

BOROUGH OF HO-HO-KUS
PUBLIC MEETING OF
THE MAYOR AND COUNCIL
JULY 25, 2017- 7:30 PM
MINUTES

Mayor Randall called the regular meeting to order at 7:30 PM. The open meeting statement was read.

The combined meeting of the Mayor and Council of the Borough of Ho-Ho-Kus is now in session. In accord with the provisions of Section 5 of the "Open Public Meetings Act", I wish to advise that notice of this meeting has been posted in the front lobby entrance to the Council Chambers of the Borough Hall and that a copy of the schedule of this meeting has also been filed with the Borough Clerk, and further that the required 48 hour notices have been sent to The Record and the Ridgewood News - newspapers with general circulation throughout the Borough of Ho-Ho-Kus

Roll Call: Members present were: Mayor Randall, Councilmembers, Troast, Rorty and Crossley Also present were borough administrator William Jones and attorney David Bole.

Absent: Councilmembers Shell, Iannelli and Fiato

Mayor Randall led all in the pledge of Allegiance

APPROVAL OF MINUTES

- June 20, 2017 Work Session
Absent: Cn. Troast
Motion: Councilmember Crossley
Second: Councilmember Rorty
- June 27, 2017 Public
Absent: Cn. Iannelli
Motion: Councilmember Troast
Second: Councilmember Crossley

COMMITTEE REPORTS- June 2017

On file

ADMINISTRATORS REPORT

Received pricing for Saddle Brook Drive bridge repairs. Project will be started sometime in September. Preconstruction meeting set for Brandywine project August 3rd. State shut down caused some delays with our tax rates. They are finally in and the taxes will be mailed out shortly, the residents are given an extension of 25 days as stated by law.

PUBLIC DISCUSSION

None

CORRESPONDENCE

1. Retirement Letter Water and Solid Waste Registrar– Claudette Wahid.
2. Planning Board Report on Review of Ordinance dated July 24, 2017

INTRODUCTION OF ORDINANCES

None

Daniel Hauben Clarke Caton Hintz gave a brief history of the Borough's obligation with Affordable Housing and the Ordinances to be adopted.

Randy Rodger 149 Blauvelt Ave asked if the parking spaces in the train station parking lot would be affected with the Ordinance. If parking spaces were to be removed how would it be replaced? Mayor Randall commented that it's not within the Council's purview, the Zoning doesn't require any spaces, it allows for construction of the future project which is contemplated in the downtown area, there will be discussions as to what the building will look like in the future, it's not a settled issue in relation to the Ordinance. Mr. Rodger asked if removing the existing VFW building is on the table. Mayor Randall responded that VFW owns and operates the building and not is part of the project.

FINAL PASSAGE OF ORDINANCES

- Ord # 2017-09 "Fair Share Housing

AN ORDINANCE OF THE BOROUGH OF HO-HO-KUS, COUNTY OF BERGEN AND STATE OF NEW JERSEY
ADDING CHAPTER 2 "AFFORDABLE HOUSING" TO THE CODE OF THE BOROUGH OF HO-HO-KUS TO
ADDRESS THE REQUIREMENTS OF THE NJ SUPERIOR COURT

BE IT ORDAINED by the Borough Council of the Borough of Ho-Ho-Kus, County of Bergen and State of New Jersey, that the "Code of the Borough of Ho-Ho-Kus" ("Code") is hereby amended as follows:

Section I. Chapter 10, Article XII, "Municipal Housing Liaison", Repealed. That Article XII, "Municipal Housing Liaison" of Chapter 10 of the Code is hereby repealed.

Section II. Chapter 2, entitled "Affordable Housing Ordinance," Created. That Chapter 2, "Affordable Housing" is hereby added to the Code to read as follows.

Chapter 2
AFFORDABLE HOUSING
ARTICLE I

General Program Purposes, Procedures

§ 2-1. Affordable Housing Obligation.

- A. This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing", *N.J.A.C.* 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), *N.J.A.C.* 5:80-26.1 et seq., and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at *N.J.S.A.* 52:27D-329.1).
- B. This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- C. The Ho-Ho-Kus 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 Plan has also been

endorsed by the Borough Council of the Borough of Ho-Ho-Kus. The Fair Share Plan describes the ways the Borough shall address its fair share for low- and moderate-income housing as determined by the Superior Court and documented in the Housing Element.

- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of *N.J.A.C. 5:93*, as may be amended and supplemented.
- E. The Borough shall file monitoring and status reports with the Superior Court and place the reports on its municipal website. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring evaluation report prepared by the Special Master in accordance with *N.J.A.C. 5:91* shall be available to the public at the Ho-Ho-Kus Borough Municipal Building, 333 Warren Avenue, Ho-Ho-Kus, New Jersey 07423.

§ 2-2. Definitions. As used herein the following terms shall have the following meanings:

“Accessory apartment” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

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

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, *N.J.A.C. 5:23-7*.

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, *N.J.A.C. 5:91*, *N.J.A.C. 5:93* and *N.J.A.C. 5:80-26.1 et seq.*

“Affirmative marketing” means 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” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in *N.J.A.C. 5:93-7.4*; 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 development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to *N.J.A.C. 5:93*, and/or funded through an affordable housing trust fund.

“Agency” means 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” means 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 where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years 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 arrangement” means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but

is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the 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” means a facility 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” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301 et seq.*).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require 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” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means 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.*

“Fair Share Plan” means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of *N.J.A.C. 5:93-5*.

“Housing Element” means the portion of the Borough's Master Plan, required by the Municipal Land Use Law (“MLUL”), *N.J.S.A. 40:55D-28b(3)* and the Act, that includes the information required by *N.J.A.C. 5:93-5.1* and establishes the Borough's fair share obligation.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50% or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means 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 or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or

rent at any price.

“Median income” means the median income by household size for the applicable county, as adopted annually by COAH or approved by the NJ Superior Court.

“Moderate-income household” means a household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means 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” means 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” means 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 adopted/approved Regional Income Limits.

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

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

“Special master” means an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

“UHAC” means the Uniform Housing Affordability Controls set forth in *N.J.A.C.* 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30% or less of the median household income.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means 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 rehabilitation.

§ 2-3. Borough-wide Mandatory Set-Aside

- A. A multi-family or single-family attached development providing a minimum of five (5) new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provide for densities at or above six (6) units per acre is required to include an affordable housing set-aside of 20% if the affordable units will be for sale and 15% if the affordable units will be for rent. *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 Ho-Ho-Kus to grant such rezoning, variance or other relief. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.*
- B. This Borough-wide mandatory set-aside requirement does not supersede the effects or requirements of the Downtown Inclusionary Overlay Zoning (§85-13.1) for any inclusionary multi-family

residential development that occurs within the boundaries of the Overlay area.

§ 2-4. New Construction. The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

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

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

C. Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with *N.J.A.C. 5:93-8.10* (c).

D. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

E. 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.
2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
3. Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low income households.
4. 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.
5. 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. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

F. Accessibility Requirements:

1. The first floor of all new restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) other dwelling unit 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 multistory dwelling units attached to at least one (1) other dwelling unit shall have the following features:
- (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel on the first floor;
 - (d) An interior accessible route of travel shall not be required between stories within an individual unit;
 - (e) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; 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 the Borough 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 disabled person 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 Ho-Ho-Kus' 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 (2) herein, shall be used by the Borough for the sole purpose of making the adaptable entrance of any 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 for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Ho-Ho-Kus.

(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 of Ho-Ho-Kus' affordable housing trust fund in care of the Municipal Treasurer 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*.

G. 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 and by the Superior Court, utilizing the regional income limits established.
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 low- and moderate-income 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.
 - (a) At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
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 prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
 - (a) A studio or efficiency unit 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 rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:
 - (a) A studio or efficiency unit 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 to 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 household size 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. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, the rent may be increased, if such increase is consistent with the regional income limits most recently published by COAH, the Court, or other appropriate

jurisdiction.

11. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ 2-5. Condominium and Homeowners Association Fees.

For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

§ 2-6. Reserved.

§ 2-7. Reserved.

§ 2-8. Reserved.

§ 2-9. Reserved.

ARTICLE II

Affordable Unit Controls and Requirements

§ 2-10. Purpose.

The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.

§ 2-11. Affirmative Marketing.

- A. The Borough shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with *N.J.A.C.* 5.80-26.15, 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 also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 1 and covers the period of deed restriction.
- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1, comprised of Hudson, Bergen, Sussex, and Passaic Counties.
- D. The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
- 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 process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- G. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Ho-Ho-Kus.

§ 2-12. Occupancy Standards.

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 1. Provide an occupant for each bedroom;
 2. Provide children of different sex with separate bedrooms; and

3. Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.
- § 2-13. Selection of Occupants of Affordable Housing Units.
- A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
 - B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of *N.J.A.C. 5:80-26 et seq.*
- § 2-14. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.
- A. Control periods for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.5*, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years.
 - B. Rehabilitated owner-occupied single family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
 - C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
 - D. 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.
 - E. 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 that follows the expiration of the applicable minimum control period provided under *N.J.A.C. 5:80-26.5(a)*, as may be amended and supplemented.
- § 2-15. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices. 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:
- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
 - B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
 - C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
 - D. 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. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.
- § 2-16. 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. 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 certified monthly income.

§ 2-17. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period 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 that unit, as such price is determined by the administrative agent in accordance with *N.J.A.C.5:80-26.6(b)*

§ 2-18. Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with *N.J.A.C. 5:80-26.11*, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years.

- 1. Restricted rental units created as part of developments receiving nine percent (9%) Low Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period.

- B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. 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 Bergen. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- D. 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 or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

§ 2-19. Price Restrictions for Rental Units; Leases.

- A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, 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 5% 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.

§ 2-20. 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, 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 proposed 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 (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ 2-21. Conversions.

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit

§ 2-22. Reserved.

§ 2-23. Reserved.

§ 2-24. Reserved.

ARTICLE III
Administration

§ 2-25. Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison for the Borough of Ho-Ho-Kus is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Borough Council and be subject to the approval by the Superior Court.
- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Ho-Ho-Kus.
- C. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in *N.J.A.C. 5:93*.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Ho-Ho-Kus, including the following responsibilities which may not be contracted out to the Administrative Agent:
 1. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 2. The implementation of the Affirmative Marketing Plan and affordability controls.
 3. When applicable, supervising any contracting Administrative Agent.
 4. Monitoring the status of all restricted units in the Borough of Ho-Ho-Kus' Fair Share Plan;
 5. Compiling, verifying and submitting annual reports as required by the Superior Court;

6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

§ 2-26. Administrative Agent.

- A. The Borough shall designate by resolution of the Borough Council, subject to the approval of the Superior Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with *N.J.A.C.* 5:93 and UHAC.
- B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Superior Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- C. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in *N.J.A.C.* 5:80-26.14, 16 and 18 thereof, which includes:
 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;
 2. Affirmative Marketing;
 3. Household Certification;
 4. Affordability Controls;
 5. Records retention;
 6. Resale and re-rental;
 7. Processing requests from unit owners; and
 8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
 9. The Administrative Agent shall, as delegated by the Borough Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ 2-27. 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, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the 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 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 found 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 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - (b) In the case of an Owner who has rented his or her low- or moderate-income unit

in violation of the regulations governing affordable housing units, payment into the Borough of Ho-Ho-Kus Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) In the case of an Owner who has rented his or her 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, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any 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- and moderate-income unit.
- C. Such 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 the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
 - D. 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 and to the 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.
 - E. 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.
 - F. 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, the municipality may acquire title to the low- and moderate-income unit by satisfying 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.

- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§ 2-28. Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Borough.

Section III. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section IV. Severability. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section V. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law. The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Ho-Ho-Kus, in the County of Bergen, State of New Jersey, held on June 27, 2017. It will be further considered for final passage, after public hearing thereon, at a meeting of the Borough Council to be held in the meeting room of Borough Hall, 333 Warren Avenue, in the Borough of Ho-Ho-Kus on July 25, 2017 at 7:30 p.m., and during the week prior and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's Office to the members of the general public who shall request the same.

Motion: Councilmember Rorty

Second: Councilmember Troast

Absent: Councilmembers Shell, Iannelli and Fiato.

- Ord # 2017-10 "Overlay Zone"

AN ORDINANCE OF THE BOROUGH OF HO-HO-KUS TO AMEND ARTICLE IV, "DISTRICT REGULATIONS" OF CHAPTER 85, "ZONING ORDINANCE OF THE BOROUGH OF HO-HO-KUS", TO CREATE DOWNTOWN INCLUSIONARY OVERLAY RESIDENTIAL / MIXED-USE ZONES 1 THROUGH 4, ALSO KNOWN AS OL-1, OL-2, OL-3, AND OL-4

BE IT ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus as follows:

Section 1. Section 85-13.1, entitled "Downtown Inclusionary Overlay Residential / Mixed-Use Zones 1 through 4," Created. That Section 85-13.1 is hereby added to Chapter 85, Article IV, to read as follows:

- A. Purpose: To address its affordable housing unmet need obligation, the Borough shall implement an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing in the Borough's Downtown that is affordable to low- and moderate-income households. This Ordinance establishes the Downtown Inclusionary Overlay Zone, and permits the creation of multi-family housing within the Downtown area (as outlined in the appended maps) provided that such housing complies with a required 20% inclusionary set-aside requirement and with the requirements of this ordinance.
- B. Area Affected: The Downtown Inclusionary Overlay Zone is comprised of four (4) subzones shown on the maps in the appendix to this code. Overlays 1 and 2 (OL-1 and OL-2) comprise the blocks and lots surrounding North Maple Avenue and Sheridan Avenue. Overlay 3 (OL-3) includes commercial lots fronting on Franklin Turnpike, Sycamore

Avenue, and Warren Avenue, and Overlay 4 (OL-4) includes the first three lots north of Warren Avenue, between Sycamore Avenue and Sheridan Avenue.

C. Special Rules: Inclusionary multi-family development is permitted in each OL Overlay zone, conditioned on compliance with this ordinance and the following limitations:

- (1) Where a property in the OL-1, OL-2, or OL-3 zones is to be developed with a multi-family inclusionary residential use and the underlying zone is GB General Business, residential uses are restricted to the upper stories of a building and the ground-story use shall be a non-residential use.
- (2) Where multi-family inclusionary development is to occur on a property in the OL-1 or OL-3 zones, and the underlying zone is an R-2 or R-4 Residential zone, non-residential uses are prohibited from occurring on the same property.
- (3) Where multi-family inclusionary development is to occur on a property in the OL-4 zone, such property may be developed for and contain a mix of multi-family residential use and public use.
- (4) In any multi-family inclusionary development permitted by this ordinance, at least 20% of the residential units must be affordable to low- and moderate-income households. In the event that 20% of the total number of residential units does not result in a full integer, the developer / property owner may choose one of two options of addressing the fractional unit.
 - (a) The developer / property owner may round the fractional number of units upward to provide one additional whole unit; or
 - (b) The developer / property owner provides the whole number of units resulting from the 20% set-aside on the full unit count of the development, and pay a 6% affordable housing development fee on the number of the balance of the total units at the site that do not generate a whole affordable housing unit from a 20% set-aside. The number of market rate units subject to the 6% development fee will be calculated as follows:

$$\text{Total \# of units} - (\text{Affordable units to be constructed} \times 5) = \text{\# of market rate units subject to dev. fee}$$

Examples:

If there are four (4) total units at a site, at least one (1) must be affordable or the developer must provide a development of 6% on each of the four (4) market rate units, because four (4) total units do not generate one (1) full affordable housing unit based on the 20% set-aside requirement.

Units subject to 6% development fee: $4 \text{ units} - (0 \text{ affordable units} \times 5) = 4 \text{ market rate units subject to dev. fee}$

If there are 18 total units, the developer must create four (4) affordable units or create three (3) affordable units and pay a fee of 6% on 3 units that do not generate one (1) whole affordable housing unit based on the 20% set-aside requirement.

Units subject to 6% development fee: $18 \text{ units} - (3 \text{ affordable units} \times 5)$

$$= 18 \text{ units} - 15 \text{ units}$$

$$= 3 \text{ market rate units subject to development fee}$$

- (i) The amount of the development fee shall be determined by the Borough prior to the issuance of a building permit, and shall be imposed as a condition of development approval.
 - (ii) In any multi-family development having five (5) or more residential units, at least one (1) unit must be established as affordable to low- and moderate-income households
- (5) All affordable units produced in an Overlay District must comply with the Borough's Affordable Housing

Ordinance at Chapter 2 of the Borough Code.

- (6) The effects and requirements of this Ordinance shall supersede the requirements of the Borough-wide Mandatory Set-Aside at §2-3.

D. Permitted Principal Uses in the Downtown Overlay District shall be limited to the following:

- (1) All uses permitted by the underlying zoning, except that.
 - (a) Where the GB district is the underlying zoning, only those uses permitted in the GB District by §85-13.A(2) through (10), (15) and (16) are permitted as the ground story uses in any mixed use, multi-family inclusionary development.
 - (b) Uses permitted by §85-13.A(11) through (14) are permitted as stand-alone uses and are not subject to any other conditions of the overlay zone ordinance. However, if a use permitted by §85-13.A(11) qualifies as an eligible affordable housing credit, then such use may be permitted as an upper story use.
- (2) A multi-family inclusionary residential use is permitted, conditioned on compliance with §85-13.1.C, Special Rules, in this ordinance.
- (3) In the OL-4 Overlay Zone, the following uses are permitted individually or as mixed-use, provided compliance with the density and building height requirements for the OL-4 zone are observed and each use has separate building entrances and parking areas.
 - (a) Municipal government uses, and
 - (b) Inclusionary, multi-family residential uses

E. Accessory buildings, structures and uses shall be permitted when used in conjunction with a principal permitted use, and in compliance with §85-15.1, Accessory Buildings and Structures.

- (1) Private residential garage and off-street parking, in accordance with §85-36, Off-street Parking and Loading, of the Zoning chapter, except where it is superseded by the rules in §85-13.1.H, Parking, below.
- (2) Decks, balconies and porches.
- (3) Sheds for tools and equipment for the maintenance of the grounds.
- (4) Outdoor recreational uses for residents and their guests.
- (5) Fences and hedges subject to the requirements of §85-37.3, Fences, except where superseded by this ordinance.
- (6) Signs subject to the requirements of §85-37, Signs, except where superseded by this ordinance.
- (7) Satellite antenna less than one meter in diameter.
- (8) Outdoor seating for residents, employees, and customers (§85-15.1.C of the Accessory Buildings and Structures section shall not prohibit these structures from being located in the front yard).
- (9) Outdoor dining/café, as regulated by §85-13.1.I(10), Outdoor Dining/Cafes, in this ordinance.
- (10) Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

F. Prohibited Uses:

- (1) Where inclusionary multi-family uses are permitted by this ordinance, non-residential uses are prohibited on a second or third story. However, where a mixed-use development is permitted by this ordinance with a ground-floor non-residential use, an office, utility room, or storage room associated with a ground-story non-

residential use in a three-story building may occupy not more than one-fifth (20%) of the gross floor area of the second story, provided that it is not accessed by any hall or stairway shared with residential uses in the same building.

- (2) Where the underlying zoning is GB, residential uses are prohibited from occupying the ground-story.
- (3) Except in the OL-4 zone, where the underlying zoning is R-2 or R-4, non-residential uses are prohibited.

G. Bulk Standards.

- (1) The bulk standards of the R-2 and R-4 zones shall be superseded by the following standards for any new multi-family development, provided that it conforms to the inclusionary set-aside standards of this ordinance, as follows:
 - (a) Maximum Improved Lot Coverage: 60%
 - (b) Maximum Lot Coverage: 40%
 - (c) Minimum open space requirements of the R-2 and R-4 zones do not apply.
 - (d) Front Yard Setback: 15 feet
- (2) The bulk standards of the GB zone shall apply to any property for which the underlying zoning is the GB zone, except that:
 - (a) The required front yard setback for any building complying with this ordinance shall be reduced to 3 feet from the public right of way line, or the existing average setback of neighboring buildings.
 - (b) Where two adjacent properties provide contiguous side yards, the minimum side yard requirement for each property is reduced from 10 feet to five (5) feet, so that the total space between the principal buildings is at least 10 feet, provided that access to the combined 10-foot side yard is shared between both properties. Otherwise, the existing side yard standards for the GB zone apply.
- (3) Density: The underlying zoning requirements shall be superseded by this ordinance to permit the following maximum net densities for each Overlay Subzone, in dwelling units per acre:
 - (a) OL-1: 15 du/ac
 - (b) OL-2: 12 du/ac
 - (c) OL-3: 12 du/ac
 - (d) OL-4: 6 du/ac
- (4) Number of Stories: The underlying zoning requirements shall be superseded by this ordinance to permit the following maximum number of stories for new or enlarged buildings in each Overlay Subzone:
 - (a) OL-1: 3 stories
 - (b) OL-2: 3 stories
 - (c) OL-3: 2 stories
 - (d) OL-4: 2 stories.
- (5) There shall be a planted buffer of at least five (5) feet between any parking area and the boundary of a contiguous residential zone outside of the Downtown Overlay area.
- (6) There shall be a planted buffer of at least 10 feet between any principal building and the boundary of a contiguous residential zone outside of the Downtown Overlay area.
- (7) All other properties and developments are subject to the side yard setbacks of the underlying zoning, except where otherwise provided in this section.

H. Parking.

- (1) Off-street parking shall be restricted to the rear yard or the side yard.
- (2) The minimum amount of parking required for a site shall be based on the rates required by §85-36, Off-Street Parking and Loading, except that:
- (a) Parking for residential units shall be calculated as:
 - (i) Studio/Efficiency and 1 Bedrooms: 0.8 spaces
 - (ii) 2-Bedroom: 1.3 spaces
 - (iii) 3-Bedroom: 1.9 spaces
 - (b) The minimum parking requirement for mixed-use sites shall be calculated based on the table below, as follows:
 - (i) Determine the minimum parking requirements for each use on the site pursuant to §85-36, Off-Street Parking and Loading, except that the following shall supersede those parking requirements in any mixed-use structure.
 - A. Sit down restaurants and bars: 1 parking space for every four (4) seats.
 - B. Take-out restaurant: 1 parking space for every 30 square feet of gross floor area of customer/patron space.
 - C. Office: 1 parking space for every 300 square feet of gross floor area.
 - D. Retail: 1 parking space for every 200 feet of gross floor area.
 - (ii) Multiply each minimum parking requirement by the corresponding percentages for each of the time periods set forth in columns b through g of the table below.
 - (iii) Calculate the total for each time period
 - (iv) The minimum parking requirement shall be the largest sum of the five columns

A	B	C	D	E	F	G
Land Use	Weekdays			Weekends		
	1 am to 7 am	7 am to 6 pm	6 pm to 1 am	1 am to 7 am	7 am to 6 pm	6 pm to 1 am
Office	5%	100%	5%	0%	15%	0%
Retail	0%	100%	80%	0%	100%	60%
Restaurant (not 24 hours)	20%	70%	100%	30%	75%	100%
Residential	100%	60%	100%	100%	75%	95%

Example. A ground floor restaurant with 36 seats (requiring 9 parking spaces), with a 7-space residential parking requirement and a 3-space office requirement:

A	B	C	D	E	F	G
Land Use	Weekdays			Weekends		
	1 am to 7 am	7 am to 6 pm	6 pm to 1 am	1 am to 7 am	7 am to 6 pm	6 pm to 1 am
Office	15%	300%	15%	0%	22.5%	0%
Restaurant	3.6%	25.2%	3.6%	1.08%	22.5%	3.6%
Residential	7%	4.2%	7%	7%	5.25%	6.75%

	7 am	pm	am	am	pm	am
Office	5% x 3	100% x 3	5% x 3	0% x 3	15% x 3	0% x 3
Retail	0% x 0	100% x 0	80% x 0	0% x 0	100% x 0	60% x 0
Restaurant (not 24 hours)	20% x 9	70% x 9	100% x 9	30% x 9	75% x 9	100% x 9
Residential	100% x 7	60% x 7	100% x 7	100% x 7	75% x 7	95% x 7

A	B	C	D	E	F	G
Land Use	Weekdays			Weekends		
	1 am to 7 am	7 am to 6 pm	6 pm to 1 am	1 am to 7 am	7 am to 6 pm	6 pm to 1 am
Office	0.15 → 1	3	0.15 → 1	0	0.45 → 1	0
Retail	0	0	0	0	0	0
Restaurant (not 24 hours)	1.8 → 2	6.3 → 7	9	3	6.75 → 7	9
Residential	7	4.2 → 5	7	7	5.25 → 6	6.65 → 7
Total	10	15	17	10	14	16

Example Parking Requirement - 17

- (v) The parking requirement calculated by this method will be subject to Board review.
 - A. At the time of Board review of the parking calculation for a mixed-use development, the Board may require the property owner to regulate the hours during which parking for one or more uses on the site is permitted.

(3) Alternative Parking Options:

- (a) If the parking requirement calculated in §85-13.1.H(1) above exceeds the number of parking stalls that a site can realistically accommodate, an applicant may address its parking balance as follows.
 - (i) Shared Parking. An applicant may participate in a shared parking agreement, provided the following:
 - A. A shared parking site for residents and employees shall not be further than 300 feet from the building, as measured by distance walked along public rights-of-way and pedestrian walkway areas.
 - B. A shared parking site for customers shall not be further than 500 feet from the building, as measured by distance walked along public rights-of-way and pedestrian walkway areas.

- C. All required barrier-free parking must be located on-site, and may not be displaced to a shared parking site.
 - (ii) An applicant requesting use of an off-site shared parking arrangement must submit a study demonstrating:
 - A. That the required parking cannot feasibly be provided on site without compromising the economic value of the proposed development,
 - B. That the distance between the site and the shared parking meets the requirements above,
 - C. That the proposed shared parking location can reasonably accommodate peak parking and traffic for all uses that will be sharing the parking.
- (b) An applicant requesting to use shared parking must enter into an agreement with the owner of the shared parking site.
 - (i) Shared Parking Agreement. A shared parking plan will be enforced through written agreement among all owners of record. The owner of the shared parking area shall enter into a written developer's agreement with the Borough with enforcement running to the Borough providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that the owner agrees to bear the expense of recording the agreement and such agreement shall bind his or her heirs, successors, and assigns. An attested copy of the agreement between the owners of record shall be submitted to the administrative officer for recordation in a form established by the Borough attorney. Recordation of the agreement must take place before issuance of a building permit or certificate of occupancy for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided on-site in accordance with the off-street parking schedules in this section. The written agreement shall be voided by the Borough if other off-street facilities are provided in accord with these zoning regulations.
- (c) Parking Fund Contribution. For an applicant that obtains variance or waiver relief for fewer parking spaces than required by §85-13.1.H(1) and (2) above, a payment shall be made to the Borough in the amount to be determined for each parking space in which said relief has been granted.
 - (i) The fee required under this §85-13.1.H(3)c shall only apply to new deficiencies in parking spaces resulting from a change in use.
 - (ii) An applicant is permitted to pay the fee in lieu of parking for not more than half of its required parking.
 - (iii) An applicant requesting to pay the fee in lieu of more than half of its required parking must receive permission from the Borough, based on a determination that the applicant cannot provide adequate parking on- or off-site without compromising the economic viability of the proposed residential and non-residential use, and that there are no available shared parking opportunities meeting the requirements of this chapter.
 - (iv) The said payment shall be deposited by the Borough into a dedicated account designated as "The Borough of Ho-Ho-Kus Parking Fund." The payment shall be due prior to issuance of a

building permit. Any funds deposited into said account shall be utilized by the Borough for the express purpose of installing, replacing or repairing parking spaces or parking lots on sites to be determined by the Borough Engineer, upon proper authorization from the Governing Board.

- (4) An applicant may request of the Governing Body a waiver or modification of the payment upon showing of good cause.
- (5) Per New Jersey Department of Transportation Bicycle Compatible Roadways and Bikeways design guidelines, all facilities that provide parking to the public shall provide parking for bicycles at the rate of one bicycle parking space per 10 automobile parking spaces for the first 100 parking stalls and one bicycle space for every 20 automobile parking spaces beyond that.
- (6) Circulation
 - (a) On-site parking shall be designed to avoid the backing out of vehicles onto public rights-of-way, except for townhouses where an individual townhouse unit's garage and associated parking apron is designed to allow one to back out directly onto a public right of way.
 - (b) For any new buildings with frontage on Maple Avenue, the Borough encourages the developer to attempt to connect driveways to Brookside Avenue or First Street before resorting to connecting the driveway to Maple Avenue
- (7) Landscaping in Parking Areas
 - (a) At least 15% of the ground area of parking lots (including driveways) shall be devoted to landscaping along the street right-of-way.
 - (b) Parking areas shall be provided with landscaping along adjoining streets and properties with plant material, fencing or a wall. Interior parking lot landscaping shall also be required. Landscaped areas should be located in protected areas such as along walkways, in center islands, or at the end of parking bays and shall be distributed throughout the parking area to mitigate the view of the parked vehicles without interfering with adequate sight distance for vehicles or pedestrians. The landscaping shall consist of hardy, low-maintenance varieties of trees, and shrub plantings no higher than three feet unless otherwise directed by the Board.
 - (c) One shade tree, with a minimum caliper size of two and a half (2.5) to three (3) inches at time of planting, measured three feet above the ground, shall be provided for every 10 parking spaces. Trees shall be staggered and/or spaced so as not to interfere with driver vision and shall have branches no lower than six feet.
 - (d) Loading areas shall be screened with landscaping, fencing, berms, walls or any combination thereof and shall not be less than six feet in height. The screening shall be sufficient to at least partially obscure the view of parked vehicles, loading platforms and loading activities.
 - (e) Parking located in a side yard must be screened from the public right-of-way by a fence designed and composed of materials that complement or enhance the architecture of the neighborhood.
- (8) Flood Plain:
 - (a) Within the Flood Fringe area, parking must be compliant with N.J.A.C. 7:13-11.6.
 - (b) Parking located outside of the flood hazard area may be below-grade.

I. Design Standards: The following are design standards; deviations from these standards require waiver relief.

- (1) Context. Development in overlay zones shall be sensitive to the established and historic context of its surrounding developed character, in recognition of the fact that a cohesive built environment is an essential component of the Borough's character. In an effort to ensure a visually attractive environment, new buildings and reconstructions are encouraged to incorporate such building elements as recessed or extended entrances, enhanced corner treatments, graphic panels, display windows, and vertical and horizontal articulations, as detailed below. The following design and related streetscape standards are to be addressed as part of all development applications in the Overlay Zones.
- (2) Goals of Design Standards.
 - (a) To provide designs that complement the historic developed character of the Downtown and its surrounding neighborhoods, through appropriate massing, scale, use of building materials and original architectural details, and fenestration.
 - (b) To provide multi-story buildings to be designed with horizontal and vertical articulation to facilitate an enhanced visual interest in the neighborhood's architecture, and discourage buildings that are characterized by non-descript blank walls.
 - (c) To provide the use of such building materials as brick, wood, native stone and clapboard to ensure complementary visual interest such as is found in the neighborhood, and discourage use of vinyl, cement block and aluminum.
 - (d) Provide at-grade retail storefronts to be developed with facades that are characterized by substantial window areas as a total proportion of the first story elevation to maximize visibility of store interiors, and thereby enhance visual interest for pedestrian experiences.
- (3) Building Design Elements.
 - (a) Façade design
 - (i) Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.
 - (ii) Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following.

A	Each vertical articulation shall be no greater than thirty (30) feet apart.
B	Each vertical articulation shall be a minimum of one (1) foot deep.
C	Each vertical projection noted above may extend into the required front yard a maximum of eighteen (18) inches in depth.
 - (iii) Buildings with expansive blank walls are prohibited.
- (4) Fenestration.
 - (a) At least sixty percent (60%) of the first floor of retail building frontage shall be clear window glass. This percentage shall be calculated within the area of the building facade that is located between

three (3) feet and ten (10) feet above sidewalk level.

- (b) A minimum of forty percent (40%) of the front entrance of retail development shall consist of glass in order to maximize the visibility of store interiors.
 - (c) Materials. Exterior building materials shall be classified as either primary, secondary or accent materials. The facade shall be designed in accordance with the following:
 - (i) The primary material shall cover at least sixty percent (60%) of the facade of the building.
 - (ii) Secondary materials shall cover not more than forty percent (40%) of the facade.
- (5) Roof lines/building height.
- (a) The top of all buildings must be capped by a cornice or sloping roof element.
 - (b) An additional five (5) feet in height for ornamentation such as parapets and cornices is permitted.
 - (c) All roof-mounted equipment, such as HVAC units, shall be screened from public view by use of parapet walls, as regulated elsewhere in this ordinance, provided that, the maximum height for screening roof-mounted elevator equipment shall be eight feet, with such screening set back minimally ten feet from the edge of the roof.
- (6) Awnings and canopies: See §85-37.2, Awnings, Canopies and Marquees.
- (7) Multi-Family Design.
- (a) The placement of multi-family buildings, including mixed use buildings, within overlay zones shall be harmonious in architectural style with the other buildings in the immediate area.
 - (b) Angled walls, enlarged foyer or atrium areas, and building articulation are encouraged.
- (8) Townhouse Design
- (a) For townhouses, a maximum of six dwelling units in a single row with a minimum offset of two feet between every two dwelling units is encouraged.
 - (b) The rooflines of at least 30% of the number of units attached in a structure are to be staggered in height by not less than 2.5 feet of the height of the rooflines of the other units in such structures, and/or by other features which will provide relief or articulation to the roofline.
- (9) Streetscape design.
- (a) All properties shall comply with the following requirements.
 - (b) Where buildings are setback from the street ten (10) feet or more a landscaped area with a minimum width of five (5) feet shall be provided.
 - (c) All sidewalks installed in along the property frontage in portions of the GB or R-2 zones within the Downtown Overlay shall be decorative paver sidewalks or decoratively scored concrete, consistent with the existing streetscape.
 - (d) Streetscape amenities such as benches, decorative artwork, bike racks, trash receptacles, etc. shall be incorporated as part of the streetscape, as deemed appropriate.
 - (e) Street trees shall be provided along all public rights-of-way in accordance with the following standards:
 - (i) Street trees should be located at a minimum distance of forty (40) feet on center. The exact spacing and planting location shall be evaluated on a site-specific basis and adjusted to reflect the neighborhood and existing or proposed buildings to minimize potential obstruction and visibility impacts on wall business signage.

- (ii) Trees shall have a minimum caliper size of two and a half (2.5) to three (3) inches at time of planting.
 - (f) Garbage and recycling containers shall be located in the rear yard where that yard is accessible by collection vehicles. If the rear yard is not accessible by collection vehicles, the containers may be located in the side yard or inside the building. If the containers are stored outdoors, they must be screened by a fence or other enclosure. Landscaping is encouraged around the enclosure.
- (10) Outdoor dining / cafes.
- (a) Outdoor dining / cafes, where proposed, may be located on sidewalks, plazas, and courtyards immediately adjacent to any eating and food establishment. Such facilities shall be provided in a manner that pedestrian circulation or access to store entrances is not impaired.
 - (b) The operation of an outdoor cafe shall be located such that there is at least four (4) feet of clear and unobstructed passageway between the tables, chairs, and barriers and street trees, bike racks, lampposts, sign posts, and any other fixtures or obstructions. The approving authority may require more than four (4) feet to protect public safety if they deem necessary because of site-specific conditions.
 - (c) The area occupied by the outdoor cafe must be located at least ten (10) feet from any driveway.
 - (d) A screen visually separating adjacent at-grade residential units from the proposed outdoor cafe area must be provided. The screening may include landscaping, screen walls, and/or fencing materials or any combination thereof.
 - (e) Umbrellas, awnings, canopies, and heating units are permitted in outdoor cafe areas.
 - (f) All outdoor café areas shall be designed in compliance with the Americans with Disabilities Act (ADA) guidelines.
- (11) Landscape Standards.
- (a) A landscape plan prepared by a licensed Landscape Architect, licensed by the New Jersey State Board of Architects, or other qualified individual, shall be submitted with any plan for development.
 - (b) All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, existing vegetation, and the planting of coniferous and/or deciduous trees native to the area in order to maintain or reestablish the vegetation in the area and lessen the visual impact of the structures and paved areas.
 - (c) Landscaping shall be designed to achieve a thorough integration of the various elements of site design, including building and parking placement and natural features.
 - (d) The use of passive systems such as raingardens to offset offsite stormwater discharge shall be utilized to the extent feasible.
 - (e) Water conservation measures such as drip irrigation and soil moisture-sensing irrigation systems shall be used where practicable

Section II. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section III. Severability. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section IV. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough

Council of the Borough of Ho-Ho-Kus, in the County of Bergen, State of New Jersey, held on June 27, 2017. It will be further considered for final passage, after public hearing thereon, at a meeting of the Borough Council to be held in the meeting room of Borough Hall, 333 Warren Avenue, in the Borough of Ho-Ho-Kus on July 25, 2017 at 7:00 p.m., and during the week prior and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's Office to the members of the general public who shall request the same.

Motion: Councilmember Troast

Second: Councilmember Crossley

Absent: Councilmembers Shell, Iannelli and Fiato

RESOLUTIONS

None

CONSENT RESOLUTION

- # 17-72 Police and Fire Arbitration 2% Cap

WHEREAS, local municipalities require specific tools to address the rising cost of municipal government; and
WHEREAS, in July 2010 the Governor and New Jersey State Legislature enacted a permanent 2% cap on municipal and school board tax levies with limited exceptions that did not include police and fire arbitration contract awards; and

WHEREAS, salary costs, to a great extent, drive property tax increases; and

WHEREAS, in December 2010 the Legislature unanimously approved and the Governor enacted a temporary 2% cap on police and fire arbitration contract awards in an effort to control increasing salary costs and provide a solution to assist local governments in keeping property taxes down and cost under control; and

WHEREAS, the December 2010 legislation included an April 1, 2014 sunset on the 2% arbitration cap while the 2% property tax levy remained permanent for municipalities and school boards; and

WHEREAS, in June 2014 the Legislature unanimously approved and the Governor enacted an extension to December 31, 2017 for the 2% arbitration cap, however, the 2% property tax levy cap continues to remain permanent, without an exemption for police and fire arbitration contract awards; and

WHEREAS, municipalities continue efforts to contain costs and provide vital services to residents within the 2% property tax levy while the New Jersey economy remains sluggish and taxpayers struggle to keep their homes and pay their taxes; and

WHEREAS, we recognize that this change in arbitration reform needs a longer time to mature in order to see the benefits of the legislation and its actual impact on the cost of local government budgets and the impact on taxpayers; and

WHEREAS, the final report and recommendations of the Police and Fire Public Interest Arbitration Impact Task Force, which was established in the December 2010 legislation, is not due until the same day as the expiration of the cap on interest arbitration awards, December 31, 2017; and

WHEREAS, we recognize it is now time for our taxpayers to benefit directly from these cost saving measures as many police and fire contracts will come due for negotiation after the sunset date, and

WHEREAS, if the cap on interest arbitration expires while the 2% levy cap remains in effect, municipalities will be forced to reduce or eliminate municipal services in order to fund interest arbitration awards;

NOW, THEREFORE, BE IT RESOLVED, that the governing body of the Borough of Ho-Ho-Kus urges the State Legislature to extend the 2% cap on Police and Fire Arbitration Contract Awards for 5 more years at which time the Legislature will have hard data to examine and then make a final decision as to whether this law should be made permanent; and

BE IT FURTHER RESOLVED, that a copy of this Resolution is forwarded to Assemblyman Scott Rumana and Assemblyman David C. Russo, Senator Kevin J. O’Toole, the Commissioner of the Department of Labor, the Lieutenant Governor and the Governor of State of New Jersey, The New Jersey Conference of Mayors and the League of Municipalities.

- # 17-73 Memo of Understanding-BCUW Housing Partners

WHEREAS, the Borough of Ho-Ho-Kus (the “Borough”) has heretofore entered into certain settlement agreements with Chamberlain Developers, Inc. and Fair Share Housing Center (the “Chamberlain and FSHC Agreements”); and

WHEREAS, the Chamberlain and FSHC Agreements were approved after a Fairness Hearing in the Superior Court of New Jersey pursuant to Order entered on May 16, 2017; and

WHEREAS, pursuant to the Chamberlain and FSHC Agreements, the Borough has determined to provide for 13 affordable rental housing units for individuals and households, as well as for affordable supportive rental housing for persons with disabilities consistent with COAH regulations and the Uniform Housing Affordability Controls; and

WHEREAS, the Borough has selected BCUW/Madeline Housing Partners LLC as the Developer for the aforesaid Project to be located at Brookside and First Street, Block 1015, Lots 1 and 2 on the Tax Assessment Map of the Borough; and

WHEREAS, as a pre-condition of entering into a more formal Development Agreement, it is appropriate for the parties to enter into a Memorandum of Understanding (“MOU”) setting forth the general terms of a proposed Development Agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Ho-Ho-Kus, that it does hereby authorize and approve an MOU between the Borough and BCUW/Madeline Housing Partners LLC, substantially in the form annexed hereto as Exhibit A; and

BE IT FURTHER RESOLVED, that the Mayor and Municipal Clerk are authorized to execute said MOU on behalf of the Borough following legal review.

- # 17-74 Appt. DPW Laborer- Richard Vande Weert

BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus that they accept the recommendation of the Public Works Jeffrey Pattman and hereby appoint

Richard Vande Weert, 10 Spear Street, Oakland NJ 07436 as follows.

Department of Public Works Laborer, and;

BE IT FURTHER RESOLVED that said position shall be as a permanent full-time employee; and

BE IT FURTHER RESOLVED that Richard Vander Weert shall be paid in accordance with the Salary Contract; and

BE IT FURTHER RESOLVED that said appointment and employment shall be subject to a 6-month probationary period and

That the duties for the aforesaid positions shall be as set forth in the job description and functions of the Borough of Ho-Ho-Kus; and

That said appointments shall be subject to revised Chapter 42 of the Borough Code: Personnel Policies, Practices and Regulations, as well as applicable State agencies having jurisdiction; and

BE IT FURTHER RESOLVED that this Resolution shall be subject to the appointee/employee herein acknowledging and accepting a copy of this Resolution, the Borough Employee's Handbook and the municipality's policy statement on sexual harassment.

- # 17-75 Affirmative Marketing Plan

WHEREAS, on May 16, 2017, the Honorable William C. Meehan, J.S.C., issued a Court Order approving a Settlement Agreement ("Agreement") between the Borough, Fair Share Housing Center, Chamberlain Developers, Inc. ("Chamberlain"), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings) that established the Borough's fair share obligation, granted a vacant land adjustment of the Borough's Third Round obligation, and preliminarily approved the Borough's compliance mechanisms; and

WHEREAS, on July 20, 2017 the Planning Board of the Borough of Ho-Ho-Kus ("Planning Board") adopted the Borough's 2017 Third Round Housing Element and Fair Share Plan ("Plan"), addressing the Borough's prior round obligation, third round obligation, and rehabilitation share as established in the Agreement; and

WHEREAS, the Borough Council endorsed the Plan on July 25, 2017 at a properly-noticed public meeting; and

WHEREAS, the adopted and endorsed Plan includes an Affirmative Marketing Plan component, as required by the Council on Affordable Housing's ("COAH") rules at N.J.A.C. 5:93-11, which is designed to attract 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 the affordable units located in the Borough; and

WHEREAS, the Affirmative Marketing Plan was prepared in accordance with COAH's rules, the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26, and the Court-approved Settlement Agreements.

NOW THEREFORE, BE IT RESOLVED the Borough Council of the Borough of Ho-Ho-Kus, Bergen County, State of New Jersey, hereby approves the Affirmative Marketing Plan component of the Housing Element and Fair Share Plan.

- # 17-76 Spending Plan Housing Element and Fair Share Plan

WHEREAS, on May 16, 2017, the Honorable William C. Meehan, J.S.C., issued a Court Order approving a Settlement Agreement ("Agreement") between the Borough, Fair Share Housing Center, Chamberlain Developers, Inc. ("Chamberlain"), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings) that established the Borough's fair share obligation, granted a vacant land adjustment of the Borough's Third Round obligation, and preliminarily approved the Borough's compliance mechanisms; and

WHEREAS, on July 20, 2017 the Planning Board of the Borough of Ho-Ho-Kus ("Planning Board") adopted the Borough's 2017 Third Round Housing Element and Fair Share Plan ("Plan"), addressing the Borough's prior round obligation, third round obligation, and rehabilitation share as established in the Agreement; and

WHEREAS, the Borough Council endorsed the Plan on July 25, 2017 at a properly-noticed public meeting; and

WHEREAS, the adopted and endorsed Plan includes a Spending Plan component, as required by the Council on Affordable Housing's ("COAH") rules at N.J.A.C. 5:93-5.1(c), which projects anticipated revenues to the Borough's Affordable Housing Trust Fund, and describes anticipated expenditures of funds to address its fair share obligation as set forth in the Fair Share Plan; and

WHEREAS, the Special Master to the Court requires, in her letter dated March 27, 2017, included as Exhibit A to the Court's Order approving the Agreement, that the Borough Council must adopt the Spending Plan as an action separate from the Planning Board's adoption of the Fair Share Plan

NOW THEREFORE, BE IT RESOLVED the Borough Council of the Borough of Ho-Ho-Kus, Bergen County, State of New Jersey, hereby adopts the Spending Plan component of the Housing Element and Fair Share Plan.

- # 17-77 Third Round Housing Element and Fair Share Plan

WHEREAS, the Planning Board of the Borough of Ho-Ho-Kus, Bergen County, State of New Jersey ("Planning Board") adopted its current Housing Element and Fair Share Plan on December 16, 2008 pursuant to N.J.S.A. 40:55D- 28 and N.J.A.C. 5:96 and 5:97; and

WHEREAS, the Borough Council endorsed the 2008 Plan on December 16, 2008; and petitioned the Council on Affordable Housing ("COAH") for Third Round substantive certification on December 23, 2008; and

WHEREAS, on April 13, 2009, COAH deemed the Borough's 2008 Plan complete; and

WHEREAS, before COAH could grant substantive certification to the Borough, the New Jersey Supreme Court invalidated COAH's Third Round rules and ordered COAH to adopt new rules based upon its Prior Round rules and methodologies (see In re Adoption of N.J.A.C. 5:96 and 5:97, 215 N.J. 578 (2013)); and

WHEREAS, COAH failed to adopt new rules, and on March 10, 2015, the Supreme Court transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, on July 1, 2015, the Borough submitted a Declaratory Judgment Action to the New Jersey Superior Court; and

WHEREAS, on May 16, 2017, the Honorable William C. Meehan, J.S.C., issued a Court Order approving a Settlement Agreement between the Borough, Fair Share Housing Center, Chamberlain Developers, Inc. ("Chamberlain"), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings) that established the Borough's fair share obligation, granted a vacant land adjustment of the Borough's Third Round obligation, and preliminarily approved the Borough's compliance mechanisms; and

WHEREAS, the Borough's and Planning Board's consultants Mary Beth Lonergan, PP, AICP, and Daniel Hauben, PP, AICP, of Clarke Caton Hintz, PC, have prepared a Third Round Housing Element and Fair Share Plan; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Housing Element and Fair Share Plan and adopted the Plan on July 20, 2017; and

WHEREAS, COAH's Prior Round rules at N.J.A.C. 5:91-2.2(a), requires that the Borough Council endorse the Third Round Housing Element and Fair Share Plan adopted by the Planning Board.

NOW THEREFORE, BE IT RESOLVED the Borough Council of the Borough of Ho-Ho-Kus, Bergen County, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Planning Board on July 20, 2017.

- # 17-78 Appt. Municipal Housing Liaison

WHEREAS, on May 16, 2017 the Superior Court approved the Settlement Agreements between the Borough of Ho-Ho-Kus, Fair Share Housing Center ("FSHC"), Chamberlain Developers, Inc. ("Chamberlain"), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings), which included the Borough's preliminary compliance measures; and

WHEREAS, on July 20, 2017, the Ho-Ho-Kus Borough Planning Board adopted a Housing Element and Fair Share Plan, that addresses the Borough's Rehabilitation Need, Prior Round and Third Round "fair share" obligations; and

WHEREAS, on July 25, 2017, the Borough Council held a properly-noticed public meeting to consider endorsing the Housing Element and Fair Share Plan adopted by the Planning Board on July 20, 2017 and, after the consideration of any questions or concerns raised by members of the governing body or the public, the Borough Council determined that it is in the

best interest of the Borough and the region's low- and moderate-income households to endorse said Housing Element and Fair Share Plan and to direct the Borough's professionals to file said Plan with the Court and to take any and all reasonable actions to secure a Judgment of Compliance and Repose approving said plan to protect the Borough from any Mount Laurel lawsuits; and

WHEREAS, pursuant to N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1, et seq., Ho-Ho-Kus is required to appoint a Municipal Housing Liaison for the administration of Ho-Ho-Kus' Affordable Housing Program to enforce the requirements of N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1, et seq.; and

WHEREAS, on May 22, 2007, the Borough adopted Ordinance 927, which amended Chapter 10 of its Code, entitled "Borough Personnel", to create Article XII, "Municipal Housing Liaison" to provide for the appointment of a Municipal Housing Liaison to administer Ho-Ho-Kus' Affordable Housing Program; and

WHEREAS, on February 24, 2009, the Governing Body adopted Resolution 09-44 to appoint Laura Borchers, Borough Clerk, as the Municipal Housing Liaison; and

WHEREAS, Ho-Ho-Kus has repealed Article XII of Chapter 10 and created Chapter 2, "Affordable Housing", including Section 2-25, "Municipal Housing Liaison" to provide for the appointment of a Municipal Housing Liaison to administer Ho-Ho-Kus' Affordable Housing Program;

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Ho-Ho-Kus, County of Bergen, State of New Jersey, that the February 24, 2009 appointment of Laura Borchers as the Municipal Housing Liaison for the administration of the Affordable Housing Program remains in effect, pursuant to and in accordance with Chapter 2, Article III, Sections 2-25 of Ho-Ho-Kus' Code.

- # 17-79 Appt. Administrative Agent- Affordable Housing Program

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF HO-HO-KUS, BERGEN COUNTY, APPOINTING AN ADMINISTRATIVE AGENT FOR THE ADMINISTRATION OF THE BOROUGH'S AFFORDABLE HOUSING PROGRAM

WHEREAS, on May 16, 2017 the Superior Court approved the Settlement Agreements ("Agreement") between the Borough of Ho-Ho-Kus ("Borough"), Fair Share Housing Center ("FSHC"), Chamberlain Developers, Inc. ("Chamberlain"), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings), which included the Borough's preliminary compliance measures; and

WHEREAS, on July 20, 2017 the Planning Board of the Borough of Ho-Ho-Kus ("Planning Board") adopted the Borough's 2017 Third Round Housing Element and Fair Share Plan ("Plan"); and

WHEREAS, the Borough Council endorsed the Plan on July 25, 2017 at a properly-noticed public meeting; and

WHEREAS, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, *et seq.*, hereinafter the "Act") the Borough is implementing a program to provide affordable housing units to low- and moderate-income households desiring to live within the Borough; and

WHEREAS, at Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code, the State has promulgated affordability controls in regulations designed to implement the Act, by assuring that low- and moderate-income units that are created under the Act are occupied by low- and moderate-income households for an appropriate period of time (the "Rules"); and

WHEREAS, Section 5:80-26.14 of the Rules provides that affordability controls shall be administered by an administrative agent acting on behalf of a municipality; and

WHEREAS, the UHAC requirement at N.J.A.C. 5:80-26.3(d) requiring 10% of all low- and moderate-income units to be set-aside for households earning less than 35% of regional median income is superseded by the statutory requirement at N.J.S.A. 52:27D-329.1, and as reflected in paragraphs 9 and 12 of the December 21, 2016 Settlement Agreement between the Borough and Fair Share Housing Center ("FSHC"), which requires the Borough to set aside at least 13% of its affordable units for very-low income households earning less than 30% of regional median income; and

WHEREAS, the Borough has selected Piazza & Associates, Inc. (hereinafter referred to as "Administrative Agent") to be the Administrative Agent for the purposes of providing affordability control services for The Crossings at Ho-Ho-Kus, the Maple Avenue / Frasco Site. The Administrative Agent may also perform certain tasks and responsibilities, as necessary, for the

implementation and operation of the Borough's rental-rehabilitation program; and

WHEREAS, the Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in the Rules, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

- (1) Affirmative Marketing
 - (a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of Ho-Ho-Kus Borough and the provisions of N.J.A.C. 5:80-26.15;
 - (b) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH, the Court, or another appropriate jurisdiction; and
 - (c) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, rental lease requirements, and landlord/tenant law.
 - (d) As required by the December 21, 2016 Settlement Agreement between the Borough and Fair Share Housing Center, and as further provided in the Affirmative Marketing Plan adopted by the Planning Board on July 20, 2017, the Administrative Agent shall reach out to Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County Branch of the NAACP, and the Bergen County United Way as part of its affirmative marketing strategy.
- (2) Household Certification
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (b) 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;
 - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form of rental certificates set forth in Appendix K of N.J.A.C. 5:80-26.1 et. seq.;
 - (e) 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
 - (f) Employing a random selection process as provided in the Affirmative Marketing Plan of Ho-Ho-Kus Borough when referring households for certification to affordable units.
- (3) Affordability Controls
 - (a) 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;
 - (b) 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;
 - (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) Rental
 - (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for rental; and
 - (b) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for re-rental.
- (6) Enforcement
 - (a) 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;

- (b) 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 can be made;
 - (c) 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;
 - (d) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;
 - (f) Creating and publishing a written operating manual, as approved by the Courts, setting forth procedures for administering such affordability controls; and
 - (g) Providing annual reports to the Courts, Fair Share Housing Center, Chamberlain Developers Inc., and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings), and posting the annual report on the Borough's website by December 21st of every year.
- (7) Records received, retained, retrieved, or transmitted under the terms of this contract may constitute public records of Ho-Ho-Kus Borough as defined by N.J.S.A. 47:3-16, and are legal property of Ho-Ho-Kus Borough. The Administrative Agent named in the contract with the Borough must agree to administer and dispose of such records in compliance with the State's public records laws and associated administrative rules.
- (8) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Ho-Ho-Kus in the County of Bergen, and the State of New Jersey that Piazza & Associates, Inc. is hereby appointed by the Borough Council of the Borough of Ho-Ho-Kus as the Administrative Agent for the administration of the Borough's affordable housing program.

- # 17-80 Rental Rehabilitation Program

A RESOLUTION OF THE BOROUGH COUNCIL OF HO-HO-KUS, BERGEN COUNTY, COMMITTING TO ENGAGE AN EXPERIENCED ADMINISTRATIVE AGENT TO ADMINISTER A MUNICIPAL HOUSING REHABILITATION PROGRAM FOR LOW- AND MODERATE-INCOME RENTER HOUSEHOLDS

WHEREAS, on January 5, 2017, the Borough of Ho-Ho-Kus ("Borough") entered into a Settlement Agreement ("Agreement"), dated December 21, 2016, with Fair Share Housing Center ("FSHC"), Chamberlain Developers, Inc. ("Chamberlain"), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings), which established the Borough's fair share obligation, granted a vacant land adjustment, and preliminarily approved the Borough's compliance mechanisms to address its fair share obligation; and

WHEREAS, on May 16, 2017, the Court entered an Order approving the Agreement following a fairness hearing; and

WHEREAS, on July 20, 2017 the Planning Board of the Borough of Ho-Ho-Kus ("Planning Board") adopted the Borough's 2017 Third Round Housing Element and Fair Share Plan ("Plan"), addressing the Borough's prior round obligation, third round obligation, and rehabilitation share as established in the Agreement; and

WHEREAS, the Borough Council endorsed the Plan on July 25, 2017 at a properly-noticed public meeting; and

WHEREAS, the Borough has a seven (7) unit rehabilitation share, which it must address in accordance with the Council on Affordable Housing's ("COAH") regulations at N.J.A.C. 5:93-5.2; and

WHEREAS, N.J.A.C. 5:93-5.2(c) requires a municipality to designate an "experienced entity to administer [a] rehabilitation program," which may be a municipal employee, governmental agency or private consultant, "to administer all or some of the program"; and

WHEREAS, N.J.A.C. 5:93-5.2(f) requires the Borough to provide a rehabilitation program that is accessible to low- and

moderate-income renter households; and

WHEREAS, Bergen County Department of Community Development (“County Community Development”) operates a Community Development Block Grant (“CDBG”) funded Home Improvement Program that makes home improvement loans and assistance available to all income-eligible homeowner households in Bergen County, with no requirement that the municipality enter into an agreement or contract (“County homeowner rehabilitation” program); and

WHEREAS, the County homeowner rehabilitation program does not serve renter households; and

WHEREAS, County Community Development also operates a “COAH” home improvement program, which municipalities may engage through a shared services agreement, and which utilizes municipal affordable housing trust funds to rehabilitate homeowner and/or renter occupied units according to the rules adopted by COAH; and

WHEREAS, the adopted and endorsed Plan states that the Borough will rely upon the County homeowner rehabilitation program to provide rehabilitation opportunities to its low- and moderate-income homeowner households, and that it is investigating the possibility of partnering with the County’s “COAH” home improvement program to satisfy the rental portion of its rehabilitation obligation (“County rental rehabilitation program”); and

WHEREAS, the Borough is still investigating the County rental rehabilitation program option while also considering the alternative of appointing an experienced private consultant for the administration of the municipal rental rehabilitation program; and

WHEREAS, in any event, the Borough intends to enter into an agreement with an experienced administrative agent to operate a rehabilitation program available to income-eligible renter households.

NOW, THEREFORE, BE IT RESOLVED, by the Borough of Ho-Ho-Kus that it will address its seven (7) unit rehabilitation obligation through the County homeowner rehabilitation program, which is available to all income-eligible homeowner households residing in Bergen County and requires no action on the part of the municipality to make such program available or accessible to its residents; and

BE IT FURTHER RESOLVED, that, in order to address the rental portion of its rehabilitation obligation, the Borough will select an experienced administrative agent to oversee and administer a municipal rehabilitation program available to renter households in the Borough (“rental rehabilitation program”), which may either be in the form of the County renter rehabilitation program or a program administered by a private consultant; and

BE IT FURTHER RESOLVED, that the Borough has retained Piazza and Associates, Inc. as the administrative agent for the Crossings and the Frasco / Maple Avenue inclusionary development sites, and to provide, as necessary, any supplemental or supportive services to the agent selected to administer the Borough’s rental rehabilitation program; and

BE IT FURTHER RESOLVED, that the Borough hereby commits to retain the selected rental rehabilitation program administrative agent prior to the Court’s compliance hearing, to be scheduled.

- # 17-81 Appt. Piazza & Associates-Affordable Housing Units

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF HO-HO-KUS, BERGEN COUNTY, AUTHORIZING ENTERING INTO A CONTRACT WITH AN ADMINISTRATIVE AGENT FOR THE ADMINISTRATION OF AFFORDABLE UNITS

WHEREAS, on May 16, 2017 the Superior Court approved the Settlement Agreements (“Agreement”) between the Borough of Ho-Ho-Kus (“Borough”), Fair Share Housing Center (“FSHC”), Chamberlain Developers, Inc. (“Chamberlain”), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings), which included the Borough’s preliminary compliance measures; and

WHEREAS, on July 20, 2017 the Planning Board of the Borough of Ho-Ho-Kus (“Planning Board”) adopted the

Borough's 2017 Third Round Housing Element and Fair Share Plan ("Plan"); and

WHEREAS, the Borough Council endorsed the Plan on July 25, 2017 at a properly-noticed public meeting; and

WHEREAS, the Mayor and Council of the Borough of Ho-Ho-Kus wish to enter into a contract with Piazza & Associates, Inc. ("Piazza") for the purpose of administering and enforcing the affordability controls and the Affirmative Marketing Plan of Borough of Ho-Ho-Kus, adopted by Resolution Number 17-75 on July 25, 2017, in accordance with the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:93 et seq., the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq., and the Borough's responsibilities as established by the December 21, 2016 Settlement Agreement; and

WHEREAS, the contract designates Piazza as the Administrative Agent for The Crossings at Ho-Ho-Kus, the Maple Avenue / Frasco Site, and, as necessary, the rental rehabilitation program of the Borough of Ho-Ho-Kus' affordable housing program.

NOW THEREFORE BE IT RESOLVED, that subject to the Court's approval of this contract, the Mayor and Borough Clerk are hereby authorized to sign this contract dated July 25, 2017; and

BE IT FURTHER RESOLVED, Borough of Ho-Ho-Kus hereby designates the Municipal Housing Liaison as the liaison to Piazza; and

BE IT FURTHER RESOLVED, this contract is hereby attached to the original of this resolution

- # 17-82 Tax Appeal- Healy/LaChapelle

WHEREAS, Joseph Healy and Jean LaChapelle are owners of real estate known as Lot 1, Block 902 on the Tax Assessment Map better known as 5 Powderhorn Road, Ho-Ho-Kus, New Jersey; and

WHEREAS, said owners have filed tax appeals in the Tax Court of New Jersey challenging the tax assessment for the years 2016 – 2017; and

WHEREAS, Lot 1, Block 902 was assessed for the tax years 2016 – 2017 in the total amount of \$1,373,100; and

WHEREAS, the Borough has completed full discovery with respect to this matter, has consulted with the Borough's Appraiser and has conducted exhaustive negotiations with counsel for the taxpayer; and

WHEREAS, the parties have been able to arrive upon a proposed settlement agreement as follows: a revised assessment of \$1,260,000 for 2016 and a revised assessment of \$1,220,000 for 2017, with reciprocal application of the Freeze Act for the year 2018 at \$1,220,000; and

WHEREAS, the parties have agreed that pre-judgment interest shall be waived as a condition of the settlement; and

WHEREAS, the Borough's Tax Assessor, Marie Merolla, and the Borough's Real Estate Appraiser, Darren Raymond, are in agreement with the terms of the settlement and believe that it would be in the best interest of the Borough to settle this particular case in accordance with the terms set forth above; and

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the Borough of Ho-Ho-Kus does hereby authorize the Municipal Attorney to execute a Stipulation of Settlement on behalf of the Borough with respect to the Healy/LaChapelle v. Ho-Ho-Kus tax appeal pending in the Tax Court of New Jersey under Docket Nos. 004084-2016 and 001138-2017 and for the 2018 year at the new assessments set forth above; and

BE IT FURTHER RESOLVED, that upon receipt of the Tax Court Judgment, the Tax Collector is hereby authorized to calculate the amount of the refund and cause same to be paid to the taxpayer, without statutory interest, within 60 days from the date of the Tax Court Judgment; and

BE IT FURTHER RESOLVED, that the within settlement is subject to approval thereof by the taxpayer; and

BE IT FURTHER RESOLVED, that a true copy of this Resolution be forwarded to the Tax Assessor, Tax Collector, Chief Financial Officer and the Municipal Attorney.

- # 17-83 Appt. Firemen

WHEREAS, the Fire Department of the Borough of Ho-Ho-Kus, through its Chief, has recommended to the Mayor and Council the appointments of

Nicholas Webster Waldwick NJ 07463

Connor Monchek, Ho-Ho-Kus NJ 07423

Shane Daly, Ho-Ho-Kus NJ 07423; and

WHEREAS, all have passed his physical as required by the Borough,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-

Kus that Nicholas Webster, Connor Monchek and Shane Daly on this date is appointed as firemen of the Borough of Ho-Ho-Kus

- # 17-84 Appt. Jr. Fireman- Jordan Mapes

WHEREAS, the Fire Department of the Borough of Ho-Ho-Kus, through its Chief, has recommended to the Mayor and Council the appointments of members as follows; and

WHEREAS, Jordan Mapes passed his physical as required by the Borough;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus that Jordan Mapes is recommended to the New Jersey State Fireman's Association for membership.

- # 17-85 Payment of Vouchers

WHEREAS, claims have been submitted to the Borough of Ho-Ho-Kus in the amount of \$1,966,264.47

WHEREAS, such claims have been listed according to Department and account number with corresponding vouchers to be reviewed and approved by the Mayor and Council; and,

WHEREAS, the CFO has determined that the funds have been properly appropriated for such purposes and are available, in the Borough of Ho-Ho-Kus and that the claims specified on the schedule attached hereto, following examination and approval by the Mayor and Council, be paid and checks issued accordingly; and,

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Ho-Ho-Kus that the claims totaling \$1,966,264.47 be approved and ratified respectively

- # 17-86 Intent to Bond-Borough's Affordable Obligation

WHEREAS, on May 16, 2017 the Superior Court approved the Settlement Agreements between the Borough of Ho-Ho-Kus, Fair Share Housing Center ("FSHC"), Chamberlain Developers, Inc. ("Chamberlain"), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings), which included the Borough's preliminary compliance measures; and

WHEREAS, on July 20, 2017, the Ho-Ho-Kus Borough Planning Board adopted a Housing Element and Fair Share Plan, which the Borough contends fully addresses the Borough's Rehabilitation Need, Prior Round and Third Round "fair share" obligations; and

WHEREAS, on July 25, 2017, the Borough Council held a properly-noticed public meeting to consider endorsing the Housing Element and Fair Share Plan adopted by the Planning Board on July 20, 2017 and, after considering of any questions or concerns raised by members of the governing body or the public, the Borough Council determined that it is in the best interest of the Borough and the region's low- and moderate-income households to endorse said Housing Element and Fair Share Plan and to direct the Borough's professionals to file said Plan with the Court and to take any and all reasonable actions to secure a Judgment of Compliance and Repose approving said plan to protect the Borough from any unnecessary Mount Laurel lawsuits; and

WHEREAS, the Borough's Housing Element and Fair Share Plan includes a number of compliance mechanisms, such as

a Rehabilitation Program to be administered by the County of Bergen and a 100% affordable, municipally-sponsored family development;

WHEREAS, pursuant to the State's affordable housing regulations and policies, and the conditions of the Court-approved FSHC Settlement Agreement, in order to assure the creditworthiness of the various compliance techniques included in its Housing Element and Fair Share Plan, the Borough must demonstrate adequate and stable funding sources; and

WHEREAS, since the Borough is committed to securing judicial approval of its Affordable Housing Plan, in order to provide an adequate and stable funding source for the components of the Borough's Housing Element and Fair Share Plan, the Borough shall rely on the funds in its Affordable Housing Trust Fund, established by its Development Fee Ordinance; and

WHEREAS, if -- after exhausting every potential funding source and every valid compliance technique -- the Borough still cannot secure sufficient financing to completely satisfy its affordable housing obligations without being forced to raise or expend municipal revenues in order to provide low- and moderate-income housing, the Borough will cover such costs through bonding and/or other legal means; and

WHEREAS, the Court has indicated its intent to review the Borough's Housing Element and Fair Share Plan, and the Borough wishes to leave no question as to the Borough's intent to cover the cost of implementing its Housing Element and Fair Share Plan or any modification thereof that may be necessary as a result of the Court's review.

NOW, THEREFORE, BE IT RESOLVED by Council of the Borough of Ho-Ho-Kus, County of Bergen, State of New Jersey, as follows:

1. In order to provide adequate and stable funding for the rehabilitation and 100% affordable site in its Housing Element and Fair Share Plan, Ho-Ho-Kus Borough shall make a *bona fide*, diligent, and good faith effort to exhaust the potential funding sources included in "A Guide to Affordable Housing Funding Sources" ("Funding Guide"), dated October 28, 2008, and currently posted on COAH's official website.
2. The Borough shall also maximize use of the funds from its Development Fee Ordinance to facilitate the economic feasibility of the Borough's Housing Element and Fair Share Plan; and
3. If, after exhausting every potential funding source in the Funding Guide and its Development Fee Ordinance, the Borough still cannot secure sufficient financing to completely satisfy its affordable housing obligations, the Borough will fully fund any gaps in financing to assure the economic feasibility of the rehabilitation and 100% affordable compliance techniques included in the Borough's 2017 Third Round Housing Element and Fair Share Plan.
4. The Borough reserves the right to recoup any subsidy provided through future collections of development fees as such funds become available.

Motion: Councilmember Troast

Second: Councilmember Crossley

Absent: Councilmembers Shell, Iannelli and Fiato.

OLD BUSINESS

A. Liaison Reports:

1. Recreation

Movie night September 8, 2017

2. Board of Education

3. Other

a. Ambulance

Councilmember Crossley: Dire need of Volunteers. With a few members starting college in the fall will hurt the existing members. If anyone is interested please join, it's a great way to give back to the community.

b. Fire

Councilmember Rorty: Ladder truck 732 is currently out of service. Training on Blauvelt Ave, demolition of a house.

c. Library

B. Shade Tree

C. Chamber of Commerce

Mayor Randall: Taking steps to be supportive to keep the crossing open two ways, does affect the present proposal from DOT. Ridgewood and Ho-Ho-Kus are working together to pursue further discussions to seek alternative ways to address the concerns with DOT.

NEW BUSINESS

None

MAYOR'S REMARKS

None

CLOSED SESSION

WHEREAS, under the "Open Public Meetings Law", all sessions must be open to the public, and WHEREAS, under the Public Meetings Act Law, exceptions exist for a public body to hold a Closed Session NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Ho-Ho-Kus hereby recess under personnel BE IT FURTHER RESOLVED, that the results of the Closed Session will be available to the public in the minutes regarding the same at the conclusion of the matter.

ADJOURNMENT

With no further discussion to come before the Council Mayor Randall adjourned the meeting at 7:57PM

Motion: Councilmember Rorty

Second: Councilmember Crossley

Absent: Councilmembers Shell, Iannelli and Fiato.

Respectfully submitted,

Laura Borchers, RMC/CMR

Borough Clerk.