of Hillsdale has the need on a timely basis to purchase goods or services utilizing such contracts; and

WHEREAS, The Borough of Hillsdale will be purchasing various automotive parts and accessories for Borough owned vehicles through:

Tonsa Automotive Corp

Contract # A86004

Contract Period 02/26/2018-02/25/2019

NOW, THEREFORE, BE IT RESOLVED, that the Borough of Hillsdale authorizes the Purchasing Agent to purchase certain goods or services from those approved vendors on the attached list, pursuant to all conditions of the individual contracts and provided that sufficient funds are available for the goods or services rendered; and

BE IT FURTHER RESOLVED, that the governing body of the Borough of Hillsdale, pursuant to N.J.A.C. 5:30-5.5(b), the certification of available funds, shall either certify the full maximum amount against the budget at the time the contract is awarded, or no contract amount shall be chargeable or certified until such time as the goods or services are ordered or otherwise called for prior to placing the order, and a certification of availability of funds is made by the Chief Financial Officer.

[R18112](#) Resolution Awarding Bus Transportation Contract for Summer Camp 2018 to First Student, Inc.

WHEREAS, the Borough of Hillsdale promulgated requests for proposals for bus transportation services for Summer Camp 2018; and,

WHEREAS, the proposals were promulgated by the Recreation Department; and,

WHEREAS, three (3) companies were requested to provide quotes; and

WHEREAS, One (1) company responded and provided price quotes, they were First Student Inc.; and,

WHEREAS, the quote to include air conditioning service and after care was from First Student, Inc. in the total amount not to exceed Thirty-Five Thousand Dollars and No Cents (\$35,000.00); and,

WHEREAS, First Student, Inc. has also met all of the specifications for the provision of municipal busing services.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Hillsdale, County of Bergen, State of New Jersey that the contract for air conditioned busing services for Summer Camp 2018 is hereby awarded to First Student, Inc. located at 53 Central Avenue, Rochelle Park, New Jersey 07662 and the Mayor and Borough Clerk are hereby authorized, on behalf of the Borough, to execute any and all documents with First Student, Inc. for air conditioned busing services for Summer Camp 2018 in the total amount not to exceed Thirty Five Thousand Dollars and No Cents (\$35,000.00). A copy of the executed Agreement, if applicable, shall be on file in the office of the Borough Clerk.

[R18113](#) Resolution to Authorize and Confirm the Borough of Paramus to Perform the Services of Brush Grinding Materials from the March 7, 2018 Snow Storm

WHEREAS, the Borough of Hillsdale and the Borough of Paramus seek to enter into and confirm an Interlocal Agreement wherein the Borough of Paramus will provide brush grinding services for the Borough of Hillsdale for storm debris from the March 7, 2018 Snow Storm; and

WHEREAS, both of the parties to such Agreement are authorized by law to enter into an agreement with one another to provide jointly for any lawful service to and for the residents of the respective municipalities pursuant to the provisions of the “Interlocal Services Act” N.J.S.A. 40:8A-1 et seq.; and,

WHEREAS, the governing bodies of the Borough of Hillsdale and the Borough of Paramus recognize that the implementation of an Interlocal Agreement to provide brush grinding services is in the best interest of the taxpayers of the respective municipalities.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Hillsdale hereby authorize and confirm the execution of an Interlocal Services Agreement with the Borough of Paramus; and

BE IT FURTHER RESOLVED, that all finished material is to be left on site and work is to be completed by May 11, 2018, 4:00 pm prevailing time; and

BE IT FURTHER RESOLVED that the cost of same shall be for option 2 – double grinding of brush, logs and vegetative yard waste material at an amount not to exceed Ten Thousand Dollars and No Cents (\$10,000.00) and any additional days will be at a rate of One Thousand Dollars and No Cents (\$1,000.00) per day; and.

BE IT FURTHER RESOLVED that the Agreement shall take effect upon the execution of same and adoption of Resolutions by both parties as provided by law

BE IT FURTHER RESOLVED that a copy of the Agreement be maintained on file and open to public inspection at the office of the Borough Clerk.

Motion by Council Member Lundy, Second by Council Member Segalas.

Roll Call Vote:

Ayes: Council Members Lundy, Segalas, DeRosa, Horvath

Nays: None

Absent: Council Members Karcich and Council President Pizzella

OFF-CONSENT:

Motion to adopt _____ Second _____

Council Members Segalas, DeRosa, Horvath, Karcich, Lundy, Council President Pizzella,

COUNCIL COMMENTARIES:

Council Member Lundy congratulated our Cheerleaders and congratulates Tony Maloof for his retirement after 30 years in the Fire Department.

Council Member Segalas said Tony Maloof retired after decades of service and the Fire Chief to present him a token from the Fire Department.

Motion by Council Member Lundy, second by Council Member Segalas, and unanimously carried.

Council Member Segalas congratulated the Cheerleaders, the fishing contest was successful and the pancakes were appreciated.

Council Member Horvath commented on the fishing contest and thanked the Council members who turned out for the planting of trees at the schools. Mr. Gundersen gave a great speech on the school system and believed we have a great school system and impacts our life in Hillsdale in a great way.

Council Member DeRosa reminded everyone that the Ambulance Service will have their beef steak dinner this Saturday, May 12; tickets are available. He was pleased with the fishing contest. At the Memorial Day Parade, they will be adding bagpipes and looking forward to it.

Mayor Ruocco asked that he provide information on the Parade at our next meeting.

Council Member DeRosa said Council Member Lundy, Mayor Ruocco and Council Member DeRosa attended the Eagle Ceremony where six scouts were raised to Eagle. Nationally six percent of scouts become Eagle Scouts

and Hillsdale has a percentage of 90% and it is a testament to the parents who run the scouts. He also congratulated Tony Maloof.

Mayor Ruocco encouraged attendance for the Hills Valley Coalition Split Image Program at Pascack Hills and keynote speaker Kate Fagan is very good and she will address some issues on the minds of a number of parents around the nation that emanates from the growing problem of teen suicide.

He thanked the Environmental Commission for their cleanup day, Saturday, April 28; it was a great day. He thanked the Shop Rite volunteers who participated. The Friends of the Pascack Brook had a big turnout April 21st and it was amazing with the number of kids there. He congratulated Jake Prusha appointed to the Fire Department and congratulated the Eagle Scouts and it is definitely an achievement. He congratulated the Pascack Valley Cheerleaders for a job well done.

ADMINISTRATOR/CLERK COMMENTARIES:

Borough Clerk Kohan said primary elections are scheduled June 5 and the last day to register as a new voter is May 15.

ADJOURN TO CLOSED SESSION:

[R18114](#) To provide for a meeting not open to the public in accordance with the provisions of the New Jersey Open Public Meetings Act N.J.S.A. 10:4-12 – *Fair Share Housing, Waste Management, Redevelopment, Train Station, Gaeta Recycling*

WHEREAS, the Borough Council of the Borough of Hillsdale is subject to certain requirements of the Open Public Meetings Act N.J.S.A. 10:4-6 et seq; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12 provides that an Executive Session not open to the public may be held for certain specified purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Borough Council of the Borough of Hillsdale to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12(b) and designated below:

- ___ (1) Matters required by law to be confidential.
- ___ (2) Matters where the release of information would impair the right to receive funds.
- ___ (3) Matters involving individual privacy –
- ___ (4) Matters relating to collective bargaining
- ___ (5) Matters relating to the purchase, lease or acquisition of real property or the investment of public funds.
- ___ (6) Matters relating to public safety and property.
- X (7) Matters relating to litigation, negotiations and the attorney-client privilege – *Fair Share Housing, Waste Management, Demarest Farms, Train Station, Solid Waste Collection, Demarest Farms, Habitat for Humanity*
- ___ (8) Matters relating to the employment relationship –
- ___ (9) Matters relating to the potential imposition of a penalty.

NOW, THEREFORE BE IT RESOLVED, by the Council of the Borough of Hillsdale assembled in public session this date that an Executive Session closed to the public be and the same is hereby authorized for discussion of matters relating to the specified items designated above. It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality.

Motion by Council Member Lundy, Second by Council Member Segalas.

Roll Call Vote:

Ayes: Council Members DeRosa, Horvath, Lundy, Segalas

Nays: None

Absent: Council Members Karcich and Council President Pizzella

RECONVENE REGULAR MEETING:

Motion to reconvene by Council Member DeRosa, Second by Council Member Lundy, and unanimously carried.

[R18115](#) Resolution Authorizing the Extension of an Agreement with Gaeta Recycling Co., Inc. For the Collection and Transport of Garbage, Recycling and Refuse

WHEREAS, the Borough of Hillsdale sought public bids for the collection and disposal of Garbage, Recycling and Refuse commencing on April 1, 2018; and

WHEREAS, the Borough received two bids for said services from Gaeta Recycling Services, Co., Inc. (“Gaeta”), and Buldo Container Services, Inc. (“Buldo”); and

WHEREAS, upon review it was determined that Buldo was the lowest responsible bidder and the contract for the collection and disposal of municipal Solid Waste was awarded to Buldo; and

WHEREAS, Gaeta has filed an action in the Superior Court of New Jersey challenging the aforesaid award of the contract to Buldo, which matter may take some period of time prior to the Court rendering a determination in the matter; and

WHEREAS, Gaeta held the current contract for the collection and disposal of municipal Solid Waste which expired on March 31, 2018; and

WHEREAS, Gaeta had extended their services to the Borough of Hillsdale at a rate of \$42,500.00 per month, which includes vegetative services, for the months of April, 2018 and May, 2018; and

WHEREAS, Gaeta is willing to extend their services to the Borough of Hillsdale at the rate of \$42,500.00 per month, which includes vegetative services, for the months of June, 2018, July, 2018 and August 2018; and

WHEREAS, Borough of Hillsdale desires to sign an Agreement with Gaeta accepting the proposal, as outline above, not to exceed \$127,500.00; and

WHEREAS, the Borough makes the within Resolution on an emergent basis in order to assure the public health, safety and welfare; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Hillsdale, County of Bergen, State of New Jersey hereby authorizes Mayor John Ruocco to sign; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hillsdale, Bergen County, New Jersey, that Mayor John Ruocco is hereby authorized to sign said Agreement for emergency services with Gaeta Recycling Co., Inc.

Borough Attorney Madaio said the extension would be for a three month period.

Motion by Council Member DeRosa, Second by Council Member Lundy.

Roll Call Vote:

Ayes: Council Members DeRosa, Lundy, Horvath, Segalas

Nays: None

Absent: Council Members Karcich and Council President Pizzella

AFFORDABLE HOUSING RESOLUTIONS/ORDINANCES

[Affordable Housing Trust Fund Spending Plan](#)

[R18117](#) Resolution Adopting the Affordable Housing Trust Fund Spending Plan

WHEREAS, on June 16, 2015, the Borough of Hillsdale filed a Complaint for Declaratory Judgment (Superior Court of New Jersey, Bergen County, Dkt. No. L-5680-15) pursuant to prior directive of the New Jersey Supreme Court (the “Action”); and

WHEREAS, on, or about, October 11, 2017, the Borough entered into a Settlement Agreement with the Fair Share Housing Center to resolve all issues presented in the aforesaid Action (“the Settlement”); and

WHEREAS, after a Fairness Hearing on February 9, 2018, by Order dated February 12, 2018, Hon. Christine Farrington approved the Settlement between the Borough and Fair Share Housing Center, which established the Borough’s affordable housing obligations; and

WHEREAS, in accordance with the Settlement, on April 24, 2018, the Planning Board of the Borough of Hillsdale, State of New Jersey, adopted a Housing Element and Fair Share Plan, prepared by Darlene A. Green, P.P., AICP of Maser Consulting P.A. (“Green”), dated April 10, 2018; and

WHEREAS, in accordance with Settlement, Green prepared the “Borough of Hillsdale 2018 Affordable Housing Trust Fund Spending Plan” on behalf of the Borough, which Spending Plan was reviewed and endorsed by the Planning Board on April 24, 2018; and

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Hillsdale, County of Bergen, State of New Jersey, hereby adopts the Borough of Hillsdale 2018 Affordable Housing Trust Fund Spending Plan prepared by Darlene A. Green, P.P., AICP of Maser Consulting; and

BE IT FURTHER RESOLVED, the Governing Body of the Borough of Hillsdale, County of Bergen, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan, prepared by Darlene A. Green, P.P., AICP of Maser Consulting P.A., dated April 10, 2018 as adopted by the Planning Board on April 24, 2018; and

This Resolution shall take effect immediately.

Motion by Council Member Lundy, Second by Council Member DeRosa.

Roll Call Vote:

Ayes: Council Members DeRosa, Lundy, Horvath, Segalas

Nays: None

Absent: Council Members Karcich and Council President Pizzella

ORDINANCES:

18-10 – (Introduction)

An Ordinance amending the Land Use Ordinance (§310) of the Borough of Hillsdale to Provide for the Collection of Development Fees in Support of Affordable Housing as Permitted by the New Jersey Fair Housing Act

WHEREAS, In Holmdel Builder’s Association v. Holmdel Borough, 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 adoption of Rules by the Council on Affordable Housing (COAH); and.

WHEREAS, pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the

jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential and residential development;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Hillsdale, Bergen County, New Jersey, that the Code of the Borough of Hillsdale is hereby amended to include the following provisions regulating the collection and disposition of mandatory development fees to be used in connection with the Borough's affordable housing programs, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985:

Section 1. Chapter 310 Land Use, Part 8 Affordable Housing, Article XXXIII General Provisions be amended to include the following:

ARTICLE XXXIV DEVELOPMENT FEE ORDINANCE

310-163 Purpose.

This Ordinance 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 Ordinance shall be used for the sole purpose of providing very-low, low and moderate income housing in accordance with a Court-approved Spending Plan.

310-164 Basic Requirements.

- A. This Ordinance shall not be effective until approved by the Court.
- B. The Borough of Hillsdale shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

310-165 Definitions.

The following terms when used in this Ordinance shall have the meanings given in this Section:

AFFORDABLE HOUSING DEVELOPMENT

A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing development.

COAH

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act, or any successor agency charged with the administration of the Fair Housing Act.

COURT

The Superior Court of New Jersey, Law Division, Bergen County.

DEVELOPMENT FEE

Money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and regulated by applicable COAH Rules.

DEVELOPER

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

EQUALIZED ASSESSED VALUE

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

GREEN BUILDING STRATEGIES

Strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

310-166 Residential Development Fees.

A. Imposition of Fees.

- (1) Within the Borough of Hillsdale, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of 1.5% of the equalized assessed value for all new residential development provided no increased density is permitted.
- (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% 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.

B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments

- (1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Hillsdale, shall be exempt from the payment of development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction 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) Residential development fees shall not be imposed and collected when an existing structure is expanded or undergoes a change, except for the following: when there is the removal and replacement of 50% or more of the sum of the area of all floors of the existing building, excluding a basement or cellar area. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (4) Developers of residential structures demolished and replaced in-kind as a result of a natural disaster shall be exempt from paying a development fee.

310-167 Non-Residential Development Fees.

A. Imposition of Fees.

- (1) Within all zoning districts, non-residential developers, except for developers of the types of developments 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 developments 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% development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the 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 for the non-residential development, whichever is later.
- (5) If a property which 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 Hillsdale as a lien against the real property of the owner.

310-168 Collection Procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- E. The Construction 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 a property which is subject to a development fee.
- F. 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.
- G. Should the Borough of Hillsdale 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).
- H. Except as provided in Section 167A.(3) hereinabove, 50% of the initially calculated 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 the Certificate of Occupancy.

I. Appeal of Development Fees.

- (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Hillsdale. 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 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 Hillsdale. 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.

310-169 Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Hillsdale for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Hillsdale;
 - (2) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with Hillsdale's affordable housing program.
- C. In the event of a failure by the Borough of Hillsdale to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs ("DCA"), Division of Local Government Services ("LGS"), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Hillsdale, or, if not practicable, then within the County.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.
- D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by COAH or the Court.

310-170 Use of Funds.

- A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Hillsdale's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the Borough of Hillsdale for past housing activities.
- C. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region 1, in which Hillsdale is located.
 - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.
 - (3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Hillsdale, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Borough of Hillsdale may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
 - (1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
 - (2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

310-171 Monitoring.

The Borough of Hillsdale shall provide annual reporting of Affordable Housing Trust Fund activity to the New Jersey DCA, COAH, LGS, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey DCA, COAH or LGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended.

310-172 Ongoing Collection of Fees.

- A. The ability for the Borough of Hillsdale to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its Judgment of Compliance and shall continue thereafter so long as the Borough of Hillsdale has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- B. If the Borough of Hillsdale is not pursuing authorization to impose and collect development fees after the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
- C. After the expiration of the Judgment of Compliance, if the Borough does not pursue or obtain continued authorization, the Borough of Hillsdale shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

Section 2. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This Ordinance shall take effect upon passage and publication as provided by law.

BE IT RESOLVED, that Ordinance No. 18-10 does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Mayor and Council in the Municipal Building, 380 Hillsdale Avenue, Hillsdale, New Jersey, on June 12, 2018 and at said time and place all persons interested will be given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said ordinance in the Ridgewood News once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage.

Motion by Council Member Horvath, Second by Council Member Segalas.

Roll Call Vote:

Ayes: Councilmembers DeRosa, Lundy, Segalas, Horvath

Nays: None

Absent: Council Members Karcich and Council President Pizzella

18-11 – (Introduction)

An Ordinance Replacing the Entire Contents of the Existing Affordable Housing Ordinance of the Borough of Hillsdale (§310-137 Through §310-148) to Address the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the Borough's Affordable Housing Obligations

WHEREAS, the Code of the Borough of Hillsdale is hereby replaced to include provisions addressing Hillsdale's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

WHEREAS, the Hillsdale Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan have

been endorsed by the governing body. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

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

Section 1. Chapter 310 Land Use, Part 8 Affordable Housing, Article XXXIII General Provisions be deleted in its entirety and replaced as follows:

ARTICLE XXXIII AFFORDABLE HOUSING REGULATIONS

310-173 Purpose.

The purpose of this ordinance is to provide for and regulate affordable housing in the Borough.

310-174 Monitoring Requirements.

C. On the first anniversary of the Court's approval of the Settlement Agreement, executed October 10, 2017, and every anniversary thereafter through July 1, 2025, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. Such forms shall be provided to the Borough prior to the Fairness Hearing. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

D. On the first anniversary of the Court's approval of the Settlement Agreement, executed October 10, 2017, and every anniversary thereafter through July 1, 2025, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with copies provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Court-appointed Special Master and Fair Share Housing Center. Such forms shall be provided to the Borough prior to the Fairness Hearing.

E. For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough shall post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented.

F. For the review of very-low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the Court's approval of the Settlement Agreement, executed October 10, 2017, and every third year thereafter, the Borough will post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its satisfaction of its very-low income requirements, including the family very-low income requirements referenced in the Settlement Agreement. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, on the issue of whether the municipality has complied with its very-low income housing obligation under the terms of the Settlement Agreement.

310-175 Definitions.

The following terms when used in this Ordinance shall have the meanings given in this Section:

ACT

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT

The entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

AFFIRMATIVE MARKETING

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE

The average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE

A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE HOUSING DEVELOPMENT

A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing development.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

AGENCY

The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age- restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80% of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

ALTERNATIVE LIVING ARRANGEMENTS

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE

A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD

A household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

COAH

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), or any successor agency charged with the administration of the Act.

COURT

The Superior Court of New Jersey, Law Division, Bergen County.

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

A housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

DEVELOPER

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

INCLUSIONARY DEVELOPMENT

A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50% or less of the regional median household income by household size.

LOW INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

MARKET-RATE UNITS

Housing not restricted to low and moderate-income households that may sell or rent at any price.

MEDIAN INCOME

The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

MODERATE INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

MODERATE INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

MULTI-FAMILY UNIT

A structure containing five or more dwelling units.

NON-EXEMPT SALE

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

RANDOM SELECTION PROCESS

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

REHABILITATION

The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT

The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT

A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

VERY-LOW INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

VERY-LOW INCOME UNIT

A restricted unit that is affordable to a very-low income household.

WEATHERIZATION

Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

310-176 Applicability.

A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Hillsdale pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

B. Moreover, this Ordinance shall apply to all developments that contain low and moderate income housing units, including any currently unanticipated future developments that will provide low and moderate-income housing units.

C. Any property in the Borough of Hillsdale that is currently zoned for non-residential uses and subsequently receives a zoning change or use variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development, which multi-family residential development will yield 5 or more new dwelling units, shall provide a minimum affordable housing set-aside of 15% percent if the affordable units will be for rent and a minimum 20% percent if the affordable units will be for sale. This provision does not affect residential development on sites that are zoned for inclusionary residential development as part of the Borough's Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Borough of Hillsdale to grant such rezoning, variance or other relief. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement. All affordable units created pursuant to this paragraph shall be governed by the provisions of this Article.

310-177 Rehabilitation Program.

- A. Hillsdale's rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
- B. Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.
- C. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
- D. The Borough of Hillsdale shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program. The Borough will main sufficient funds in its affordable housing trust fund account to finance the rehabilitation program.
- E. The Borough of Hillsdale shall designate, subject to the approval of the Court, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:91 and N.J.A.C. 5:93. The Administrative Agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- F. Units in a rehabilitation program shall be exempt from the Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - (1) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to UHAC.
 - (2) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to UHAC.
 - (3) Rents in rehabilitated units may increase annually based on the standards in UHAC.
 - (4) Applicant and/or tenant households shall be certified as income-eligible in accordance with UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

310-178 Alternative Living Arrangements.

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by COAH or the Court.
 - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by COAH or the Court.
 - (1) The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

310-179 Inclusionary Zoning.

- A. To implement the fair share plan in a manner consistent with the terms of the October 10, 2017 Settlement Agreement, ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning shall be permitted on the following properties consistent with the provisions of the Borough of Hillsdale's Housing Plan Element and Fair Share Plan, and the terms of the settlement agreement:
 - (1) The Bank of America site, known as Block 1102, Lots 2, 3 and 4, shall be rezoned to permit mixed-use development with commercial uses on the first floor and residential units above with a maximum of 20 units to the acre.
 - (2) The Verizon site, known as Block 1201, Lot 11, shall be rezoned to permit mixed-use

development with commercial uses on the first floor and residential units above with a maximum of 20 units to the acre.

(3) To the extent feasible, the previously approved Walsky (Block 1212, Lots 15 and 16) and Paterno (Block 1205, Lot 8) shall be consistent with the terms of the Settlement Agreement.

(4) The Industrial Zone site, which is located off of Patterson Street. These parcels are known as Block 1207, Lots 8-11; Block 1208, Lots 1-5; Block 1209, Lots 2-6; Block 1210, Lots 6-11; Block 1211, Lots 1 and 2; Block 1212, Lot 13. The Borough will designate these sites as an area in need of redevelopment and subsequently prepare a Redevelopment Plan. The Redevelopment Plan will permit a variety of uses, including inclusionary housing at a maximum density of 28 units per acre within three years of the Court’s approval of the Settlement Agreement.

310-180 Phasing Schedule for Inclusionary Zoning.

A. In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low and Moderate Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

310-181 Fractional Units and Payments-in-Lieu.

A. Inclusionary developments that result in an affordable housing obligation that is fractional shall pay a payment-in-lieu for the fraction.

B. The payment-in-lieu for Hillsdale shall be \$195,000 for 2018. The payment-in-lieu shall increase by 3% each year. To calculate the payment-in-lieu the developer shall multiply the fraction by the payment. For example, a fraction of 0.6 triggered in 2018 would require a payment of \$117,000. The payment shall be made to the Borough’s Affordable Housing Trust Fund.

310-182 New Construction.

A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

(1) The fair share obligation shall be divided equally between low and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13% of all restricted rental units shall be very-low income units (affordable to a household earning 30% or less of median income). The very-low income units shall be counted as part of the required number of low income units within the development.

(2) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families

(3) A maximum of 25% of the Borough's obligation may be met with age restricted units. At least half of all affordable units in the Borough's Plan shall be non-restricted.

(4) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low income units.

(5) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

- (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low and moderate-income units;
- (b) At least 30% of all low and moderate-income units shall be two-bedroom units;
- (c) At least 20% of all low and moderate-income units shall be three-bedroom units; and
- (d) The remaining units may be allocated among two and three-bedroom units at the discretion of the developer.

(6) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low and moderate-income units within the

inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. The Borough shall not be permitted to claim credit to satisfy its obligations under the Settlement Agreement for age-restricted units that exceed 25% of all units developed.

B. Accessibility Requirements

(1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multi-story buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7.

(2) All restricted townhouse dwelling units and all restricted units in other multi-story buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

(a) An adaptable toilet and bathing facility on the first floor; and

(b) An adaptable kitchen on the first floor; and

(c) An interior accessible route of travel on the first floor; and

(d) An adaptable room that can be used as a bedroom, with a door or casing for the installation of a door, on the first floor; and

(e) If not all of the foregoing requirements in 2.(a) through 2.(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs 2.(a) through 2.(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

(f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Hillsdale has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

[1] Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

[2] To this end, the builder of restricted units shall deposit funds within the Borough of Hillsdale's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

[3] The funds deposited under paragraph (f)[2] above shall be used by the Borough of Hillsdale for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

[4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Hillsdale for the conversion of adaptable to accessible entrances.

[5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

[6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

C. Design.

(1) In inclusionary developments, to the extent possible, low and moderate-income units shall be integrated with the market units.

(2) In inclusionary developments, low and moderate income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices.

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low income and moderate income units, provided that at least 13% of all low and moderate income rental units shall be affordable to very-low income households, earning 30% or less of the regional median household income, with such very-low income units counted the low income housing requirement.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate income ownership units must be available for at least three different sales prices for each bedroom type, and low income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (10) The rent of low and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for its Section 8 program.

310-184 Occupancy Standards.

A. In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- (1) Provide an occupant for each bedroom;
- (2) Provide children of different sexes with separate bedrooms;
- (3) Provide separate bedrooms for parents and children; and
- (4) Prevent more than two persons from occupying a single bedroom.

310-185 Control Periods for Restricted Ownership Units and Enforcement Measures.

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Hillsdale takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

310-186 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.1, as may be amended and supplemented, including:

- (1) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (3) The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low and moderate-income purchasers and those paid by market purchasers
- (4) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 310-154.

310-187 Buyer Income Eligibility.

A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.

B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit moderate income purchasers to buy low income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate income households shall retain the required pricing and pricing restrictions for low income units.

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

310-188 Limitations on Indebtedness Secured by Ownership Unit; Subordination.

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

310-189 Capital Improvements to Ownership Units.

A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

310-190 Control Periods for Restricted Units.

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80- 26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Hillsdale takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Somerset. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is

designated as a very-low, low or moderate-income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

- (1) Sublease or assignment of the lease of the unit;
- (2) Sale of other voluntary transfer of the ownership of the unit; or
- (3) The entry and enforcement of any judgement of foreclosure on the property containing the unit.

310-191 Rent Restrictions for Rental Units; Leases.

A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

C. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

310-192 Tenant Income Eligibility.

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

- (1) Very-low income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
- (2) Low income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
- (3) Moderate income rental units shall be reserved for households with a gross household income less than 80% of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low income household, low income household or a moderate income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
- (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- (3) The household is currently in substandard or overcrowded living conditions;
- (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
- (5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in A(1) through B(5) above with the Administrative Agent, who shall counsel the household on budgeting.

310-193 Municipal Housing Liaison.

A. The Borough of Hillsdale shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee.

B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Hillsdale, including the following responsibilities which may not be contracted out to the Administrative Agent:

- (1) Serving as Hillsdale's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- (2) Monitoring the status of all restricted units in Hillsdale's Fair Share Plan;
- (3) Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
- (4) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
- (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

C. Subject to the approval of the Court, the Borough of Hillsdale shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

D. Compensation. Compensation shall be fixed by the governing body at the time of the appointment of the Municipal Housing Liaison.

310-194 Administrative Agent.

A. The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Hillsdale and the provisions of N.J.A.C. 5:80-26.15; and
- (2) Providing counseling or contracting to provide counseling services to low and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

B. Household Certification:

- (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low or moderate-income unit;
- (3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region

where the units are located; and

(6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Hillsdale when referring households for certification to affordable units.

C. Affordability Controls:

(1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

(2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

(3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Bergen County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;

(4) Communicating with lenders regarding foreclosures; and

(5) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Sales and Rerentals:

(1) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and

(2) Instituting and maintaining an effective means of communicating information to low and moderate income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

(1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

(2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

(3) Notifying the municipality of an owner's intent to sell a restricted unit; and

(4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

(1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

(2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

(3) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

(4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

(5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

(6) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

(1) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

(2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.

(3) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

310-195 Affirmative Marketing Requirements.

A. The Borough of Hillsdale shall adopt by resolution an Affirmative Marketing Plan, subject to the approval of the Court that is compliant with N.J.A.C. 5:80-25.15, as may be amended and supplemented.

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the New Jersey State Conference of the NAACP, FSHC, the Bergen County Chapter of the NAACP, the Latino Action Network and the Bergen Urban League of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 1 and is required to be followed throughout the period of restriction.

C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties.

D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re rentals. The Administrative Agent designated by the Borough of Hillsdale shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

H. Applications for affordable housing shall be available in several locations, including, at a minimum, the Danforth Memorial Library, Johnson Free Public Library, Hudson County Library, Sussex County Main Library, Sussex County Administration Building, Hudson County Administration Building, Passaic County Administration Building, Bergen County Administration Building, Hillsdale Library, the Hillsdale Municipal Building and the developer's rental office. Pre-applications may be emailed to prospective applicants upon request. Otherwise, hard copies are available from the Municipal Housing Liaison.

I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

310-196 Enforcement of Affordable Housing Regulations.

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an Owner, Developer or Tenant of a low or moderate income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

(1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing

affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

(a) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense. In the case of an Owner who has rented a low or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Hillsdale Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(b) In the case of an Owner who has rented a low or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

(2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low or moderate-income unit:

(a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

(b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

(c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low and moderate income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

(d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low and moderate income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

310-197 Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

Section 2. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This Ordinance shall take effect upon passage and publication as provided by law.

BE IT RESOLVED, that Ordinance No. 18-11 does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Mayor and Council in the Municipal Building, 380 Hillsdale Avenue, Hillsdale, New Jersey, on June 12, 2018 and at said time and place all persons interested will be given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said ordinance in the Ridgewood News once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage.

Motion by Council Member Lundy, Second by Council Member DeRosa.

Roll Call Vote:

Ayes: Councilmembers Segalas, Horvath, DeRosa, Lundy

Nays: None

Absent: Council Members Karcich and Council President Pizzella

18-12 – (Introduction)

An Ordinance of the Borough of Hillsdale Amending and Supplementing Chapter 310 of the Code to Establish a New MU-1 Mixed-Use 1 District, and to set Forth the Standards and Criteria Applicable Thereto

WHEREAS, the Borough Council of the Borough of Hillsdale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

WHEREAS, the Borough Council has determined that certain lands are suited for rezoning, as follows:

Block 1201, Lot 11

WHEREAS, the Borough has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

WHEREAS, the location of the site proximate to the Hillsdale train station makes it an ideal location for mixed-use and inclusionary development within the Borough, with no expected impacts on the Borough or bordering municipalities.

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

Section 1. Chapter 310 of the Code of the Borough of Hillsdale, Section 310-4, "Definitions" is hereby amended and supplemented by adding the underlined text alphabetically, as follows:

MIXED USE - A lot or structure containing more than one principal zoning use.

MULTI-FAMILY HOUSING — A building containing three or more dwelling units that share common horizontal and/or vertical separations.

Section 2. Chapter 310 of the Code of the Borough of Hillsdale, Section 310-48, "Districts" is hereby amended and supplemented by adding the underlined text alphabetically, as follows:

MU-1 Mixed-Use 1

Section 3. Chapter 310 of the Code of the Borough of Hillsdale, Article XIII "Use Schedule" is hereby amended to create a new Section 310-53.1 "Mixed-Use 1 District" by adding the underlined text as follows:

310-53.1 Mixed-Use 1 District

A. Principal permitted uses.

- (1) Professional offices
- (2) Retail businesses and personal service establishments in accordance with the Commercial (C) District
- (3) Offices, banks, and fiduciary institutions
- (4) Restaurants, except drive-in and drive-thru restaurants
- (5) Medical and dental offices
- (6) Multi-family housing above the ground floor
- (7) Any combination of the above permitted uses

B. Permitted accessory uses.

- (1) Surface parking, limited to the rear of the building
- (2) Signs
- (3) Fences and walls
- (4) Outdoor dining

C. Bulk requirements.

- (1) Building heights (maximum) - 3 stories and 40 feet
- (2) Building Coverage (maximum) - 65%
- (3) Lot Area (minimum) - 2 acres
- (4) Front yard (minimum) - 10 feet
- (5) Front yard (maximum) - 15 feet
- (6) Side yard (minimum) - 25 feet
- (7) Rear yard (minimum) - 25 feet
- (8) Impervious coverage (maximum) - 80%
- (9) Residential density (maximum) - 20 units per acre
- (10) Retaining walls, sidewalks, walkways, fences, above-ground and underground utilities shall be permitted within the setbacks.

D. Landscaping.

- (1) Any areas not paved shall be landscaped with a mix of deciduous and evergreen trees and low ground cover.
- (2) Parking areas with more than 20 spaces require one landscaped island for every 15 parking spaces, planted with trees and low ground cover.
- (3) A landscaped buffer of dense evergreen plantings no less than six feet in height and five feet in depth, and/or a six-foot-tall board-on-board fence shall be required on all lot lines to adjacent residential uses or zones and shall be used to screen off-street parking.

E. Lighting – Subject to §310-110. Lighting shall not exceed 0.2 footcandles at any property line.

F. Refuse – Subject to §310-109. Refuse and recycling must be located either interior to a building in a designated refuse storage area or located in a side or rear yard setback area, no closer than 10 feet to any adjacent lot line, enclosed on all four sides, and screened using wood fencing or other attractive material.

G. Architectural Requirements.

- (1) The architectural treatment of the front facade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building facing a public street shall be architecturally designed to be consistent with regard to style, materials, colors and details.
- (2) Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.
- (3) All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
- (4) All rooftop mechanical equipment, inclusive of solar equipment, shall be screened from view from all vantage points at grade or below the roof.
- (5) Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections such as canopies and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, in the case of a pitched roof, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
- (6) The maximum spacing between building wall offsets shall be 50 feet.
- (7) The minimum projection or depth of any individual vertical offset shall be 1.5 feet.
- (8) The maximum spacing between roof offsets shall be 50 feet.
- (9) All ground-level retail and service uses that face a public space shall have clear glass on at least 60% of their facades between two and eight feet above grade.

H. Multi-family residential standards.

- (1) Residential units shall have the following minimum unit sizes:
 - (a) One-bedroom – 700 square feet
 - (b) Two-bedroom – 850 square feet
 - (c) Three-bedroom – 1,100 square feet
- (2) A maximum of 20% of the market-rate units may be three-bedroom units.

I. Affordable housing requirements.

- (1) If the residential units are rental, 15% of the units shall be reserved for affordable households. If the units are for-sale, 20% of the units shall be reserved for affordable households.
- (2) The affordable units shall have a minimum 30-year deed restriction. Any such affordable units shall comply with UHAC, applicable COAH affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws.
- (3) The units shall meet the bedroom distribution required by the Uniform Housing Affordability Controls.
- (4) The units shall meet the low/moderate income split required by the Uniform Housing Affordability Controls and provide at least 13% of the units as very-low-income units as mandated by the Fair Housing Act.
- (5) The developer shall be responsible for retaining a qualified Administrative Agent at the developer's sole cost and expense for the lifetime of the deed restriction. This shall include the initial rental/sale of the unit and the ongoing compliance. The developer shall utilize the Borough's Administrative Agent or a Borough-approved equivalent.
- (6) The affordable units shall be family affordable units.
- (7) The developer shall be responsible for paying the required development fees as outlined by the Statewide Non-Residential Development Fee Act applicable to the non-residential portion of the development.
- (8) Development shall comply with Chapter 310, Article XXXIII Affordable Housing Regulations.

Section 4. Parking. Chapter 310 of the Code of the Borough of Hillsdale is hereby amended and supplemented by adding new Section 310-58.1 "Parking Areas in Mixed Use Districts" and amending Section 310-59 "Required off-street Parking Spaces" and amending Section 310-113 "Parking" with the underlined text as follows:

310-58.1 Off-street parking Mixed-Use Districts.

- A. No parking shall be permitted between a street right-of-way and the primary street-facing façade wall.
- B. All parking areas shall be well screened to a minimum height of four feet by the use of appropriate plantings of sufficient height and density so as to obscure the view of such parking areas from all streets and adjacent properties.
- C. Where a parking lot or area abuts a residential use or zone, no parking shall be located closer than 10 feet to said zone boundary.
- D. All required parking must be provided on-site.
- E. Parking shall be subject to additional requirements per §310-59.

310-59 Required Off-street Parking Spaces.

- R. Multi-family housing: Residential Site Improvement Standards.

310-113 Parking.

- E. Parking areas may be located in any yard space except where otherwise prohibited, but shall not be closer than 10 feet to any street line.

Section 5. Signage. Chapter 310 of the Code of the Borough of Hillsdale is hereby amended and supplemented with the underlined text by revising Section 310-65 "Signs Permitted in the Commercial District" as follows:

310-65 Signs Permitted in the Commercial and Mixed-Use Districts.

Section 6. The Official Zoning Map shall be changed for Block 1201, Lot 11 to create the MU-1 District.

Section 7. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 8. All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

REPEALER. Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

EFFECTIVE DATE. This Ordinance shall not take effect until approved by the Court.

BE IT RESOLVED, that Ordinance No. 18-12 does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Mayor and Council in the Municipal Building, 380 Hillsdale Avenue, Hillsdale, New Jersey, on June 12, 2018 and at said time and place all persons interested will be given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said ordinance in the Ridgewood News once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage.

Motion by Council Member DeRosa, Second by Council Member Lundy.

Roll Call Vote:

Ayes: Councilmembers Lundy, Segalas, Horvath, DeRosa

Nays: None

Absent: Council Members Karcich and Council President Pizzella

18-13 – (Introduction)

An Ordinance of the Borough of Hillsdale Amending and Supplementing Chapter 310 of the Code to Establish a New MU-2 Mixed-Use 2 District, and to set Forth the Standards and Criteria Applicable Thereto

WHEREAS, the Borough Council of the Borough of Hillsdale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

WHEREAS, the Borough Council has determined that certain lands are suited for rezoning, as follows:

Block 1102, Lot 2, 3, 4

WHEREAS, the Borough has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

WHEREAS, the location of the site proximate to the Hillsdale train station makes it an ideal for mixed use and inclusionary development within the Borough, with no expected impacts on the Borough or bordering municipalities.

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

Section 1. Chapter 310 of the Code of the Borough of Hillsdale, Section 310-48, "Districts" is hereby amended and supplemented by adding the underlined text alphabetically, as follows:

MU-2 Mixed-Use 2

Section 2. Chapter 310 of the Code of the Borough of Hillsdale, Article XIII "Use Schedule" is hereby amended to create a new Section 310-53.2 "Mixed-Use 2 District" by adding the underlined text as follows:

310-53.2 Mixed-Use 2 District.

A. Principal permitted uses.

- (1) Professional Offices
- (2) Retail businesses and personal service establishments in accordance with the Commercial (C) District.
- (3) Offices, banks, and fiduciary institutions
- (4) Restaurants, except drive-in and drive-thru restaurants
- (5) Medical and dental offices
- (6) Multi-family housing above the ground floor
- (7) Any combination of the above permitted uses

B. Permitted accessory uses.

- (1) Surface parking, limited to the rear of the building
- (2) Signs
- (3) Fences and walls
- (4) Outdoor dining

C. Bulk requirements.

- (1) Building heights (maximum) - 3 stories and 40 feet
- (2) Building Coverage (maximum) - 70%
- (3) Lot Area (minimum) - 30,000 square feet
- (4) Lot Frontage and width (minimum) - 100 feet
- (5) Front yard (minimum) - 5 feet
- (6) Front yard (maximum) - 15 feet
- (7) Side yard (minimum) - 5 feet
- (8) Rear yard (minimum) - 25 feet
- (9) Impervious coverage (maximum) – 90%
- (10) Residential density (maximum) - 20 units per acre
- (11) Retaining walls, sidewalks, walkways, fences, above-ground and underground utilities shall be permitted within the setbacks.

D. General requirements.

- (1) Multiple principle structures shall be permitted on a single site.
- (2) Buildings shall be at least 20 feet apart.
- (3) All street frontages, regardless of building orientation, shall be treated as front yards with regard to setback requirements and parking prohibitions.

E. Landscaping.

- (1) Any areas not paved shall be landscaped with a mix of deciduous and evergreen trees and low ground cover.
- (2) Parking areas with more than 20 spaces require one landscaped island for every 15 parking spaces, planted with trees and low ground cover.
- (3) A landscaped buffer of dense evergreen plantings no less than six feet in height and five feet in depth, and/or a six-foot-tall board-on-board fence shall be required on all lot lines to adjacent residential uses or zones and shall be used to screen off-street parking.

F. Lighting – Subject to §310-110. Lighting shall not exceed 0.2 footcandles at any property line.

G. Refuse – Subject to §310-109. Refuse and recycling must be located either interior to a building in a designated refuse storage area, or located in a side or rear yard setback area, no closer than 10 feet to any adjacent lot line, enclosed on all four sides, and screened using wood fencing or other attractive material.

H. Parking.

- (1) No curb cuts shall be permitted from Broadway. All parking shall be accessed from driveways along either Orchard Street and/or Park Avenue.
- (2) In the absence of lot consolidation, permanent access easements for all parcels must be created for parking lot access.

I. Architectural requirements.

- (1) The architectural treatment of the front facade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building facing a public street shall be architecturally designed to be consistent with regard to style, materials, colors and details.
- (2) Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.
- (3) All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
- (4) All rooftop mechanical equipment, inclusive of solar equipment, shall be screened from view from all vantage points at grade or below the roof.
- (5) Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections such as canopies and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall.

Similarly, in the case of a pitched roof, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

- (6) The maximum spacing between building wall offsets shall be 50 feet.
- (7) The minimum projection or depth of any individual vertical offset shall be 1.5 feet.
- (8) The maximum spacing between roof offsets shall be 50 feet.
- (9) All ground-level retail and service uses that face a public space shall have clear glass on at least 60% of their facades between two and eight feet above grade.

J. Multi-family residential standards.

- (1) Residential units shall have the following minimum unit sizes:
 - (a) One-bedroom – 700 square feet
 - (b) Two-bedroom – 850 square feet
 - (c) Three-bedroom – 1,100 square feet.
- (2) A maximum of 20% of the market-rate units may be three-bedroom units.

K. Affordable housing requirements.

- (1) If the residential units are rental, 15% of the units shall be reserved for affordable households. If the units are for-sale, 20% of the units shall be reserved for affordable households.
- (2) The affordable units shall have a minimum 30-year deed restriction. Any such affordable units shall comply with UHAC, applicable COAH affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws.
- (3) The units shall meet the bedroom distribution required by the Uniform Housing Affordability Controls.
- (4) The units shall meet the low/moderate income split required by the Uniform Housing Affordability Controls and provide at least 13% of the units as very-low-income units as mandated by the Fair Housing Act.
- (5) The developer shall be responsible for retaining a qualified Administrative Agent at the developer's sole cost and expense for the lifetime of the deed restriction. This shall include the initial rental/sale of the unit and the ongoing compliance. The developer shall utilize the Borough's Administrative Agent or a Borough-approved equivalent.
- (6) The affordable units shall be family affordable units.
- (7) The developer shall be responsible for paying the required development fees as outlined by the Statewide Non-Residential Development Fee Act applicable to the non-residential portion of the development.
- (8) Development shall comply with Chapter 310, Article XXXIII Affordable Housing Regulations.

Section 3. The Official Zoning Map shall be changed for Block 1102, Lot 2, 3, 4 to create the MU-2 District.

Section 4. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

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

SEVERABILITY. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

REPEALER. Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

EFFECTIVE DATE. This Ordinance shall not take effect until approved by the Court.

BE IT RESOLVED, that Ordinance No. 18-13 does now pass a first reading and that said Ordinance be further considered for final passage at a meeting of the Mayor and Council in the Municipal Building, 380 Hillsdale Avenue, Hillsdale, New Jersey, on June 12, 2018 and at said time and place all persons interested will be given an opportunity to be heard concerning the same, and the Clerk is hereby authorized and directed to publish said

ordinance in the Ridgewood News once, at least one week prior to said hearing, with a notice of its introduction and of the time and place, when and where said ordinance would be considered for final passage.

Motion by Council Member Horvath, Second by Council Member DeRosa.

Roll Call Vote:

Ayes: Councilmembers Lundy, Segalas, Horvath, DeRosa

Nays: None

Absent: Council Members Karcich and Council President Pizzella

ADJOURNMENT:

Motion to adjourn by Council Member Lundy, Second by Council Member DeRosa, and unanimously carried.

THE NEXT MEETING OF THE MAYOR AND COUNCIL WILL BE

May 8, 2018 7:30 pm

Denise Kohan, Municipal Clerk

APPROVED AS PRESENTED

Denise Kohan, Municipal Clerk