

MEETING TO BE BROADCAST ON COMCAST CHANNEL 27
AND VERIZON CHANNELS 41 AND 42

AGENDA FOR THE REGULAR BUSINESS MEETING
OF THE COUNCIL OF WEST WINDSOR TOWNSHIP
271 CLARKSVILLE ROAD
TO THE EXTENT KNOWN
March 4, 2019

7:00 P.M.

1. Call to Order/Roll Call
2. Statement of Adequate Notice - January 11, 2019 to The Times and the Princeton Packet.
3. Salute to the Flag
4. Ceremonial Matters and/or Topic for Priority Consideration
5. Public Comment: (30 minutes comment period; 3-minute limit per person)
6. Administration Comments
7. Council Member Comments
8. Chair/Clerk Comments
9. Public Hearings
10. Consent Agenda
 - A. Resolutions
2019-R059 Refund of Overpaid Property Taxes
 - B. Minutes
 - C. Bills & Claims
11. Items Removed from Consent Agenda

12. Recommendations from Administration and Council/Clerk

- 2019-R060 Authorizing an Increase of \$4,397.90 to SHI International Under New Jersey State Contract M0003-89851 for the Procurement of Software Licenses for Silent Passenger GPS Software for Public Works Vehicles
- 2019-R061 Authorizing the Increase of \$1,258.00 for Burgis Associates, Inc. Planning Consultant Professional Services Agreement for 2018
- 2019-R062 Authorizing the Increase of \$4,135.84 for Miller, Porter & Muller Land Use Litigation for 2018
- 2019-R063 Authorizing the Increase of \$19,705.00 for Ruderman, Horn & Esmerado Labor Attorney for 2018
- 2019-R064 Authorizing a Contract for Parker McCay P.A. Township Attorney Legal Services for January 1, 2018 through December 31, 2018 - \$132,283.86
- 2019-R065 Supporting the West Windsor Township Environmental Commission Resolution for Electronic Vehicle (EV) Charging Infrastructure for West Windsor Township
- 2019-R066 Authorizing the Mayor and Clerk to Execute an Agreement with the County of Mercer for 2016 Homeland Security Grant Funding in the Amount of \$43,193.12

13. Introduction of Ordinances

2019-02 AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) CHAPTER 200 LAND USE, PART 1, SITE PLAN REVIEW, ARTICLE II, TERMINOLOGY, SECTION 200-4, DEFINITIONS, SUBSECTION B REGARDING THE DEFINITION OF "CONGREGATE HOUSING," AND PART 4, ZONING, ARTICLE XXVII, USE AND BULK REGULATIONS FOR RESIDENCE DISTRICTS, SECTION 200-194, PLANNED RESIDENTIAL RETIREMENT COMMUNITY USE REGULATIONS, SUBSECTION B(2)(f) REGARDING MAXIMUM PERMISSIBLE DENSITY

PUBLIC HEARING: March 18, 2019

2019-03 AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) TO MODIFY AN AFFORDABLE HOUSING SET ASIDE REQUIREMENT

PUBLIC HEARING: March 18, 2019

2019-04 AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) TO CREATE A R-5C DISTRICT

PUBLIC HEARING: March 18, 2019

2019-05 AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) TO CREATE A R-5D DISTRICT

PUBLIC HEARING: March 18, 2019

2019-06 AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) TO CREATE A PMN-1 DISTRICT

PUBLIC HEARING: March 18, 2019

2019-07 AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) TO CREATE AN RP-12 DISTRICT

PUBLIC HEARING: March 18, 2019

2019-08 AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN FOR PRINCETON JUNCTION BY ADDING A NEW RP-12 DISTRICT

PUBLIC HEARING: March 18, 2019

2019-09 AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN FOR PRINCETON JUNCTION BY MODIFYING AFFORDABLE HOUSING REQUIREMENTS

PUBLIC HEARING: March 18, 2019

2019-10 AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) BY MODIFYING AFFORDABLE HOUSING REQUIREMENTS IN THE RP-3, RP-7, AND RP-10 DISTRICTS

PUBLIC HEARING: March 18, 2019

2019-11 TOWNSHIP OF WEST WINDSOR MERCER COUNTY, NEW JERSEY ORDINANCE AMENDING CHAPTER 200 'LAND USE', ARTICLE XXIII 'HOUSING TRUST FUND' OF THE CODE OF WEST WINDSOR TOWNSHIP REGARDING THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT

PUBLIC HEARING: March 18, 2019

2019-12 TOWNSHIP OF WEST WINDSOR MECER COUNTY, NEW JERSEY ORDINANCE AMENDING CHAPTER 200 'LAND USE', ARTICLE XXXI 'GENERAL PROVISIONS AND SUPPLEMENTAL REGULATIONS GOVERNING CERTAIN USES' OF THE CODE OF WEST WINDSOR TOWNSHIP TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABLILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP'S AFFORDABLE HOUSING OBLIGATIONS

PUBLIC HEARING: March 18, 2019

14. Additional Public Comment (three-minute limit per person)
15. Council Reports/Discussion/New Business
16. Administration Updates
17. Closed Session
18. Adjournment

ORDINANCE 2019-02

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999) CHAPTER 200 LAND
USE, PART 1, SITE PLAN REVIEW, ARTICLE II, TERMINOLOGY, SECTION 200-4,
DEFINITIONS, SUBSECTION B REGARDING THE DEFINITION OF
“CONGREGATE HOUSING,”
AND
PART 4, ZONING, ARTICLE XXVII, USE AND BULK REGULATIONS FOR
RESIDENCE DISTRICTS, SECTION 200-194, PLANNED RESIDENTIAL
RETIREMENT COMMUNITY USE REGULATIONS, SUBSECTION B(2)(f)
REGARDING MAXIMUM PERMISSIBLE DENSITY**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 1, Site Plan Review, Article II, Terminology, Section 200-4, Definitions, Subsection B is amended as follows. Added text is underlined, and text being eliminated is in brackets.

Café

A small restaurant primarily serving coffee, drinks, light meals, sandwiches, and/or desserts. A café may include an outdoor seating area.

Congregate Housing

Specifically designed multi-unit housing for independent to semi independent older persons in which there [is at least one hot meal served per day and some housekeeping services] may be meal service; if meal service is not provided, the facility shall include a restaurant and/or café open to residents, guests, and employees of Block 33 Lot 1.01 and Block 33 Lot 1.02. Such restaurant or café shall be located within the congregate housing building or the community building within the complex. Living units shall include at least a [living/bedroom] living room, bathroom [and kitchenette], kitchen, and no more than two bedrooms, except that studio apartments are permitted. All of the affordable units must have one or two bedrooms. Access by residents of Block 33 Lot 1.01 and Block 33 Lot 1.02 to an on-site wellness center offering health and fitness services and/or equipment is required. Personal care service, housekeeping services, and transportation may also be available by arrangement.

Section 2. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXVII, Use and Bulk Regulations for Residence Districts, Section 200-194, Planned Residential Retirement Community Use Regulation, Subsection B(2)(f) is amended as follows. Added text is underlined, and text being eliminated is in brackets.

- A. Maximum permissible density. Maximum gross density in a PRRC is 1.45 dwelling units per acre. For the purpose of calculating maximum permissible density, individual beds and units in a congregate care, congregate housing, nursing home, continuing care facility, extended care facility or outpatient clinic are not considered units. The PRRC shall have no more than 500 total beds and 306 dwelling units in congregate care, continuing care, extended and outpatient care facilities.

Section 3. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXVII, Use and Bulk Regulations for Residence Districts, Section 200-194, Planned Residential Retirement Community Use Regulation, is amended by adding a NEW Subsection G as follows.

G. Other Provisions.

For any development application filed for vacant land within the congregate care component of the PRRC District as of the date of this ordinance, at least 51 of the units shall be low- and moderate-income housing meeting all the applicable standards and requirements for affordable units, including those set forth in the *Uniform Housing Affordability Controls* (UHAC), N.J.A.C. 5:80-26.1 *et seq.*, and Section 200-237. A 25% set aside of low- and moderate-income units shall apply to any units in excess of 220 in the development application. At least 50% of the affordable units shall be made affordable to low-income households, and at least 13% of all rental affordable units shall be made affordable to very low-income households earning 30% or less of the regional median household income by household size, which very low income units shall be included as part of the low income requirement. The remaining affordable units shall be made available to moderate-income households. The affordable units shall be located on-site and shall be reasonably dispersed throughout the development phased in accordance with the affordable housing construction schedule set forth in N.J.A.C. 5:97-6.4(d). The state-wide non-residential development fee shall apply to the non-residential portion of the development to the extent that it includes other than residential uses.

Section 4. This ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable, and publication according to law.

Introduction:

Public Hearing:

Adoption:

Mayor's Approval:

Effective Date:

ORDINANCE SUMMARY

This ordinance amends Chapter 200, Land Use by modifying provisions relating to the PRRC District, which fronts on Old Trenton Road and Village Road East and consists of The Village Grand, The Hamlet, and what is now known as Bear Creek Senior Living. The requirements for the independent living buildings in the congregate care portion of the PRRC District are modified by amending the definition of congregate care in the definitional section of the ordinance. Meal service and some housekeeping services were part of the congregate care definition. With this ordinance there may be, but is not required to be, meal service. If there is not, the facility must include a restaurant or cafe, for which a definition has also been added. A kitchen rather than a kitchenette is now required, and no more than two bedrooms are permitted in any unit. While studio apartments are permitted, all of the affordable units must have one or two bedrooms. Housekeeping services has been added as a service that may be made available by arrangement. The ordinance provides that at least 51 affordable units must be provided, with an additional set aside of 25% of any units in excess of 220 with respect to the vacant land within the congregate care component of the PRRC District. The two independent living buildings with 220 dwelling units, including 51 affordable units, were approved by the West Windsor Planning Board, but were never built. The assisted living buildings in the congregate care component of the PRRC District were built and are not the subject of this Ordinance. If a wellness center offering health and fitness services or equipment is provided, it must be made accessible to the residents of The Village Grand and The Hamlet.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 18, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

ORDINANCE 2019-03

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF
WEST WINDSOR (1999) TO MODIFY AN AFFORDABLE HOUSING SET ASIDE
REQUIREMENT**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Zoning, Part 4, Article XXXI, General Provisions and Supplemental Regulations Governing Certain Uses, is amended by repealing Section 200-243.2, Affordable Housing Set Aside for Rezoning Properties, and replacing with a NEW Section 200-243.2 as follows:

§ 200-243.2 Affordable Housing Set Aside.

- A. A mandatory affordable housing set-aside requirement of 25% shall be imposed on any multi-family development created through any Township or land use board action involving a rezoning, use variance, density variance, redevelopment plan or rehabilitation plan permitting redevelopment, which density is at or above six dwelling units per acre and results in the construction of five or more new units over the number of units previously permitted. The low- and moderate-income housing shall meet all of the applicable standards and requirements for affordable units, including those set forth in the *Uniform Housing Affordability Controls* (UHAC), N.J.A.C. 5:80-26.1 *et seq.*, and Section 200-237.
- B. At least 50% of the affordable units shall be affordable to low-income households and at least 13% of all rental affordable units shall be made affordable to very low-income households earning 30% or less of the regional median household income by household size, which very low income units shall be included as part of the low income requirement. The remaining affordable units shall be made affordable to moderate-income households. The affordable units shall be located on-site and shall be reasonably dispersed throughout the development phased in accordance with the affordable housing construction scheduled set forth in *N.J.A.C. 5:97-6.4(d)*.
- C. Subdivision and site plan approval shall be denied by the board unless the developer complies with the requirements to provide low- and moderate-income housing pursuant to the provisions of this section. A property shall not be permitted to be subdivided so as to avoid meeting this requirement. The board may impose any reasonable conditions to ensure such compliance.
- D. The mandatory affordable housing set-aside requirement shall not give any developer the right to any such rezoning, variance, or other relief as set forth above or establish any obligation on the part of the Township to grant such rezoning, variance or other relief.

Section 2. This ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable, and publication according to law.

Introduction:

Public Hearing:

Adoption:

Mayor's Approval:

Effective Date:

ORDINANCE SUMMARY

This ordinance amends Chapter 200, Land Use by requiring a mandatory 25% affordable housing set aside on any future multi-family development created through any Township or Township land use board action involving a rezoning, use variance, density variance, redevelopment plan or rehabilitation plan when the density is at least six dwelling units per acre and results in the construction of five or more new units.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 18, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

[Ordinance Modifying Affordable Housing Set Aside with summary 2-19-19.docx](#)

ORDINANCE 2019-04

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF
WEST WINDSOR (1999) TO CREATE A R-5C DISTRICT**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 1, Site Plan, Article II, Terminology, Section 200-4, Definitions, is amended by ADDING the following definitions:

CAR SHARING SERVICE – A membership-based service, available to all qualified drivers in a defined community, that allows members to reserve a vehicle to make vehicle trips.

CAR SHARE VEHICLE – A vehicle owned by a private entity made accessible through a car sharing membership for use by its members.

PODIUM – A single or multi-story parking structure that serves as the base or ground level for one or more permitted uses, including, but not limited to buildings, parking, and site amenities. Structures built on top of a podium may cover all or part of the podium.

Section 2. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-142, Establishment of Zoning Districts, is hereby amended by adding after the line “R-5B Residence Affordable housing” the following:

R-5C Residence Affordable housing

Section 3. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-143, Zoning Map, is amended to read as follows:

The boundaries of said zoning districts are hereby established as shown on the Zoning Map, Township of West Windsor, dated May 23, 2009, and revised through _____, 2018, which, with all explanatory matter thereon, is hereby adopted and made part of this Part IV. An official copy of said Map, indicating the latest amendments shall be kept up-to-date in the office of the Land Use Manager for the use and benefit of the public and shall have the most current revision date shown thereon. The Zoning Map for that shall be the official reference as to the current zoning classification of the land within the boundaries of the Township of West Windsor.

Section 4. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVII, Use and Bulk Regulations for Residence Districts, is amended by adding the following NEW Sections 200-189.1 and 189.2.

§ 200-189.1 R-5C District use regulations.

A. General.

- (1) All regulations in Chapter 200 shall apply except for the following, which shall not apply: 200-29C, 200-29M(2), 200-29M(5), 200-29M(8), 200-29O(2), 200-29P, 200-36.1, 200-91P(7)(f), 200-226E(2), and 200-227.
- (2) The standards set forth in Section 200-189.2 shall apply in lieu of the following sections for the entire site: 200-27D(2), 200-29N(3), 200-30A-B, 200-32, 200-91P(6)(c)2[d], and 200-134C.
- (3) The standards set forth in Section 200-189.2 shall apply in lieu of the following sections for podium structures only: 200-91P and 200-134B.
- (4) The District shall be developed in a comprehensive manner pursuant to one development plan.

B. Permitted Uses.

- (1) Permitted Uses. In the R-5C District, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses:
 - (a) With sewer and public water: mid-rise apartments which may be permitted on podiums where the podium counts as one story and which mid-rise apartments may include buildings in condominium ownership, and garden apartments, which may include buildings held in condominium ownership, are permitted, provided that the equivalent of 25% of the total dwelling units that are the subject of a development application shall be low- and moderate-income housing meeting all of the applicable standards and requirements for affordable units, including those set forth in the *Uniform Housing Affordability Controls* (UHAC), N.J.A.C. 5:80-26.1 *et seq.* and in Section 200-237. At least 50 percent of the affordable units shall be affordable to low-income households, and at least 13 percent of all rental affordable units shall be affordable to very low-income households earning 30% or less of the regional median household income by household size, which very low income units shall be included as part of the low income requirement. The remaining affordable units shall be made affordable to moderate-income households. The affordable units shall be located on-site and shall be reasonably dispersed throughout the development phased in accordance with the affordable housing construction schedule set forth in N.J.A.C. 5:97-6.4(d). The state-wide non-residential development fee shall apply to the non-residential portion of the development to the extent that it includes other than residential uses.

- (2) Accessory Uses. In the R-5C District, the following uses may be permitted as accessory uses:
- (a) Parking, including structures and surface lots.
 - (b) Community and recreational amenities, including clubhouse, rental office, management office, and convenience market, except that no gasoline dispensing provisions are permitted, cultural facilities, day care facilities, social services, supporting neighborhood retail uses, fitness room, spa, pool, and play lot.
 - (c) Dumpsters, trash compactors, and other trash, recycling, or utility structures.
 - (d) Street furnishings, planters, street lights and exterior, garden-type shade structures.
 - (e) Fences and walls.
 - (f) Decks, patios, and terraces.
 - (g) Shelters for car sharing and shuttles.
 - (h) Loading docks.

§ 200-189.2 R-5C District bulk, area, and other regulations.

The following shall be the standards for the R-5C District:

A. Tract Development.

- (1) Minimum tract area: 60 acres
- (2) Minimum tract frontage: 150 feet
- (3) Minimum Yards.
 - (a) Where building façade is parallel to a Tract line: 15 feet from the Tract line.
 - (b) Where corner of the building is tangent to a Tract line: 5 feet from the Tract line.
- (4) Minimum buffer from lot line to parking, drive aisle, or turnaround area: 0 feet when adjacent lots are in common or affiliated principal ownership. Drive aisles may be located on Block 8, Lot 54 or 10.02 when the property is in common or affiliated principal ownership.
- (5) Modification to the proposed greenbelt easement on Block 8, Lots 54 and 10.02 shall be permitted to provide for circulation and fire safety.
- (6) Maximum permissible development density:
 - (a) The average gross density shall not exceed 10 dwelling units per acre.

- (b) The net density of mid-rise and garden apartments shall not exceed 40 dwelling units per acre.
- (7) Maximum improvement coverage to be determined on a Tract wide basis - 40% of the Tract. Additional improvement coverage up to a total improvement coverage of 55% on Block 8, Lots 54 and 10.02 may be permitted to allow for streets, paths, and emergency access serving the development. Any increase in improvement coverage on such lots shall be only for streets, paths, and emergency access serving the development. The applicant shall provide calculations demonstrating compliance with both the 40% and 55% improvement coverage requirements.
- (8) Maximum building height for mid-rise apartments and community building: 85 feet.
- (9) Maximum building height for garden apartments: 50 feet.
- (10) Design Criteria.
 - (a) Distances between structures. In development groups (more than one building or structure on the tract), the following distances shall be maintained between structures:
 - [1] Any building face to street curb or internal road right of way: 7 feet minimum from any front building face or 2 feet from any side building face or corner.
 - [2] Any building face or corner to parking area: 5 feet minimum, or 0 feet where a driveway is fronting a garage.
 - [3] End wall to window wall: 25 feet minimum
 - [4] Window wall to window wall (separate buildings): 25 feet minimum.
 - [5] Window wall to window wall (in same building): 20 feet minimum, exclusive of architectural accents including, but not limited to, nooks, notches, or bays.
 - (b) Building site design principles.
 - [1] Overall principles.
 - a. Parking stalls for residents and visitors shall be located near dwelling unit entrances.
 - b. Screening of private outdoor living areas shall be addressed and may be accomplished with plant materials, masonry structures or wood fencing. Architectural elements such as masonry walls and fences shall be compatible in both style and materials with the dwelling unit of which it is part.
 - c. The design of all accessory uses, including but not limited to street furnishings, planters, street lights, exterior garden-type shade structures, fences, walls, decks, patios, terraces, and shelters for car

sharing and shuttles, shall complement the architectural style, type, and design of the buildings and the overall project design.

[2] Garden apartments.

- a. Each garden apartment structure shall be limited to a maximum of 45 units and a length of 335 feet. Such structures shall be grouped in clusters of consistent architectural design. Architectural treatment, roof changes or vertical or horizontal offsets of a minimum of 2 feet to create visual breaks on the exterior of buildings should be provided.
- b. Open balconies or outdoor private living spaces for individual dwelling units should be provided. Balconies integrated into the architectural façade shall be considered as architectural offsets if more than 2 feet in depth.

[3] Mid-rise apartments (which may include split-level style and on podiums).

- a. Mid-rise apartments shall be located on a site directly adjacent to the major portions of common space or open space in the development.
- b. Open balconies, decks, patios, or garages at the ground floor units should be provided. Balconies integrated into the architectural façade shall be considered as architectural offsets if more than 2 feet in depth.
- c. Architectural treatment, roof or parapet changes, or jogs of a minimum of 2 feet to create visual breaks on the exterior of the buildings should be provided.
- d. Architectural treatments, porticos and material changes at points of principal entry should be provided.

[4] Buildings may be permitted on podiums.

B. Vehicular, Bicycle, and Pedestrian Circulation

- (1) Access. The street system shall be integrated with the existing network of streets so that there are at least two points of unobstructed access to and from the tract. Access drives or driveways shall be provided in accordance with the criteria provided in this section.
- (2) General vehicular circulation design principles.
 - (a) The street system should utilize, where appropriate, cul-de-sacs, roundabouts, loop streets, and other suitable forms of street layout. Varying street widths according to their intended traffic carrying and parking purposes are encouraged.
 - (b) An emergency access drive shall be provided. This access drive may be fenced off or gated when not in use.
 - (c) Connector road to Old Meadow Road. The owner of the tract shall cause an easement to be provided granting one way access in from Old Meadow Road

through the existing access within the apartment community on Block 8, Lot 10.02 leading to the R-5C District and providing access in one direction for a future connection in one direction into Block 8, Lots 17, 24, and 30 on the West Windsor Township Tax Map as of the effective date of this ordinance. The one-way access connector road shall be jointly maintained by the owners of the aforementioned properties and the developer of Block 8, Lot 8.

- (d) Connector road to Route 1. Should the owner of Block 8, Lot 18 redevelop its property, the developer of Block 8, Lot 8 shall cause an easement to be provided granting direct two way access from the access road off of Route 1 to Block 8, Lot 18 on the West Windsor Township Tax Map as of the effective date of this ordinance. Should Block 8, Lot 18 be redeveloped, the costs to upgrade and maintain the access connector roadway and any modifications to the existing curb, or as may be required by NJDOT, shall be paid by the owner of Block 8, Lot 18. The portion of the connector roadway not already completed shall be constructed by the owner of Block 8, Lot 18. An easement so providing shall be a condition of development approval in the R-5C District and shall become effective upon the demolition of all structures and redevelopment of Block 8, Lot 18 as of the date of the adoption of this ordinance and redevelopment of such lot.
- (e) Road and driveway connections from main roads shall be located at grade and not below the crest of vertical curves.
- (f) Vehicular connections to adjacent properties may be provided where appropriate.
- (g) Access ways, but not parking spaces, are permitted on adjacent lots when in common principal ownership. An easement shall be provided therefor.
- (h) Pedestrian circulation.
 - [1] Comprehensive on-site pedestrian circulation shall be provided.
 - [2] Pedestrian connections shall be provided to Block 8, Lots 10.03, 24, 10.02, and 54 on the West Windsor Township Tax Map as of the effective date of this Ordinance.
- (i) Bikeways. Bicycle access shall be combined with motor vehicle access and identified with an appropriate street marking such as a sharrows or striped shoulder outside of vehicle lanes or provided as a separate parallel system adjacent to motor vehicle access. Width and design guidelines for all bikeways shall be as provided in Section 200-36C(3)(c)[2] of the West Windsor Township Land Use Ordinance.

C. Parking and Loading Requirements.

- (1) Off-street parking. The standards set forth in the RSIS shall govern all off-street parking, except for the standards that govern the size of parking spaces, circulation in parking structures, and compact parking, which shall conform to the standards in Section 200-29M(6) of the West Windsor Land Use Ordinance.

(2) Location of parking spaces.

- (a) Parking spaces, open or enclosed, shall be on the same lot or tract of land as the building or use to be served.
- (b) A parking space plan addressing parking space allocations shall be submitted with the site plan application.

(3) Car share and shuttles.

- (a) A resident shuttle service or ride-sharing service to the Princeton Junction Station shall be provided on or before the date when a minimum of 50% of units are occupied.
- (b) Drop-off or pick-up areas for car share vehicles or resident shuttles are permitted.

(4) Bicycle parking design principles.

- (a) Location. Bicycle parking facilities shall be located indoors and outdoors.
 - [1] Each garden apartment building shall have a dedicated interior space or enclosed room for storage of bicycles.
 - [2] Mid-rise apartment buildings shall have dedicated interior space or an enclosed room for storage of bicycles. Such spaces may be located within a parking garage.
- (b) Off-street loading requirements.
 - [1] Mid-rise apartments that are on a podium: One loading area shall be provided. Loading areas may be provided in designated parking areas.
 - [2] Mid-rise apartments, which include split-level style and garden apartments: One loading area shall be provided for every fifty apartment units. Driveways fronting garages may satisfy this requirement.

D. Open space and recreational facilities.

(1) Open space distribution requirements are as follows:

- (a) Common active open space, including recreational facilities: 40,000 square feet minimum. Common active open space or recreational space may include areas on top of structures such as parking garages. Common active open space calculations shall not include lands in conservation easements.
- (b) Natural open space: a minimum of 38 acres shall remain as a green belt, defined as greenbelt consisting of natural features, significant wooded areas, vegetation, channels, floodways or water bodies.
- (c) Recreational facilities.
 - [1] Play lots. One play lot, minimum 3,500 square feet in size, primarily for use by older children, is required. Facilities may include swings, slides,

play sculptures, and benches for parents. A tot lot primarily for use by toddlers is not required, as long as there is at least one tot lot accessible to residents on Block 8, Lots 54 and 10.02. Accessibility shall be provided through a reciprocal easement agreement.

- [2] Swimming pools. One swimming pool, minimum 1,800 square feet in size, is required.
- [3] Tennis courts, basketball courts, and play fields. There are no requirements for tennis courts, basketball courts, or play fields on-site, as long as there is at least one tennis court, one half-sized basketball court, and a play field accessible to residents on Block 8, Lots 54 and 10.02. Accessibility shall be provided through a reciprocal easement agreement.
- [4] Multipurpose community facility. A recreation center or multipurpose community facility, including space for permitted accessory uses, is required. The facility may be a freestanding building or integrated into a principal permitted building. The facility may be multi-story. The facility shall be within walking or easy biking distance of the majority of residents it is intended to serve.

E. Landscape standards.

- (1) Street trees. Street trees shall be provided in addition to any buffer requirements for municipal or county streets, if any streets are provided in the plan. Street trees shall be in accordance with the West Windsor Land Use Ordinance and Township Comprehensive Master Street Tree Plan standards for location, species selection and spacing. Street trees along fire lanes are not required.
- (2) Landscape buffers. Buffers shall be provided along all site edges as provided for herein:
 - (a) Along property lines adjacent to parking areas or drive aisles a planted 3 foot wide buffer of evergreen shrubs shall be provided. Shrubs shall be a minimum of 3 feet in height at time of planting, placed a maximum of 3 feet on center. Buffer plantings may be located on the adjacent property when in common or affiliated principal ownership. Loading areas shall be excluded from buffering requirements.
 - (b) Along property lines where utility and/or sewer easements interfere, a 5 foot wide buffer shall be provided. The buffer shall contain a mix of evergreen shrubs planted at a maximum of 3 feet on center, and plants planted in naturalistic groups of mixed plant varieties to provide visual interest.
- (3) Parking areas.
 - (a) All open parking areas and access ways thereto shall be properly drained, and all such areas shall be a paved surface. Geo Grid, or an acceptable alternative, shall be permitted for emergency vehicle access ways.
- (4) Podium landscape standards.

- (a) Ground floor units. A hardscape or landscape screen shall be provided between each ground floor apartment outdoor space and other community spaces.
- (b) Deck material. Podium deck shall differentiate spaces by using different materials or finish colors.
- (c) A variety of small plantings that can prosper in shallow soil conditions shall be provided as landscape elements in outdoor community spaces.

F. Sign regulations.

- (1) Development in the R-5C District shall conform to the requirements provided in this subsection.
- (2) General. Each site plan application shall include a signage plan showing the specific design, location, size, height, construction, and illumination of proposed signs in accordance with the regulations contained herein.
- (3) Permitted signs. The following standards shall apply to all signs in the R-5C District. No sign type other than those identified below shall be permitted.
 - (a) Monument signage.
 - [1] Two monument signs shall be permitted (one at the entrances on Old Meadow Road and Route 1).
 - [2] The maximum monument sign area, excluding the base structure, shall be 60 square feet per side, of which no more than 50 square feet may be devoted to the LED sign permitted by subsection [4] hereof.
 - [3] The maximum monument sign height, including structure and sign area, for signs along Route 1 shall be 12 feet and for signs along Old Meadow Road shall be six feet.
 - [4] An electronically programmable and changeable digital LED sign shall be permitted on the monument signs to display information solely related to the development. The sign shall not be used for third-party advertising of any kind except for announcements by the Township, except that political signage shall not be permitted. The LED changeable digital signage must conform to any applicable NJDOT regulations.
 - (b) Wayfinding signage.
 - [1] One free-standing or wall wayfinding sign shall be permitted for each building entrance.
 - [2] Free-standing wayfinding signs shall be permitted, to be spaced throughout the site for the purpose of wayfinding as needed.
 - [3] The maximum wayfinding sign area shall not exceed 9 square feet and the letter height shall not exceed four inches.

[4] For freestanding signs, the maximum sign height, including structure and sign area, shall be 6 feet above existing grade.

[5] One wall sign shall be permitted for the community center. The maximum wall sign area shall not exceed 50 square feet.

(c) Street address signage.

[1] Street address signage shall be provided on each building or for each individual tenant.

[2] Street address numbers shall have a maximum height of 8 inches.

(d) Blade signs/banners

[1] A maximum of two blade signs per mid-rise apartment building shall be permitted. The maximum sign area shall not exceed 60 square feet and may project up to 3 feet from the building.

[2] Banner signs may be permitted as needed throughout the site.

[3] Blade signs and banners may be attached to buildings or freestanding posts.

G. Loading, refuse and recycling, and service utility areas.

(1) All loading, refuse and recycling collection, service and utility areas shall be sufficient in size to collectively serve the development. The required method of screening for dumpsters, trash compactors, recycling facilities or other outdoor storage areas shall conform to the standards outlined in Section 200-189.2B(5)(c).

(2) Outside deposit areas shall not be permitted in any required yard or setback area, nor shall they interfere with the operation of off-street parking facilities.

(3) Trash compactors, recycling facilities, and loading areas shall be located on the site so as to provide clear and convenient access for collection vehicles.

(4) The applicant shall provide a waste management and recycling plan, subject to Township review and approval. Such management plan shall be submitted with an application for preliminary approval.

(5) Transformers located on the ground shall be screened in the manner set forth in Section 200-189.2B(5)(c).

(6) Refuse and recycling requirements.

(a) Outdoor storage areas.

[1] A central area consisting of trash compactors and recycling facility shall be provided to service the entire development. This area shall be conveniently located for residential deposition of waste and recyclables.

(b) Dwelling unit storage.

- [1] Individual garden apartment dwelling units shall provide a location within the unit for storage of designated recyclable materials in compliance with Section 200-134B of the West Windsor Land Use Ordinance. Garden apartment units for which a garage is rented may have such storage space within the attached garage structure.
- [2] A separate location for storage of designated recyclable materials within individual mid-rise apartment building dwelling units is not required, provided that each floor of the mid-rise apartment building shall include a central room for trash and recycling with bins for collection of recycling and a chute for trash terminating in a collection area within the structure.

H. Snow storage and removal. Procedures for snow storage and removal shall be identified.

Section 5. This ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable, and publication according to law.

Introduction:
Public Hearing:
Adoption:
Mayor's Approval:
Effective Date:

ORDINANCE SUMMARY

This ordinance amends Chapter 200, Land Use by creating a new R-5C District. The new district, as shown on the Zoning Map attached to the ordinance, is currently zoned ROM-1 and consists of 64 acres. It is adjacent to the Lowe's shopping center, with access to both Route 1 and Meadow Road. The maximum permitted gross density is 10 dwelling units per acre, with a 40% maximum improvement coverage and a maximum height of 85 feet for mid-rise apartments and 50 feet for garden apartments. At least 25% of the units must be affordable housing. The minimum size of the development tract is 60 acres, and design criteria and site design standards are set forth. There must be at least 40,000 square feet of common active open space, and at least 30 acres shall remain as a greenbelt. A play lot for older children is required. A lot for younger children is not required so long as there is at least one accessible on an adjoining tract in common ownership with the owner of District R-5C. A recreation center or multipurpose community facility is required. Landscapes standards are specified, as are standards governing signage and loading, refuse and recycling, and surface utility areas.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 18, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

[Duck Pond Run R-5C Ordinance with summary 2-19-19Garden Homes.docx](#)

ORDINANCE 2019-05

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR
(1999) TO CREATE A R-5D DISTRICT**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-142, Establishment of Zoning Districts, is hereby amended by adding after the line “R-5C Residence Affordable housing” the following:

R-5D Residence

Affordable housing

Section 2. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes Establishment of Districts; General Conditions, Section 200-143, Zoning Map, is amended to read as follows:

§ 200-143. Zoning Map.

The boundaries of said zoning districts are hereby established as shown on the Zoning Map, Township of West Windsor, dated March 23, 2009, and revised through _____, 2017, which, with all explanatory matter thereon, is hereby adopted and made a part of this Part 4. An official copy of said Map, indicating the latest amendments, shall be kept up-to-date in the office of the Land Use Manager for the use and benefit of the public and shall have the most current revision dated shown thereon. The Zoning Map shall be the official reference as to the current zoning classification of land within the boundaries of the Township of West Windsor.

Section 3. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVII, Use and Bulk Regulations for Residence Districts, is amended by adding the following NEW Section 200-189.3:

§ 200-189.3 R-5D District use, bulk and other regulations.

A. Use and bulk standards. The use, bulk and other regulations governing the R-5B District shall apply, except that:

- (1) Stacked flats/apartments attached to townhouses restricted to units set aside for low-and moderate income households are permitted.

- (2) Group homes in detached dwellings or attached to townhouse buildings with a minimum capacity of three bedrooms intended for individuals with development disabilities are permitted.
- (3) A commercial building or buildings not to exceed 10,000 square feet in total gross floor area which may be occupied by any principal use or conditional use as permitted in the P-3 Business District, subject to the bulk and area regulations of that district, are permitted.
- (4) 25 percent of the total dwellings that are the subject of the development application shall be low- and moderate-income housing meeting all of the applicable standards and requirements for affordable units, including those set forth in the *Uniform Housing Affordability Controls* (UHAC), N.J.A.C. 5:80-26.1 *et seq.*, and in Section 200-237. At least 50 percent of the affordable units shall be made affordable to low-income households and at least 13 percent of all rental affordable units shall be made affordable to very low-income households earning 30% or less of the regional median household income by household size, which very low income units shall be included as part of the low income requirement. The remaining affordable units shall be made available to moderate-income households. The affordable units shall be located on site and shall be reasonably dispersed throughout the residential component phased in accordance with the affordable housing construction schedule set forth in NJAC 5:97-6.4(d). Parking spaces shall be reserved for the affordable units.
- (5) In lieu of the net density requirements set forth in Section 200-184A(4)(b), the following shall apply:
 - (a) The net density of townhouses and stacked flats attached to the townhouses shall not exceed 25 dwelling units per acre.
- (6) Accessory uses: street furniture, decks, patios, fences, walls, pump stations and garbage corrals

B. Modifications of design standards. The design standards set forth in this Chapter 200 shall apply, except that:

- (1) Parking for a commercial building or buildings shall be permitted within the front yard provided that a minimum 40 foot planted buffer area be maintained to said parking area from the street right-of-way. No separate off-street loading space shall be required for a commercial building or buildings.
- (2) The minimum window wall to window wall requirement shall be 30 feet.
- (3) A minimum of 30 acres shall be preserved for open space.

(4) Useable recreation facilities as set forth in 200-36C(3)(c) shall be 2.5% of the gross tract area

(5) The following requirements as to recreational facilities shall apply:

(a) Play Lots. One play lot shall be required with a minimum of 2,000 square feet for toddlers and up to 5,000 square feet for older children.

(b) Tennis. One court shall be required

(c) Swimming pools. Shall not be required

(d) Community building. Shall not be required

(6) In lieu of the active recreation purpose requirement set forth in Section 200-190C1, the following shall apply:

Such designated open space shall include no less than 2 acres of land developed for active recreation purposes.

C. Snow storage and removal. Procedures for snow storage and removal shall be identified.

Section 4. This ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable. Publication will be according to law.

Introduction:

Public Hearing:

Adoption:

Mayor's Approval:

Effective Date:

ORDINANCE SUMMARY

This ordinance amends Chapter 200, Land Use by creating a new R-5D Zoning District. The new district, as shown on the Zoning Map attached to the Ordinance, is located on Old Trenton Road opposite the Dorchester Shopping Center, with a portion of the property backing up onto Princeton-Hightstown Road. The District encompasses 67 acres. The tract is currently zoned R-O-1. The same use and bulk regulations that apply to the R-5 and R-5B Districts apply. This includes single-family residences and garden apartments, townhouses, and maisonette dwelling units within a planned development, except that stacked flats/apartments attached to townhouses are permitted for affordable units. Group homes in detached dwellings or attached to townhouse buildings with a minimum capacity of three bedrooms are permitted as well as a commercial building or buildings not to exceed 10,000 square feet. The maximum improvement coverage is 40% and maximum height is four stories, but no more than 45 feet. The uses permitted in such buildings are the same as those permitted in the P-3 Business District, which include office uses limited to the existing floor area of residential dwelling, except on parcels of four acres the existing residential dwelling may be enlarged or replaced, and mixed-use buildings containing a residential use and an additional use permitted. A net density not exceeding 25 units per acre for townhouses and stacked flats is permitted. 25% of the units must be affordable housing. A substantial portion of the tract is environmentally constrained and will be preserved with an ordinance requirement that a minimum of 30 acres be preserved for open space, at least two acres of which must be developed for active recreation. A concept plan submitted to the Township shows 185 townhouses and a group home.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 18, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

[R-5D District Ordinance with summary 2-19-19 American Properties Heritage Village.docx](#)

ORDINANCE 2019-06

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR
(1999) TO CREATE A PMN-1 DISTRICT**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-142, Establishment of Zoning Districts, is hereby amended by deleting the line reading “ROM-5 Industrial Research, Office, limited manufacturing” and by adding after the line “PMN Residence/Business Planned mixed use neighborhood/affordable” housing” the following:

PMN-1 Residence/Business Planned mixed use neighborhood/affordable housing

Section 2. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-143, Zoning Map, is amended to read as follows:

The boundaries of said zoning district is hereby established as shown on the Zoning Map, Township of West Windsor, dated May 23, 2009, and revised through _____, 2018, which, with all explanatory matter thereon, is hereby adopted and made part of this Part IV. An official copy of said Map, indicating the latest amendments shall be kept up-to-date in the office of the Land Use Manager for the use and benefit of the public and shall have the most current revision date shown thereon. The Zoning Map for that shall be the official reference as to the current zoning classification of the land within the boundaries of the Township of West Windsor.

Section 3. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVIII, Use and Bulk Regulations for Residence Districts, is amended by the adding the following NEW Section 200-194.3.

§ 200-194.3 PMN-1 District use bulk, and other regulations

- A. Purpose. The Planned Mixed Use Neighborhood-1 (PMN-1) District is intended to encourage a mix of residential development in conjunction with appropriately scaled and compatible commercial development consisting of retail sales and services, hotels, corporate suites, general and administrative offices, fitness and instructional studios and

similar uses with convenient access to Route 1 and proximate to the train station and surrounding commercial employment centers such as Carnegie Center. It is intended to be bicycle and pedestrian friendly and permit a compact mix of restaurants, commercial, market-rate and affordable residential dwelling units and plazas, and a limited service hotel. The PMN-1 District is intended to provide a compatible setting for affordable housing close to mass transit services and employment opportunities.

B. Planned comprehensive development, development application requirements and required uses. Any development application in the PMN-1 District shall be submitted as a planned development, in the nature of a preliminary site plan application, for the entire district. Such application shall describe any phasing of the proposal, together with any on-site and off-tract improvements needed to support such phases. The application for preliminary site plan approval may also include a request for final approvals with respect to such phase or phases. The following shall apply:

- (1) A PMN-1 development shall be subject to the requirements of this District and to the mandatory findings for a planned development as required by the Municipal Land Use Law, N.J.S.A. 40:55D-45.
- (2) A minimum of 15,000 square feet of nonresidential floor area shall be devoted to neighborhood retail commercial goods and services..
- (3) A minimum of 600 residential units, market and affordable, shall be provided.
- (4) A limited service hotel with a minimum of 120 rooms shall be provided.
- (5) A roundabout is preferred for the intersection of Meadow Road and Carnegie Center Drive.

C. Principal permitted uses. In the PMN-1 District, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses:

- (1) Neighborhood retail uses providing for the sale of goods and services, not exceeding 30,000 square feet of floor area, including but not limited to convenience food stores, pharmacies, restaurants (excluding curb-service establishments and drive-through facilities), cafes, luncheonettes, and delicatessens, indoor recreation facilities, including instructional studios and fitness centers, attended laundry and retail dry-cleaning services (not including bulk processing and, in the case of dry-cleaning establishments, not providing for the storage of more than five gallons of flammable or toxic cleaning fluid on the premises), book, newspaper, periodical and stationery stores, copy centers, parcel package shipping stores or mailing centers, bicycle shops and bicycle rental facilities, banks, and personal services establishments (e.g., barber or beauty salon and spa and massage services).

- (2) Hotels
- (3) General and administrative offices and professional offices (e.g., physicians, lawyers and architects); small commercial offices (e.g., realtors and travel agencies); and offices incidental to uses permitted in this section.
- (4) Garden and mid-rise apartments and townhouse dwellings. The residential units shall be subject to a twenty five percent low- and moderate-income housing set aside in accordance with Subsection I.
- (5) Affordable housing in accordance with Subsection I.

D. Permitted accessory uses.

- (1) Recreational, clubhouse, swimming pool, recycling buildings, and open space facilities, including, but not limited to, walkways, courtyards, plazas, community centers, and community gardens.
- (2) Off-street parking and loading designed in an aesthetically appealing manner in terms of layout and materials.
- (3) Signs.
- (4) Street furniture, planters, approved public art elements, gazebos, information kiosks, and waste/recycling receptacles.
- (5) Sidewalk cafes associated with permitted restaurants.
- (6) Fences and walls, which shall complement the architectural style, type and design of the building and the overall project design. They shall be constructed in accordance with a fence and wall design plan approved by the board of jurisdiction.
- (7) Decks, patios and terraces, which shall complement the architectural style, type and design of the building and the overall project design. They shall be constructed in accordance with a deck, patio, and terrace design plan approved by the board of jurisdiction.
- (8) Walk-up ATMs.
- (9) Garages for use by tenants

E. Minimum tract size. The minimum tract area shall be comprised of Block 9, Lots 12.01 and 12.03, and Block 9.03, Lot 12.02, as shown on the tax maps of the Township of West Windsor.

- F. Location of nonresidential uses. Non-residential uses shall be located on Block 9, Lot 12.01 within 700 feet of the Route 1 North Service Road right-of-way.
- G. Maximum improvement coverage. The maximum improvement coverage shall be 70%.
- H. Greenbelt preservation. No development other than walking trails shall be permitted in the Greenbelt as depicted in the Conservation Plan Element of the Master Plan, except that the Greenbelt on Block 9.03, Lot 12.02 may be modified at the time of development application review based upon the Delaware and Raritan Canal Commission buffer line. An easement shall be provided for all Greenbelt shown on the approved plans not already subject to Greenbelt easements. Any walking trail shall be designed so as to enhance the Greenbelt.
 - I. Affordable housing. Twenty five percent of the residential component shall be low- and moderate-income housing meeting all of the applicable standards and requirements for affordable units, including those set forth *Uniform Housing Affordability Controls (UHAC)*, N.J.A.C. 5:80-26.1 *et seq.*, and Section 200-237. At least 50 percent of the affordable units shall be made affordable to low-income households, and at least 13 percent of all rental affordable units shall be made affordable to very low-income households earning 30% or less of the regional median household income by household size, which very low income units shall be included as part of the low income requirement. The remaining affordable units shall be made affordable to moderate-income households. The affordable units shall be located on site and shall be reasonably dispersed throughout each residential component phased in accordance with the affordable housing construction schedule set forth in NJAC 5:97-6.4(d). The state-wide non-residential development fee shall apply to the non-residential portion of the development to the extent that it includes other than residential uses.
- J. Public activity area. The PMN-1 development shall contain a public space on Block 9, Lot 12.01. The public space shall have a minimum area of 10,000 square feet, which shall be designed as a public activity focus for the development. Design elements, which may include patterns in the pavement, a fountain, gazebo, sculpture, bollards, sitting areas and landscaping, shall be incorporated into this public space.
- K. Residential unit standards
 - (1) The average gross density shall not exceed 12 dwelling units per acre for the entire tract.
 - (2) Of the housing types provided, no one type shall exceed 75% of the total dwelling units to be developed.
 - (3) Building heights for all dwellings may not exceed four (4) stories.

(4) Yard dimensions:

[a] Front yard: minimum of 15 feet on internal streets and drives and 25 feet on public streets measured from the property line. Paved areas for access to garages and parking lots are permitted in front yards.

[b] For dwellings that front Carnegie Center Drive, the yard setback shall be a minimum of 15 feet from the property line.

L. Area, bulk, and other regulations for nonresidential uses on fee simple lots.

(1) Hotel

[a] Lot area: minimum of 1 acre.

[b] Lot width: minimum of 200 feet.

[c] Minimum lot depth: 200 feet

[d] Yard dimensions:

[1] Front yard: minimum of 15 feet on internal streets and drives, and 35 feet on public streets, measured from the property line. Paved areas for access to garages and parking lots are permitted in front yards.

[2] Side yard (each side): minimum of 15 feet, exclusive of any canopy.

[3] Rear yard: minimum of 20 feet on internal streets and drives, measured from the property line.

[e] Maximum building height: 60 feet or five stories, whichever is less

[f] Maximum improvement coverage: 75%.

(2) Commercial other than hotel and office

[a] Lot area: minimum of 1 acre.

[b] Lot width: minimum of 200 feet.

[c] Minimum lot depth: 200 feet

[d] Yard dimensions:

[1] Front yard: 25 feet.

[2] Side yard (each side): minimum of 20 feet

[3] Rear yard: minimum of 20 feet on internal streets and drives, measured from the property line.

[e] Maximum store size: no more than 40% of the total gross floor area.

[f] The maximum building height shall be two stories or 30 feet, whichever is less.

(3) Office

[a] Area, bulk, and other regulations for office uses on fee simple lots shall be in accordance with the standards enumerated in the ROM-1 zoning district.

(4) All non-residential buildings shall be set back a minimum of 20 feet from any existing residential lot not separated by a public road.

M. Required off-street and on-street parking.

(1) All streets shall be designed to accommodate two travel lanes.

(2) The off-street parking standards set forth in § 200-27B shall apply, except as follows:

(a) Off-street parking for hotels shall be 1 space per room plus .5 parking space/employee.

(b) Off-street parking for all retail or office uses shall be a minimum of one space per each 500 square feet of gross floor area. The applicant shall demonstrate that parking is sufficient for each use.

(c) Off street parking for restaurants set forth in Section 200-27B shall apply in the PMN-1 District unless authorized otherwise by the board of jurisdiction based on the applicant demonstrating that parking is sufficient for the use.

(3) Except for hotels and retail, off-street parking lots shall be prohibited in any front yard setback from a public street and shall be accessed by means of common driveways, preferably from side streets or lanes. Cross-access easements for adjacent lots with interconnected parking lots shall be provided where necessary. Shared parking facilities are encouraged where possible. Where off-street parking areas are visible from existing public streets of the development, they shall be buffered by landscaping or a low masonry wall.

N. Pedestrian and bicycle accessibility.

- (1) A comprehensive bicycle and pedestrian circulation system shall be provided between all uses, along roads, and through the open space.
 - (2) The developer shall provide paved pedestrian/bicycle linkages, including crosswalks, to all off-tract adjacent residential developments on the project side of Meadow Road as well as a sidewalk linkage or path to Old Meadow Road and Carnegie Center Drive.
 - (3) Pedestrian crossings in streets and alleys shall include special ground texture treatment such as brick, stone, cobblestones, concrete and other suitable material and shall be ten feet in width. The treatment of any crosswalk shall be designed with materials that indicate the different traffic characteristics of intersecting streets.
 - (4) Safe and secure bicycle parking shall be provided.
- O. Signs. A comprehensive sign plan shall be prepared for all use types proposed within the PMN-1 District. The signs shall be compatible in design and integral to the architectural design. A mix of wall and hanging signs is required. The sign standards set forth in § 200-258D shall apply.
- P. Architectural design standards and guidelines.
- (1) Buildings shall generally relate in scale to the surrounding buildings in the development and off-tract. Buildings shall reflect a continuity of treatment obtained by maintaining the building scale or by subtly graduating changes; by maintaining base courses; by maintaining cornice lines in buildings of the same height; by extending horizontal lines of fenestration; and by reflecting architectural styles and details, design themes, building materials, and colors used in surrounding buildings.
 - (2) Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections such as balconies, canopies, and signs, recesses, and changes in floor level, shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, roofline offsets, dormers, or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
 - (3) The architectural treatment of the front facade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors, and details. Blank wall or service area treatment of side and rear elevations visible from the public views is discouraged.

- (4) For residential units, gable roofs with a minimum pitch of 6/12 shall be used to the greatest extent possible. Where hipped roofs are used, it is recommended that the minimum pitch be 6/12. Both gable and hipped roofs shall provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall. Flat roofs are permitted provided that all visibly exposed walls have an articulated cornice that projects horizontally from the vertical building wall plane. Other roof types shall be appropriate to the building's architecture. Mansard roofs are prohibited on buildings less than three stories in height. Architectural embellishments that add visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas, clock towers, and other similar elements, are encouraged.
- (5) Fenestration shall be architecturally compatible with the style, materials, colors, and details of the building. Windows shall be vertically proportioned wherever possible. To the extent possible, upper-story windows shall be vertically aligned with the location of windows and doors on the ground level.
- (6) All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, balustrades, or others, where appropriate. Any such element utilized shall be architecturally compatible with the style, materials, colors, and details of the building as a whole, as shall the doors.
- (7) Ground-floor retail, services, and restaurant uses shall have large-pane display windows. Such windows shall be framed by the surrounding wall and shall not exceed 75% of the total ground-level facade area.
- (8) For residential units, natural materials such as wood, stone and masonry are recommended. High-quality artificial siding and metal roof materials are permitted. Other roof materials, whether asphalt or other material, must mimic slate or tile. Stucco or similar treatment may be used as an accent. Materials manufactured from local or regional manufacturers and from recycled or renewable resources shall be considered.
- (9) Heating, ventilating and air-conditioning (HVAC) systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.
- (10) Street furniture such as benches, street lamps, bicycle racks, receptacles for litter, including mandatory recycling receptacles, bus stops, landscape planters and hanging baskets shall be provided. A standard street furnishing plan shall be established for the entire district. Options shall be established in order to permit variety. Furnishings manufactured from recycled materials shall be considered. Furnishings manufactured from local or regional sources shall be considered.

- (11) All ground-level residential units are encouraged to have clearly defined front yards using landscaping, hedging, fencing or brick, stone, or masonry walls, none of which, except for approved planting, shall exceed three feet in height. Wood and chain link fences are not permitted.

Q. Snow storage and removal. Procedures for snow storage and removal shall be identified.

Section 4. Chapter 200 of the Code of the Township of West Windsor, Land Use, Part 4, Zoning, Article XXIX, Research/Office/Manufacturing, Research/Office and Research and Development Districts, is amended by deleting Section 200-217, ROM-5 Industrial District, and by marking Section 200-217 as “Reserved.”

Section 5. This ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable, and publication according to law.

Introduction:

Public Hearing:

Adoption:

Mayor’s Approval:

Effective Date:

ORDINANCE SUMMARY

This ordinance amends Chapter 200, Land Use by creating a Planned Mixed Use Neighborhood-1 (PMN-1) District. This District, as shown on the Zoning Ordinance attached to the ordinance, consists of three tracts fronting on Route 1 and bisected by Meadow Road. It is adjacent to Carnegie Center East. It encompasses 53.9 acres and is currently zoned ROM-5.

Comprehensive development of the district is required and at least 600 residential units, with 25% of them being affordable, a minimum of 15,000 square feet devoted to neighborhood retail commercial goods and services, with a maximum of 30,000 square feet, and the limited service hotel are required. A limited service hotel will not include ballrooms and conference rooms, but a restaurant with a bar may be attached to it. General and administrative offices, professional offices, and small commercial offices, for realtors and travel agencies, for example, are also permitted. The dwelling units must be garden and mid-rise apartments and townhouses, and the maximum gross density is 12%. No one unit type may exceed 75% of the total number of dwelling units to be development. The maximum improvement coverage is 70%. Building heights may not exceed four stories. Detailed bulk, park, and parking standards for all permitted uses are set forth. Architectural design standards and guidelines are also provided for.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 18, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

[PMN-1 Ordinance with summary 2-19-19 Mack Cali.docx](#)

ORDINANCE 2019-07

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF WEST WINDSOR
(1999) TO CREATE AN RP-12 DISTRICT**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-142, Establishment of Zoning Districts, is hereby amended by adding after the line “RP-11 – “Overlay of the Princeton Junction Redevelopment Plan” the following:

RP-12 Residence/Affordable Housing

Section 2. Chapter 200 of said Code, Land Use, Part 4, Zoning, Article XXVI, Titles, Purposes, Establishment of Districts; General Conditions, Section 200-143, Zoning Map, is amended to read as follows:

The boundaries of said zoning district is hereby established as shown on the Zoning Map, Township of West Windsor, dated May 23, 2009, and revised through _____, 2018, which, with all explanatory matter thereon, is hereby adopted and made part of this Part IV. An official copy of said Map, indicating the latest amendments shall be kept up-to-date in the office of the Land Use Manager for the use and benefit of the public and shall have the most current revision date shown thereon. The Zoning Map for that shall be the official reference as to the current zoning classification of the land within the boundaries of the Township of West Windsor.

Section 3. Chapter 200 of said Code, Land Use, Part 5, Princeton Junction Redevelopment Plan Regulatory Provisions, Article XXXIV, Land Use Controls, is hereby amended by the adding a New Section 200-272 as follows and by renumbering the subsequent sections accordingly:

§ 200-272 RP-12 District.

A. RP-12 District use regulations.

- (1) Purpose. The goal of the RP-12 District is to develop the property in the RP-12 District with attractive, multi-family housing, to include 20% affordable housing.

- (2) Comprehensive development. The District shall be comprehensively developed in accordance with one development application for the entire district.
- (3) Permitted principal uses. In the RP-12 District, no building or premises shall be used and no building shall be erected or altered on a lot which is arranged, intended or designed to be used, except for the following use:
 - (a) Multifamily dwellings, provided that twenty percent (20%) of such units are affordable housing meeting all of the applicable standards and requirements for affordable units, including those set forth in the *Uniform Housing Affordability Controls (UHAC)*, N.J.A.C 5:80-26.1 *et seq.*, and Section 200-237. At least 50% of the affordable units shall be affordable to low-income households, and at least 13% of all rental affordable units shall be affordable to very low-income households earning 30% or less of the regional median household income by household size, which very low income units shall be included as part of the low income requirement. The remaining affordable units shall be made affordable to moderate-income households. The affordable units shall be dispersed in at least three buildings each having no more than 50% of such units. Affordable housing shall be architecturally indistinguishable from market-rate housing.
- (4) Permitted accessory uses.
 - (a) Recreational and open space facilities, including, but not limited to walkways, courtyards and plazas.
 - (b) Off-street parking and loading associated with multifamily dwellings and townhouses.
 - (c) Signs.
 - (d) Street furnishings, planters, streetlights, and exterior, garden-type shade structures such as gazebos and pavilions.

- (e) Fences and walls, which shall complement the architectural style, type and design of the building and the overall project design.
- (f) Decks, patios and terraces, which shall complement the architectural style, type and design of the building and the overall project design.
- (g) Stand alone on grade garages, trash enclosures, stand alone storage facilities for apartment tenants, and office and maintenance areas for onsite rental business operations.
- (h) Accessory uses customarily incidental to permitted principal uses.

B. RP-12 District intensity, bulk and other regulations.

- (1) Maximum improvement coverage: 80%.
- (2) Minimum yards.
 - (a) Front yard: 10 feet.
 - (b) Side yard: 5 feet.
 - (c) Rear yard: 5 feet.
- (3) Number of dwelling units: The developer may construct up to one hundred (100) dwelling units.
- (4) Maximum building height:
 - (a) The maximum building height shall be three stories with loft, but no greater than 45 feet.
- (5) Building spacing: A minimum of 30 feet shall be provided between buildings.
- (6) Parking standards.

- (a) In lieu of the standards set forth in § 200-27B, the following off-street parking standards shall apply: a minimum of 1.4 spaces per dwelling.
- (b) Off-street parking lots shall be accessed by means of common driveways to the extent practicable. Cross-access easements with adjacent lots shall be required. Shared parking facilities are encouraged where possible.

(7) Sidewalks.

- (a) In lieu of the standards set forth in § 200-258A sidewalk widths shall be a minimum of four feet wide, except where sidewalk borders head-in parking stalls, the sidewalk shall be a minimum of six feet wide.
- (b) All internal sidewalks and pathways shall be designed to provide access for the physically disabled. Access ramps shall be conveniently placed and sloped to provide easy connection to streets and sidewalks, in conformance with the American with Disabilities Act. This requirement does not apply to connections to Block 5, Lot 20. A minimum of one accessible route shall be provided to the RP-12 development from the public street and sidewalk, through Block 5, Lot 20.

(8) Landscaping.

- (a) All Section 200-91P standards shall apply except that:
 - [1] In lieu of the standards set forth in §200-91P(4), the following shall apply: Storm water management facilities shall be designed in accordance with the guidelines set forth in the New Jersey Stormwater Best Management Practices Manual.
 - [2] Section 200-91P(5) (Open Space) shall not apply.
 - [3] Section 200-91P(6)(c) (Filtered Buffer) shall not apply to locations where internal drives and parking adjoin new residential buildings.

- [4] Section 200-91P(6)(d)(4) is amended to allow a solid fence no greater than ten feet high. The fence is only required along a portion of the property line between the apartment buildings and the railroad tracks. The fence is not considered a structure.
- [5] Section 200-91P(7)(a) and (b) shall not apply.
- [6] Section 200-91P(7)(c) is amended to require that trees within the uncovered parking areas shall be provided at a minimum rate of two trees per 10 parking spaces.
- [7] Section 200-91P(7)(d), (e), and (f) shall not apply.
- [8] Existing trees over 5 inches DBH that are within ten feet of property lines shall be located and preserved to the extent possible. All other existing trees will be cleared and are not required to be relocated.

(9) Architectural and site design standards.

In lieu of the standards set forth in §200-258C, the following shall apply:

- (a) Architectural detail, style, color, proportion and massing shall reflect the features of a traditional village center. Buildings shall reflect a continuity of treatment through the district, obtained by maintaining the building scale or by subtly graduating changes; by maintaining base courses; by maintaining cornice lines in buildings of the same height; by extending horizontal lines of fenestration; and by reflecting architectural styles and details, design themes, building materials and colors used in surrounding buildings. To the extent possible, upper-story windows shall be vertically aligned with the location of windows and doors on the ground level. A variety of building setbacks, roof lines, color schemes, elevations and heights shall be developed, relative to adjacent structures, to avoid a repetitious and monotonous streetscape.
- (b) Any sound barrier along the railroad right-of-way may not be higher than ten (10) feet.
- (c) Signage and lighting shall be designed in a manner complementary to the building's architecture and in keeping with the goal of achieving a traditional village center.

- (d) Pitched roofs (6/12 to 12/12) are required. Both gable and hipped roofs shall provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall.

(10) Signage.

- (a) Street address signage.

In lieu of the standards set forth in §200-258D4c, the following shall apply:

- [1] Street address signage shall be provided on each building.

- [2] Street address numbers shall have a maximum height of 24 inches.

- (b) Monument signage.

In lieu of the standards set forth in § 200-258D4d, the following shall apply:

- [1] Two monument signs shall be permitted for the RP-12 District. One of the two signs shall be an identification sign along Cranbury Road at the entrance to the Ellsworth Center.

- [2] The maximum monument sign area for each sign shall be 40 square feet.

- [3] The maximum monument sign height for each sign shall be six feet above existing grade.

(11) Internal Streets.

- (a) Geometry of streets shall be sufficient for Township emergency vehicles and private waste removal.

- (b) Street names shall not duplicate or nearly duplicate the names of existing streets in the municipality or surrounding communities. The continuation of an existing street shall have the same name.

- (c) Endings of proposed street names shall reflect street classification for a cul-de-sac: lane, court, place, or circle.

(12) Other Standards.

- (a) No development shall proceed in the District without a redeveloper's agreement with the Township or redevelopment entity.
- (b) Section 200-20 (Common Open Space) shall not apply.
- (c) The standards set forth in § 200-23 requiring an environmental appraisal of the property are not applicable.
- (d) Interconnection with Block 5, Lot 20 for storage or other complimentary service uses is allowed.
- (e) In lieu of the standards set forth in § 200-25B2, steps shall be taken to minimize indoor noise levels. Building code requirements shall be met.
- (f) In lieu of the standards set forth in § 200-25C2, steps shall be taken to minimize vibration levels.

Section 4. This ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable, and publication according to law.

Introduction:

Public Hearing:

Adoption:

Mayor's Approval:

Effective Date:

ORDINANCE SUMMARY

This ordinance amends Chapter 200, Land Use by creating a new RP-12 Zoning District. The new district, as shown on the Zoning Map attached to the Ordinance, is adjacent to the Northeast Corridor rail line and behind the Ellsworth Shopping Center, with access to Cranbury Road. The only permitted use is multi-family dwellings, 20% of which must be affordable housing. Up to 180 dwelling units with a maximum building height of four stories above garages, but no greater than 80 feet, are permitted. The District must be developed comprehensively. The maximum improvement coverage is 80%. A minimum front yard of 10 feet and side and rear yards of five feet are required. A minimum of one parking space per dwelling unit is required. Landscaping standards, with exceptions from the landscaping provisions in the West Windsor Code, are provided, as are architectural and design guidelines. Street address signage has a maximum number height of 24 inches, and two monument signs no greater than 40 feet each are permitted. No development may occur without a Redeveloper's Agreement. The tract encompasses 3.85 acres.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 19, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

[RP-12 Ordinance Amending the Code of the Township of West Windsor with summary clean version 2-19-19.docx](#)

ORDINANCE 2019-08

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN
FOR PRINCETON JUNCTION BY ADDING A NEW RP-12 DISTRICT**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. The first full paragraph on page 8 of the Redevelopment Plan for Princeton Junction is amended to reflect the new district regulations set forth below.

Section 2. The Executive Summary is amended by adding the following at the end:

District 12 is intended to facilitate redevelopment of a portion of what was District 7 by providing for an inclusionary development consisting of 80 market units and 20 affordable units.

Section 3. The Redevelopment Plan Development Summary on page 12 is amended to reflect the new district regulations set forth below.

Section 4. The Study Area District Map on page 25 is amended by creating a RP-12 District in the portion of the RP-7 District north of the most northerly lot line shown on the Map and known as Block 5, Lot 19.

Section 5. The following shall be added at the end of the District Regulations.

DISTRICT RP-12

RP-1 District use regulations

- A. Purpose. The goal of the RP-12 District is to develop the property in the RP-12 District with attractive, multi-family housing, to include 20% affordable housing.
- B. Comprehensive development. The District shall be comprehensively developed in accordance with one development application for the entire district.
- C. Permitted principal uses. In the RP-12 District, no building or premises shall be used and no building shall be erected or altered on a lot which is arranged, intended or designed to be used, except for the following use:
 - (1) Multifamily dwellings, provided that twenty percent (20%) of such units are affordable housing meeting all of the applicable standards and requirements for affordable units, including those set forth in the *Uniform Housing Affordability Controls* (UHAC), N.J.A.C 5:80-26.1 *et seq.*, and Section 200-237. At least 50% of the affordable units shall be affordable to low-income households, and at least 13% of all rental affordable units shall be affordable to very low-income households earning 30% or less of the regional median household income by household size, which very low income units shall be included as part of the low income requirement. The remaining affordable units shall be made affordable to moderate-income households. The affordable units shall be dispersed in at least three buildings each having no more than 50% of such units. Affordable housing shall be architecturally indistinguishable from market-rate housing.
- D. Permitted accessory uses.
 - (1) Recreational and open space facilities, including, but not limited to walkways, courtyards and plazas.
 - (2) Off-street parking and loading associated with multifamily dwellings and townhouses.
 - (3) Signs.
 - (4) Street furnishings, planters, streetlights, and exterior, garden-type shade structures such as gazebos and pavilions.

- (5) Fences and walls, which shall complement the architectural style, type and design of the building and the overall project design.
- (6) Decks, patios and terraces, which shall complement the architectural style, type and design of the building and the overall project design.
- (7) Stand alone on grade garages, trash enclosures, stand alone storage facilities for apartment tenants, and office and maintenance areas for onsite rental business operations.
- (8) Accessory uses customarily incidental to permitted principal uses.

RP-12 District intensity, bulk and other regulations.

- A. Maximum improvement coverage: 80%.
- B. Minimum yards.
 - (1) Front yard: 10 feet.
 - (2) Side yard: 5 feet.
 - (3) Rear yard: 5 feet.
- C. Number of dwelling units: The developer may construct up to one hundred (100) dwelling units.
- D. Maximum building height:
 - (1) The maximum building height shall be three stories with loft, but no greater than 45 feet.
- E. Building spacing: A minimum of 30 feet shall be provided between buildings.
- F. Parking standards.
 - (1) In lieu of the standards set forth in § 200-27B, the following off-street parking standards shall apply: a minimum of 1.4 spaces per dwelling.

- (2) Off-street parking lots shall be accessed by means of common driveways to the extent practicable. Cross-access easements with adjacent lots shall be required. Shared parking facilities are encouraged where possible.

G. Sidewalks.

- (1) In lieu of the standards set forth in § 200-258A sidewalk widths shall be a minimum of four feet wide, except where sidewalk borders head-in parking stalls, the sidewalk shall be a minimum of six feet wide.
- (2) All internal sidewalks and pathways shall be designed to provide access for the physically disabled. Access ramps shall be conveniently placed and sloped to provide easy connection to streets and sidewalks, in conformance with the American with Disabilities Act. This requirement does not apply to connections to Block 5, Lot 20. A minimum of one accessible route shall be provided to the RP-12 development from the public street and sidewalk, through Block 5, Lot 20.

H. Landscaping.

- (1) All Section 200-91P standards shall apply except that:
 - (a) In lieu of the standards set forth in §200-91P(4), the following shall apply: Storm water management facilities shall be designed in accordance with the guidelines set forth in the New Jersey Stormwater Best Management Practices Manual.
 - (b) Section 200-91P(5) (Open Space) shall not apply.
 - (c) Section 200-91P(6)(c) (Filtered Buffer) shall not apply to locations where internal drives and parking adjoin new residential buildings.
 - (d) Section 200-91P(6)(d)(4) is amended to allow a solid fence no greater than ten feet high. The fence is only required along a portion of the property line between the apartment buildings and the railroad tracks. The fence is not considered a structure.
 - (e) Section 200-91P(7)(a) and (b) shall not apply.

- (f) Section 200-91P(7)(c) is amended to require that trees within the uncovered parking areas shall be provided at a minimum rate of two trees per 10 parking spaces.
- (g) Section 200-91P(7)(d), (e), and (f) shall not apply.
- (h) Existing trees over 5 inches DBH that are within ten feet of property lines shall be located and preserved to the extent possible. All other existing trees will be cleared and are not required to be relocated.

J. Architectural and site design standards.

In lieu of the standards set forth in § 200-258C, the following shall apply:

- (a) Architectural detail, style, color, proportion and massing shall reflect the features of a traditional village center. Buildings shall reflect a continuity of treatment through the district, obtained by maintaining the building scale or by subtly graduating changes; by maintaining base courses; by maintaining cornice lines in buildings of the same height; by extending horizontal lines of fenestration; and by reflecting architectural styles and details, design themes, building materials and colors used in surrounding buildings. To the extent possible, upper-story windows shall be vertically aligned with the location of windows and doors on the ground level. A variety of building setbacks, roof lines, color schemes, elevations and heights shall be developed, relative to adjacent structures, to avoid a repetitious and monotonous streetscape.
- (b) Any sound barrier along the railroad right-of-way may not be higher than ten (10) feet.
- (c) Signage and lighting shall be designed in a manner complementary to the building's architecture and in keeping with the goal of achieving a traditional village center.
- (d) Pitched roofs (6/12 to 12/12) are required. Both gable and hipped roofs shall provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall.

K. Signage.

- (1) Street address signage.

In lieu of the standards set forth in § 200-258D4c, the following shall apply:

- (a) Street address signage shall be provided on each building.
- (b) Street address numbers shall have a maximum height of 24 inches.

(2) Monument signage.

In lieu of the standards set forth in § 200-258D4d, the following shall apply:

- (a) Two monument signs shall be permitted for the RP-12 District. One of the two signs shall be an identification sign along Cranbury Road at the entrance to the Ellsworth Center.
- (b) The maximum monument sign area for each sign shall be 40 square feet.
- (c) The maximum monument sign height for each sign shall be six feet above existing grade.

K. Internal Streets.

- (1) Geometry of streets shall be sufficient for Township emergency vehicles and private waste removal.
- (2) Street names shall not duplicate or nearly duplicate the names of existing streets in the municipality or surrounding communities. The continuation of an existing street shall have the same name.
- (3) Endings of proposed street names shall reflect street classification for a cul-de-sac: lane, court, place, or circle.

L. Other Standards.

- (1) No development shall proceed in the District without a redeveloper's agreement with the Township or redevelopment entity.
- (2) Section 200-20 (Commons Open Space) shall not apply.
- (3) The standards set forth in § 200-23 requiring an environmental appraisal of the property are not applicable.

- (4) Interconnection with Block 5, Lot 20 for storage or other complimentary service uses is allowed.
- (5) In lieu of the standards set forth in § 200-25B2, steps shall be taken to minimize indoor noise levels. Building code requirements shall be met.
- (6) In lieu of the standards set forth in § 200-25C2, steps shall be taken to minimize vibration levels.

Section 6. This ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable, and publication according to law.

INTRODUCTION:

PUBLIC HEARING:

ADOPTION:

MAYORAL APPROVAL:

EFFECTIVE DATE:

ORDINANCE SUMMARY

This ordinance amends the Redevelopment Plan for Princeton Junction by creating a new RP-12 Zoning District. The new district is adjacent to the Northeast Corridor rail line and behind the Ellsworth Shopping Center, with access to Cranbury Road. The only permitted use is multi-family dwellings, 20% of which must be affordable housing. Up to 180 dwelling units with a maximum building height of four stories above garages, but no greater than 80 feet, are permitted. The District must be developed comprehensively. The maximum improvement coverage is 80%. A minimum front yard of 10 feet and side and rear yards of five feet are required. A minimum of one parking space per dwelling unit is required. Landscaping standards, with exceptions from the landscaping provisions in the West Windsor Code, are provided, as are architectural and design guidelines. Street address signage has a maximum number height of 24 inches, and two monument signs no greater than 40 feet each are permitted. No development may occur without a Redeveloper's Agreement. The tract encompasses 3.85 acres.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 19, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

ORDINANCE 2019-09

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN
FOR PRINCETON JUNCTION BY MODIFYING AFFORDABLE HOUSING
REQUIREMENTS**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. The Redevelopment Plan for Princeton Junction is amended by AMENDING Section 2, The Plan, Goal 3 to read as follows. [Deleted text is in brackets, and added is in bold.]

Goal 3

As a general matter, [the growth share generated by development within the Redevelopment Area should be satisfied with the Redevelopment Area] **a 20 percent set aside should be imposed upon the residential component of mixed use developments in which residential units are permitted**, and affordable housing units are to be visually and geographically integrated with all market-rate housing consistent with long-standing township policy.

Policies.

1. Development within the Redevelopment Area will accommodate all of its affordable housing obligations within the Redevelopment Area, dispersed throughout market-rate housing and be architecturally indistinguishable from market-rate housing. [The only exceptions to this are that the growth share generated in District 2 and on the privately owned lands in District 6 will be provided outside of the Redevelopment Area through the Township's Fair Share Plan previously submitted to the Council on Affordable Housing and that all-affordable projects may be provided consistent with Goal 2, Policy 1e.
2. The applicable COAH regulations will be the basis for determining the affordable housing obligations in the Redevelopment Area.

3. Except as provided in Policy 1, the Redevelopment Area should accommodate its own affordable housing growth share calculated based on COAH regulations.
4. The affordable housing obligation generated by redevelopment in each district may be provided in that district or, alternatively, agreements can be made to provide for affordable housing to be built elsewhere in the Redevelopment Area, provided that no such agreement will be inconsistent with the policy that on-site affordable housing shall be dispersed throughout market-rate housing and architecturally indistinguishable from market-rate housing and provided that such agreement is acceptable to the Planning Board.
- 5.]2. The affordable housing obligation [generated by nonresidential uses] will be integrated with market residential units when market units are otherwise permitted in the district.
- [6. The demolition of existing nonresidential uses in the Redevelopment Area will reduce West Windsor's total projected nonresidential growth share and should be a credit to the affordable housing obligation of the sites on which demolition occurs.
7. All affordable residential units will be calculated as generating the bonus credits permitted by COAH for affordable housing built within the Redevelopment Area and applied to either the Third Round or subsequent COAH rounds.
8. Public entities proposing development on their lands as a means of funding public improvements such as parking garages should take whatever steps are necessary to assure that no growth share will be imposed by the Council on Affordable Housing on such development. If they cannot reach an agreement with COAH as to this, they should take alternate steps to fund the public improvements without utilizing their lands for office or other development.]

Section 2. Subsection A of the RP-3 District use regulations is amended to read as follows:

- A. Purpose. District RP-3 is intended to be a retail and office development serving as a visual connection and facilitating pedestrian and bicycle linkage between the retail developments in Districts 7 and 1. It will [accommodate on site the growth share obligation its retail and office development generates and will] serve as a receiving area

for development rights shifted from District 5 in order to facilitate the demolition of the existing building in that district and that district's conversion to a public park.

Section 3. Subsection F(2) of the RP-3 District intensity, bulk and other regulations shall be DELETED, and existing Subsections F(3) and (4) shall be renumbered (2) and (3).

Section 4. Subsection I of the RP-7 District intensity, bulk and other regulations shall be AMENDED to read as follows:

I. Affordable Housing. [The growth share generated by nonresidential development shall be satisfied on-site with affordable units on the top floor of mixed-use buildings in lieu of payment of the nonresidential development fee.] **At least 20 percent of the residential units shall be low- and moderate-income housing meeting all of the applicable standards and requirements for affordable units including those set forth in the *Uniform Housing Affordability Controls (UHAC)*, N.J.A.C. 5:26.1 *et seq.* At least 37 percent of the affordable units shall be made available to low-income households and at least 13 percent shall be made available to very low-income households as defined by the New Jersey Fair Housing Act. The remaining affordable units shall be made available to moderate-income households. The affordable units shall be located on-site and shall be reasonably dispersed throughout the development phased in accordance with the affordable housing construction schedule set forth in N.J.A.C. 5:97-6.4(d). The nonresidential development fee authorized by the Statewide Non-Residential Development Fee Act shall apply to the nonresidential portion of mixed use developments containing residential components.**

Section 5. Section B(2) of the RP-10 District intensity, bulk and other regulations shall be DELETED, and existing Subsections B(3) and (4) shall be renumbered (2) and (3).

Section 6. This ordinance shall be in force after action or inaction by the Mayor as provided by law or an override of mayoral veto by the Council, whichever is applicable, and publication according to law.

INTRODUCTION:

PUBLIC HEARING:

ADOPTION:

MAYORAL APPROVAL:

EFFECTIVE DATE:

ORDINANCE SUMMARY

This ordinance amends the Redevelopment Plan for Princeton Junction by modifying provisions in the RP-3, RP-7, and RP-10 District. All references to growth share are eliminated, and a requirement that 20% of all residential components in the redevelopment area must be affordable housing is established. That will be in the RP-7 District and any residential housing that is built in the RP-3 District.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 18, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

[Redevelopment Plan Amendment with Summary RP-3 Ordinance 2-21-19.docx](#)

ORDINANCE 2019-10

**AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF
WEST WINDSOR (1999) BY MODIFYING AFFORDABLE HOUSING
REQUIREMENTS IN THE RP-3, RP-7, AND RP-10 DISTRICTS**

BE IT ORDAINED by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 5, Princeton Junction Redevelopment Regulatory Provisions, Article XXXIII, Redevelopment Goals and Policies, Section 200-257, Goals and policies established, is amended by AMENDING subsection C to read as follows. [Deleted text is in brackets, and added is in bold.]

C. Goal 3.

(1) Goal: As a general matter, [the growth share generated by development within the Redevelopment Area should be satisfied within the Redevelopment Area] **a 20 percent affordable housing set aside should be imposed upon the residential component of mixed use developments in which residential units are permitted**, and affordable housing units are to be visually and geographically integrated with all market-rate housing consistent with longstanding township policy.

(2) Policies.

(a) 1: Development within the Redevelopment Area will accommodate all of its affordable housing obligations within the Redevelopment Area, dispersed throughout market-rate housing and be architecturally indistinguishable from market-rate housing. [The only exceptions to this are that the growth share generated in District 2 and on the privately owned lands in District 6 will be provided outside of the Redevelopment Area through the Township's Fair Share Plan previously submitted to the Council on Affordable Housing and that all-affordable projects may be provided consistent with Goal 2, Policy 1[5].

(b) 2: The applicable COAH regulations will be the basis for determining the affordable housing obligations in the Redevelopment Area.

(c) 3: Except as provided in Policy 1, the Redevelopment Area should accommodate its own affordable housing growth share calculated based on COAH regulations. This policy shall not apply to the RP-1 District.

(d) 4: The affordable housing obligation generated by redevelopment in each district may be provided in that district or, alternatively, agreements can be made to provide for affordable housing to be built elsewhere in the Redevelopment Area, provided that no such agreement will be inconsistent with the policy that on-site affordable housing shall be dispersed throughout market-rate housing and architecturally indistinguishable from market-rate housing and provided that such agreement is acceptable to the Planning Board.

(e)](b) 5: The affordable housing obligation [generated by nonresidential uses] will be integrated with market residential units when market units are otherwise permitted in the district.

[(f) 6: The demolition of existing nonresidential uses in the Redevelopment Area will reduce West Windsor's total projected nonresidential growth share and should be a credit to the affordable housing obligation of the sites on which demolition occurs.

(g) 7: All affordable residential units will be calculated as generating the bonus credits permitted by COAH for affordable housing built within the Redevelopment Area and applied to either the Third Round or subsequent COAH rounds.

(h) 8: Public entities proposing development on their lands as a means of funding public improvements such as parking garages should take whatever steps are necessary to assure that no growth share will be imposed by the Council on Affordable Housing on such development. If they cannot reach an agreement with COAH as to this, they should take alternate steps to fund the public improvements without utilizing their lands for office or other development.]

Section 2. Chapter 200 of said Code, Land Use, Part 5, Princeton Junction Redevelopment Plan Regulatory Provisions, Article XXXIV, Land Use Controls, Section 200-262, RP-3 District, is amended by amending subsection A(1) to read as follows.

(1) Purpose: District RP-3 is intended to be a retail and office development serving as a visual connection and facilitating pedestrian and bicycle linkage between the retail developments in Districts 7 and 1. It will [accommodate on-site the growth share obligation its retail and office development generates and will] serve as a receiving area for development rights, shifted from District 5 in order to facilitate the demolition of the existing building in that district and that district's conversion to a public park.

Section 3. Chapter 200 of said Code, Land Use, Part 5, Princeton Junction Redevelopment Plan Regulatory Provisions, Article XXXIV, Land Use Controls, Section 200-262, RP-3 District, is amended by DELETING Subsection B(6)(b) and by re-lettering existing Subsections B(6)(c) and (d) as (b) and (c).

Section 4. Chapter 200 of said Code, Land Use, Part 5, Princeton Junction Redevelopment Plan Regulatory Provisions, Article XXXIV, Land Use Controls, Section 200-266, RP-7 District is amended by modifying subsection B(9) to read as follows.

(9) Affordable Housing. [The growth share generated by nonresidential development shall be satisfied on-site with affordable units on the top floor of mixed-use buildings in lieu of payment of the nonresidential development fee.] **At least 20 percent of the residential units shall be low- and moderate-income housing meeting all of the applicable standards and requirements for affordable units including those set forth in the *Uniform Housing Affordability Controls* (UHAC), N.J.A.C. 5:26.1 *et seq.* At least 37 percent of the affordable units shall be made available to low-income households and at least 13 percent shall be made available to very low-income households as defined by the New Jersey Fair Housing Act. The remaining affordable units shall be made available to moderate-income households. The affordable units shall be located on-site and shall be reasonably dispersed throughout the development phased in accordance with the affordable housing construction schedule set forth in N.J.A.C. 5:97-6.4(d). The nonresidential development fee authorized by the Statewide Non-Residential Development Fee Act shall apply to the nonresidential portion of mixed use developments containing residential components.**

Section 5. Chapter 200 of said Code, Land Use, Part 5, Princeton Junction Redevelopment Plan Regulatory Provisions, Article XXXIV, Land Use Controls, Section 200-269, RP-10 District, is amended by DELETING subsection B(2)(b) and by re-lettering existing Subsections B(2)(c) and (d) as (b) and (c).

Introduction:
Public Hearing:
Adoption:
Mayor's Approval:
Effective Date:

ORDINANCE SUMMARY

This ordinance amends Chapter 200, Land Use by modifying provisions in the RP-3, RP-7, and RP-10 District. All references to growth share are eliminated, and a goal is established that 20% of the residential component in the redevelopment area must be affordable housing. That will be in the RP-7 District and any residential housing that is built in the RP-3 District.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of February 27, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk's office at West Windsor Township (609-799-2400) or coming to the Township Clerk's office at the West Windsor Township Municipal Building.

[Ordinance with summary Modifying Affordable Housing Requirements in the RP-3, RP-7, and RP-10 DISTRICTS 2-19-19.docx](#)

ORDINANCE 2019 – 11

TOWNSHIP OF WEST WINDSOR
MERCER COUNTY, NEW JERSEY

ORDINANCE AMENDING CHAPTER 200 ‘LAND USE’, ARTICLE XXIII ‘HOUSING TRUST FUND’ OF THE CODE OF WEST WINDSOR TOWNSHIP REGARDING THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT

WHEREAS, in Holmdel Builder’s Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH); and

WHEREAS, pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans, and municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential and residential development; and

WHEREAS, the Township of West Windsor has prepared a Spending Plan to submit to Hon. Mary Jacobson, in connection with its pending declaratory judgment action concerning the Township’s affordable housing obligations, which incorporates the residential and non-residential development fees set forth in this Ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, that the Code of West Windsor Township, Chapter 200 ‘Land Use’, Article XXIII ‘Housing Trust Fund’, shall be amended as follows:

SECTION 1. Chapter 200 of the Township Code, entitled “Land Use,” Article XXIII, entitled “Housing Trust Fund,” is hereby deleted in its entirety and replaced to read as follows:

Article XXIII. Affordable Housing Trust Fund

- §200-122 Purpose.**
- §200-123 Court approval required.**
- §200-124 Definitions.**
- §200-125 Residential development fees.**
- §200-126 Non-residential development fees.**
- §200-127 Collection procedures.**
- §200-128 Affordable Housing Trust Fund.**
- §200-129 Use of funds.**

- §200-130 **Monitoring.**
- §200-131 **Ongoing collection of fees.**

§200-122. Purpose.

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

§200-123. Court approval required.

- A. This Article shall not be effective unless and until approved by the Superior Court in connection with the Township of West Windsor’s declaratory judgment action concerning its Third Round affordable housing obligations.
- B. The Township of West Windsor shall not spend development fees collected pursuant to this Article unless and until the Superior Court has approved a Spending Plan for such fees.

§200-124. Definitions.

The following terms, as used in this Article, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipally-sponsored construction project or a 100% affordable housing development.

COAH OR THE COUNCIL

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

COURT

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

DEVELOPMENT FEE

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

DEVELOPER

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

EQUALIZED ASSESSED VALUE

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

GREEN BUILDING STRATEGIES

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

§200-125. Residential Development Fees.

A. Imposed fees.

- (1) Within all districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- (2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential developments.

- (1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Township of West Windsor, shall be exempt from the payment of development fees.

- (2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (3) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use or, except as provided in Subsection B(4), is demolished and replaced. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (4) Owners of residential structures that are demolished and replaced as a result of a fire, flood or natural disaster and additions as well as decks shall be exempt from paying a development fee.
- (5) Non-for-profit developers shall be exempt.

§200-126. Non-Residential Development Fees.

A. Imposed fees.

- (1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e., land and improvements, at the time the final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

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

- (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.

- (2) The fee of 2.5% development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
- (5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by West Windsor Township as a lien against the real property of the owner.

§200-127. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Building Permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a Building Permit shall notify the local Tax Assessor of the issuance of the first Building Permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

- E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the local Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the municipal Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Township of West Windsor fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- H. Fifty percent of the development fee shall be collected at the time of issuance of the Building Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at Building Permit and that determined at the issuance of the Certificate of Occupancy. No Certificate of Occupancy shall be issued to the developer until all remaining developer fees have been paid in full.
- I. Appeal of development fees.
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by West Windsor Township. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by West Windsor Township. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§200-128. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing Housing Trust Fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of affordable units;
 - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the Township of West Windsor's affordable housing program.

- C. In the event of a failure by the Township of West Windsor to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services ("LGS"), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of West Windsor, or, if not practicable, then within the County.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

§200-129. Use of Funds.

- A. The expenditure of all funds shall conform to a Spending Plan approved by the Superior Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address West Windsor Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse West Windsor Township for past housing activities.
- C. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region 4, in which West Windsor is located.
- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very-low income affordability assistance shall be identified and described within the Spending Plan.

- (3) Payments in lieu of constructing affordable housing units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. West Windsor Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.

E. No more than 20% of all revenues collected from development fees may be expended on administration, including but not limited to salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

- (1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.

- (2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements.

- (3) Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or actions are not eligible uses of the Affordable Housing Trust Fund.

§200-130. Monitoring.

West Windsor Township shall provide annual reporting of Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, COAH and Local Government Services or other entity designated by the State of New Jersey, using forms developed for this purpose by the New Jersey Department of Community Affairs, COAH or Local Government Services.

§200-131. Ongoing collection of fees.

A. The ability of West Windsor Township to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its Judgment of Compliance and shall continue thereafter so long as West Windsor Township has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

- B. If the Township of West Windsor is not pursuing authorization to impose and collect development fees after the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

- C. After the expiration of the Judge of Compliance, if the Township does not pursue or obtain continued authorization, West Windsor Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

SECTION II.

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

SECTION III.

This ordinance shall take effect upon final passage and publication in accordance with the law.

INTRODUCTION:

PUBLIC HEARING:

ADOPTION:

MAYOR'S APPROVAL:

EFFECTIVE DATE:

ORDINANCE SUMMARY

This ordinance amends Chapter 200, Land Use by replacing Article XXIII, entitled Housing Trust Fund, with a new set of Trust Fund regulations. The ordinance must be approved by the court before it goes into effect. The substantive provisions of the prior Housing Trust Fund section have not been modified. The fee remains 1.5% of the equalized assessed value for residential development unless a “d” variance is granted, in which case the fee is 6%. Inclusionary, municipally-sponsored, and 100% affordable development, residential structures which are demolished and replaced as a result of fire, storm, or natural disaster, and developments by not-for-profit developers are exempt. Non-residential developers must pay a 2.5% fee on the equalized assessed value of the land and improvements, consistent with the Statewide Non-residential Development Fee Act. This requirement applies also to the non-residential portion of mixed-use developments. It does not apply to an increase in equalized assessed value resulting for alterations, change in use within the existing footprint, reconstruction, renovations, and repairs. Collection procedures are set forth, and the monies collected from both the residential and non-residential fees are to be deposited in the Affordable Housing Trust Fund, along with monies from payments in lieu and other sources. Use of funds, consistent with the rules of the Council on Affordable Housing, are specified. At least 30% of the fees collected and interest earned must be used for affordability assistance, and no more than 20% may be used for administration.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 18, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk’s office at West Windsor Township (609-799-2400) or coming to the Township Clerk’s office at the West Windsor Township Municipal Building.

ORDINANCE 2019 – 12

TOWNSHIP OF WEST WINDSOR
MECER COUNTY, NEW JERSEY

ORDINANCE AMENDING CHAPTER 200 ‘LAND USE’, ARTICLE XXXI ‘GENERAL PROVISIONS AND SUPPLEMENTAL REGULATIONS GOVERNING CERTAIN USES’ OF THE CODE OF WEST WINDSOR TOWNSHIP TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATIONS

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

WHEREAS, the Township Council of the Township of West Windsor desires to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, the Township voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mt. Laurel IV”) seeking approval of a Housing Element and Fair Share Plan that satisfies the Township’s obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

WHEREAS, the West Windsor Planning Board has adopted a Housing Element and Fair Share Plan dated [REDACTED] pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, the Township is desirous of amending and supplementing the Township Code to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Governing Body, and include provisions addressing West Windsor’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey that the Code of West Windsor Township, Chapter 200 entitled “Land Use,” Article XXXI entitled “General Provisions and Supplemental Regulations Governing Certain Uses,” shall be amended as follows:

SECTION 1. Chapter 200 of the Township Code, entitled “Land Use,” Article XXXI, entitled “General Provisions and Supplemental Regulations Governing Certain Uses,” is hereby deleted in its entirety and replaced to read as follows:

§200-237. Affordable Housing Regulations.

A. Purpose.

- (1) The title of this section shall be the “Affordable Housing Regulations.”
- (2) The Legislature of the State of New Jersey has, in the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., delegated the authority to local governments to adopt an ordinance to provide a realistic opportunity for sound shelter for low- and moderate-income households.

B. Monitoring requirements.

- (1) On the first anniversary of the entry of a final judgment, and every anniversary thereafter through the end of 2025, the Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (DCA), Council on Affordable Housing (COAH), Local Government Services (LGS) or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the DCA, COAH or LGS.
- (2) On the first anniversary of the entry of a final judgment, and every anniversary thereafter through the end of 2025, the Township shall provide annual reporting of the status of all affordable housing activity within the Township through posting on the municipal website, with copies provided to FSHC, using forms previously developed for this purpose by COAH or any other forms agreed to by the Township, the court-appointed Special Master and FSHC.
- (3) For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township shall post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan.
- (4) For the review of very-low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of final judgment, and every third year thereafter, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very-low income requirements.

C. Definitions.

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

ACT

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

ADAPTABLE

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

ADMINISTRATIVE AGENT

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

AFFIRMATIVE MARKETING

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

AFFORDABILITY AVERAGE

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

AFFORDABLE

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

AFFORDABLE HOUSING DEVELOPMENT

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

AFFORDABLE HOUSING PROGRAM(S)

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

AFFORDABLE UNIT

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

AGENCY

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

AGE-RESTRICTED UNIT

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

ALTERNATIVE LIVING ARRANGEMENT

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

ASSISTED LIVING RESIDENCE

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

CERTIFIED HOUSEHOLD

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

COAH

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

COURT

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

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

DEVELOPER

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

DEVELOPMENT

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

INCLUSIONARY DEVELOPMENT

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

LOW-INCOME HOUSEHOLD

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

LOW-INCOME UNIT

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

MAJOR SYSTEM

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

MARKET-RATE UNITS

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

MEDIAN INCOME

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

MODERATE-INCOME HOUSEHOLD

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

MODERATE-INCOME UNIT

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

NON-EXEMPT SALE

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

RANDOM SELECTION PROCESS

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

REGIONAL ASSET LIMIT

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

REHABILITATION

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

RENT

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

RESTRICTED UNIT

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

UHAC

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

VERY-LOW INCOME HOUSEHOLD

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

VERY-LOW INCOME UNIT

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

WEATHERIZATION

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

D. Applicability.

- (1) The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within West Windsor Township pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.
- (2) Moreover, this section shall apply to all developments that contain low- and moderate-income housing units, including any currently anticipated future developments that will provide low- and moderate-income housing units.
- (3) All low and moderate income units, including all units created through low-income housing tax credits and other outside funding sources, shall have minimum 30 year affordability controls and shall comply with the income and bedroom distribution requirements of UHAC, except that instead of 10% of all affordable rental units being affordable to households earning 35% or less of the regional median household income by household size, 13% of all affordable rental units shall be affordable to very-low-income households earning 30% or less of the regional median household income by household size, which very-low-income units shall be counted as part of the low-income housing requirements set forth in UHAC.
- (4) Affordable housing set aside. West Windsor Township has a mandatory affordable housing set-aside requirement that is imposed on certain types of multi-family development. See **§200-243.2** for the requirements.

E. Rehabilitation program.

- (1) West Windsor's rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
- (2) Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- (3) All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.

- (4) West Windsor Township shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program.
- (5) West Windsor Township shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township.
- (6) West Windsor Township shall designate, subject to the approval of the Court, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The Administrative Agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and a rehabilitation manual for the rental-occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (7) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
 - (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
 - (c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
 - (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

F. Alternative living arrangements.

- (1) The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and Uniform Housing Affordability Controls (UHAC), with the following exceptions:

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

G. Inclusionary zoning.

- (1) To implement the fair share plan in a manner consistent with the affordable housing regulations, to ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, West Windsor Township has created several inclusionary housing zones. These inclusionary housing zones are detailed in the Housing Element and Fair Share Plan, dated [REDACTED], 2018.

H. Phasing Schedule for Inclusionary Zoning.

In inclusionary development the following schedule shall be followed:

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

I. New construction.

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

- (b) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
- (c) A maximum of 25% of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's Plan shall be non-restricted.
- (d) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units, including that at least 13% of the restricted units in each bedroom distribution shall be very-low-income units.
- (e) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - [1] The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - [2] At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - [3] At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - [4] The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (f) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. The Township shall not be permitted to claim credit to satisfy its obligations for age-restricted units that exceed 25% of all units developed.

(2) Accessibility Requirements

- (a) The first floor of all restricted townhouse dwelling units and all restricted units in all other multi-story buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
- (b) All restricted townhouse dwelling units and all restricted units in other multi-story buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - [1] An adaptable toilet and bathing facility on the first floor; and

- [2] An adaptable kitchen on the first floor; and
- [3] An interior accessible route of travel on the first floor; and
- [4] An adaptable room that can be used as a bedroom, with a door or casing for the installation of a door, on the first floor; and
- [5] If not all of the foregoing requirements in (b)[1] through (b)[4] can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (b)[1] through (b)[4] above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- [6] An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-31 1a, et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Montvale has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - i. Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - ii. To this end, the builder of restricted units shall deposit funds within West Windsor Township's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - iii. The funds deposited under paragraph [6](ii) above shall be used by West Windsor Township for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - iv. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of West Windsor Township for the conversion of adaptable to accessible entrances.
 - v. 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 Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

- vi. 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.

(3) Design.

- (a) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (b) In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

(4) Maximum rents and sales prices.

- (a) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits, which shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows below. This does not include units established through a federal program exempted from UHAC pursuant to N.J.A.C. 5:80-26.1.

[1] Regional income limits shall be established for the housing region in which the Township is located (in this case, Housing Region 4) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-

income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

[2] The income limits attached to the Settlement Agreement as Exhibit D are the result of applying the percentages set forth in paragraph [1] above to HUD's determination of median income for FY 2018, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

[3] The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph [1] above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

[4] The resale prices 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 determined pursuant to the process outlined above. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

[5] The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

(b) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.

- (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very-low income households, earning 30% or less of the regional median household income, with such very-low income units counted the low-income housing requirement.
- (d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (e) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - [1] A studio shall be affordable to a one-person household;
 - [2] A one-bedroom unit shall be affordable to a one and one-half person household;
 - [3] A two-bedroom unit shall be affordable to a three-person household;
 - [4] A three-bedroom unit shall be affordable to a four and one-half person household; and
 - [5] A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - [1] A studio shall be affordable to a one-person household;
 - [2] A one-bedroom unit shall be affordable to a one and one-half person household; and
 - [3] A two-bedroom unit shall be affordable to a two-person household or two one-person households.

- (g) 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 it 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 it may be amended and supplemented.
- (h) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as it 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 it may be amended and supplemented.
- (i) 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.
- (j) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

J. Utilities.

- (1) Affordable units shall utilize the same type of heating/ventilation/air conditioning (HVAC) source as market units within an inclusionary development.
- (2) Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

K. Occupancy Standards.

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

- (1) Provide an occupant for each bedroom;

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

L. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- (1) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until West Windsor takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (2) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (3) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- (4) At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (5) 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.
- (6) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

M. 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:

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

N. Buyer Income Eligibility.

- (1) 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.
- (2) Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- (3) A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one (1) year.
- (4) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage

insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

O. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- (1) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- (2) With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

P. Capital Improvements to Ownership Units.

- (1) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- (2) Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten (10) year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

Q. Control Periods for Restricted Rental Units.

- (1) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years,

until West Windsor takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

- (2) 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 Mercer. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (3) A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit; or
 - (c) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

R. Rent Restrictions for Rental Units; Leases.

- (1) A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (2) 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.
- (3) 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.
- (4) No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

S. Tenant Income Eligibility.

- (1) 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:

- (a) Very-low income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median household income by household size.
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median household income by household size.
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median household income by household size.
- (2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (a) 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;
 - (b) 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;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (e) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances in (2)(a) through (2)(e) above with the Administrative Agent, who shall counsel the household on budgeting.

§200-237.1. Municipal Housing Liaison.

A. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of West Windsor Township's responsibility to promote and oversee the provision of affordable housing pursuant to the Fair Housing Act of 1985.

B. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADMINISTRATIVE AGENT

The entity responsible for administering the affordability controls of some or all units in the affordable housing program for West Windsor to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

MUNICIPAL HOUSING LIAISON

The municipal employee duly designated by the governing body with the responsibility for monitoring, reporting oversight and general administration of the affordable housing program for the Township of West Windsor.

C. Establishment of position and compensation; powers and duties.

- (1) Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for West Windsor Township.
- (2) Subject to the approval of the Court, the Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee.
- (3) The Municipal Housing Liaison shall be responsible for monitoring, reporting, oversight and general administration of the affordable housing program for West Windsor Township, including the following responsibilities which may not be contracted out to an Administrative Agent:
 - (a) Serving as West Windsor Township's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents, and interested households;
 - (b) Monitoring the status of all restricted units in West Windsor Township's Housing Element and Fair Share Plan;
 - (c) Compiling, verifying and publishing on the Township's website all referenced monitoring reports as required by the Court;
 - (d) Coordinating meetings with affordable housing providers and the administrative agent(s) as applicable; and

- (e) Attending continuing education programs as required to obtain and maintain certification as a Municipal Housing Liaison.
- (4) Subject to approval by the Court, West Windsor Township may contract with or authorize a consultant, authority, government or any agency charged by the governing body, which entity shall have the responsibility of administering the affordable housing program of West Windsor Township. If West Windsor Township contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and affirmative marketing plan, the Municipal Housing Liaison shall supervise the contracting administrative agent.
- (5) Compensation. Compensation shall be fixed by the governing body at the time of the appointment of Municipal Housing Liaison.

§200-237.2. Administrative Agent.

C. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of West Windsor Township's responsibility to promote and oversee the provision of affordable housing pursuant to the Fair Housing Act of 1985.

D. Establishment of position; powers and duties.

An Administrative Agent may be an independent entity serving under contract to and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

(3) Affirmative Marketing:

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

(4) 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, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (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;
- (f) Employing a random selection process as provided in the Affirmative Marketing Plan of West Windsor Township when referring households for certification to affordable units; and

(5) 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 Mercer County Register of Deeds or Mercer 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.

(6) Resales and Re-rentals:

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

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

(7) Processing Requests from Unit Owners:

- (a) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
- (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- (c) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (d) Making determinations on requests by owners of restricted units for hardship waivers.

(8) Enforcement:

- (a) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (b) 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;
- (c) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
- (d) 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;
- (e) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

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

(9) Additional Responsibilities:

- (a) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (b) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
- (c) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§200-237.3. Affirmative Marketing Requirements.

- A. The Township of West Windsor shall adopt by resolution an Affirmative Marketing Plan, subject to the approval of the Court that is compliant with N.J.A.C. 5:80-25.15, as it may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the FSHC, New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, Ocean, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch and Trenton Branches of the NAACP, and the Supportive Housing Alliance of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.

- D. The Township has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Township shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the Mercer County Library Headquarters, Monmouth County Headquarters Library, Ocean County Library, West Windsor Library, the West Windsor Municipal Building and the developer's rental office. Pre-applications may be emailed to prospective applicants upon request. Otherwise, hard copies are available from the Township's Municipal Housing Liaison.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§200-237.4. Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:

- (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than five hundred dollars (\$500.00) per day or imprisonment for a period not to exceed ninety (90) days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into West Windsor Township's Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- (2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
 - (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In

the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two (2) 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 (2) year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, 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.
- (e) 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.
- (f) 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.

C. Appeals.

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

SECTION II.

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

SECTION III.

This ordinance shall take effect upon final passage and publication in accordance with the law.

INTRODUCTION:

PUBLIC HEARING:

ADOPTION:

MAYOR'S APPROVAL:

EFFECTIVE DATE:

ORDINANCE SUMMARY

This ordinance replaces Section 200-237 of Article XXXI of Chapter 200, entitled “Application and interpretation of low/moderate income housing provisions,” with an updated set of affordable housing regulations. They include requirements as to monitoring; requiring that 13% of all affordable rental units be affordable to very-low income households earning 30% or less of the regional median household income; establishing standards for rehabilitation programs and alternative living arrangements; providing for a phasing schedule, low- and moderate-income unit split, bedroom distribution and accessibility requirements; providing that low- and moderate-income units be integrated with the market units to the extent possible; establishing standards for determining maximum rents and sales prices; providing that affordable units utilize the same type of heating source as market units; providing occupancy standards as to the number of persons per bedroom and providing that children of different sexes have separate bedrooms; setting forth the parameters governing the control periods for affordable units; setting forth standards as to buyer income eligibility and limitations on indebtedness; establishing what capital improvement could be used to increase the maximum resale price of for-sale units; providing for buyer and tenant eligibility; providing for the positions of Municipal Housing Liaison and Administrative Agent and setting forth their duties; establishing affirmative marketing requirements and standards; and setting forth the standards governing enforcement of affordable housing regulations.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 19, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk’s office at West Windsor Township (609-799-2400) or coming to the Township Clerk’s office at the West Windsor Township Municipal Building.

[Affordable Housing Ord from D Novak with summary added 02-25-19.docx](#)

ORDINANCE 2019 - 12

TOWNSHIP OF WEST WINDSOR
MECER COUNTY, NEW JERSEY

ORDINANCE AMENDING CHAPTER 200 'LAND USE', ARTICLE XXXI 'GENERAL PROVISIONS AND SUPPLEMENTAL REGULATIONS GOVERNING CERTAIN USES' OF THE CODE OF WEST WINDSOR TOWNSHIP TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP'S AFFORDABLE HOUSING OBLIGATIONS

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

WHEREAS, the Township Council of the Township of West Windsor desires to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, the Township voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mt. Laurel IV") seeking approval of a Housing Element and Fair Share Plan that satisfies the Township's obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

WHEREAS, the West Windsor Planning Board has adopted a Housing Element and Fair Share Plan dated [REDACTED] pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, the Township is desirous of amending and supplementing the Township Code to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Governing Body, and include provisions addressing West Windsor's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey that the Code of West Windsor Township, Chapter 200 entitled "Land Use," Article XXXI entitled "General Provisions and Supplemental Regulations Governing Certain Uses," shall be amended as follows:

SECTION 1. Chapter 200 of the Township Code, entitled “Land Use,” Article XXXI, entitled “General Provisions and Supplemental Regulations Governing Certain Uses,” is hereby deleted in its entirety and replaced to read as follows:

§200-237. Affordable Housing Regulations.

A. Purpose.

- (1) The title of this section shall be the “Affordable Housing Regulations.”
- (2) The Legislature of the State of New Jersey has, in the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., delegated the authority to local governments to adopt an ordinance to provide a realistic opportunity for sound shelter for low- and moderate-income households.

B. Monitoring requirements.

- (1) On the first anniversary of the entry of a final judgment, and every anniversary thereafter through the end of 2025, the Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (DCA), Council on Affordable Housing (COAH), Local Government Services (LGS) or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the DCA, COAH or LGS.
- (2) On the first anniversary of the entry of a final judgment, and every anniversary thereafter through the end of 2025, the Township shall provide annual reporting of the status of all affordable housing activity within the Township through posting on the municipal website, with copies provided to FSHC, using forms previously developed for this purpose by COAH or any other forms agreed to by the Township, the court-appointed Special Master and FSHC.
- (3) For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township shall post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan.
- (4) For the review of very-low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of final judgment, and every third year thereafter, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very-low income requirements.

C. Definitions.

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

ACT

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

ADAPTABLE

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

ADMINISTRATIVE AGENT

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

AFFIRMATIVE MARKETING

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

AFFORDABILITY AVERAGE

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

AFFORDABLE

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

AFFORDABLE HOUSING DEVELOPMENT

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

AFFORDABLE HOUSING PROGRAM(S)

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

AFFORDABLE UNIT

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

AGENCY

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

AGE-RESTRICTED UNIT

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

ALTERNATIVE LIVING ARRANGEMENT

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

ASSISTED LIVING RESIDENCE

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

CERTIFIED HOUSEHOLD

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

COAH

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

COURT

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

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

DEVELOPER

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

DEVELOPMENT

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

INCLUSIONARY DEVELOPMENT

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

LOW-INCOME HOUSEHOLD

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

LOW-INCOME UNIT

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

MAJOR SYSTEM

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

MARKET-RATE UNITS

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

MEDIAN INCOME

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

MODERATE-INCOME HOUSEHOLD

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

MODERATE-INCOME UNIT

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

NON-EXEMPT SALE

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

RANDOM SELECTION PROCESS

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

REGIONAL ASSET LIMIT

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

REHABILITATION

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

RENT

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

RESTRICTED UNIT

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

UHAC

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

VERY-LOW INCOME HOUSEHOLD

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

VERY-LOW INCOME UNIT

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

WEATHERIZATION

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

D. Applicability.

- (1) The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within West Windsor Township pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.
- (2) Moreover, this section shall apply to all developments that contain low- and moderate-income housing units, including any currently anticipated future developments that will provide low- and moderate-income housing units.
- (3) All low and moderate income units, including all units created through low-income housing tax credits and other outside funding sources, shall have minimum 30 year affordability controls and shall comply with the income and bedroom distribution requirements of UHAC, except that instead of 10% of all affordable rental units being affordable to households earning 35% or less of the regional median household income by household size, 13% of all affordable rental units shall be affordable to very-low-income households earning 30% or less of the regional median household income by household size, which very-low-income units shall be counted as part of the low-income housing requirements set forth in UHAC.
- (4) Affordable housing set aside. West Windsor Township has a mandatory affordable housing set-aside requirement that is imposed on certain types of multi-family development. See **§200-243.2** for the requirements.

E. Rehabilitation program.

- (1) West Windsor's rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
- (2) Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- (3) All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.

- (4) West Windsor Township shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program.
- (5) West Windsor Township shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township.
- (6) West Windsor Township shall designate, subject to the approval of the Court, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The Administrative Agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and a rehabilitation manual for the rental-occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (7) Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
 - (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
 - (c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
 - (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

F. Alternative living arrangements.

- (1) The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and Uniform Housing Affordability Controls (UHAC), with the following exceptions:

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

G. Inclusionary zoning.

- (1) To implement the fair share plan in a manner consistent with the affordable housing regulations, to ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, West Windsor Township has created several inclusionary housing zones. These inclusionary housing zones are detailed in the Housing Element and Fair Share Plan, dated [REDACTED], 2018.

H. Phasing Schedule for Inclusionary Zoning.

In inclusionary development the following schedule shall be followed:

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

I. New construction.

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

- (b) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
- (c) A maximum of 25% of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's Plan shall be non-restricted.
- (d) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units, including that at least 13% of the restricted units in each bedroom distribution shall be very-low-income units.
- (e) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - [1] The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - [2] At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - [3] At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - [4] The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (f) In accordance with the Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.3(c)*, for low- and moderate-income age-restricted units, at a minimum, the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the affordable development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. The Township shall not be permitted to claim credit to satisfy its obligations for age-restricted units that exceed 25% of all units developed.

(2) Accessibility Requirements

- (a) The first floor of all restricted townhouse dwelling units and all restricted units in all other multi-story buildings shall be subject to the technical design standards of the Barrier Free Subcode, *N.J.A.C. 5:23-7*.
- (b) All restricted townhouse dwelling units and all restricted units in other multi-story buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - [1] An adaptable toilet and bathing facility on the first floor; and

- [2] An adaptable kitchen on the first floor; and
- [3] An interior accessible route of travel on the first floor; and
- [4] An adaptable room that can be used as a bedroom, with a door or casing for the installation of a door, on the first floor; and
- [5] If not all of the foregoing requirements in (b)[1] through (b)[4] can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (b)[1] through (b)[4] above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- [6] An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-31 1a, et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Montvale has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - i. Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - ii. To this end, the builder of restricted units shall deposit funds within West Windsor Township's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - iii. The funds deposited under paragraph [6](ii) above shall be used by West Windsor Township for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - iv. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of West Windsor Township for the conversion of adaptable to accessible entrances.
 - v. 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 Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

- vi. 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.

(3) Design.

- (a) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (b) In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

(4) Maximum rents and sales prices.

- (a) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits, which shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows below. This does not include units established through a federal program exempted from UHAC pursuant to N.J.A.C. 5:80-26.1.

[1] Regional income limits shall be established for the housing region in which the Township is located (in this case, Housing Region 4) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average

median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- [2] The income limits attached to the Settlement Agreement as Exhibit D are the result of applying the percentages set forth in paragraph [1] above to HUD's determination of median income for FY 2018, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - [3] The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph [1] above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
 - [4] The resale prices 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 determined pursuant to the process outlined above. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
 - [5] The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.
- (b) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.

- (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very-low income households, earning 30% or less of the regional median household income, with such very-low income units counted the low-income housing requirement.
- (d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (e) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - [1] A studio shall be affordable to a one-person household;
 - [2] A one-bedroom unit shall be affordable to a one and one-half person household;
 - [3] A two-bedroom unit shall be affordable to a three-person household;
 - [4] A three-bedroom unit shall be affordable to a four and one-half person household; and
 - [5] A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - [1] A studio shall be affordable to a one-person household;
 - [2] A one-bedroom unit shall be affordable to a one and one-half person household; and
 - [3] A two-bedroom unit shall be affordable to a two-person household or two one-person households.

- (g) 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 it 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 it may be amended and supplemented.
- (h) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as it 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 it may be amended and supplemented.
- (i) 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.
- (j) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

J. Utilities.

- (1) Affordable units shall utilize the same type of heating/ventilation/air conditioning (HVAC) source as market units within an inclusionary development.
- (2) Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

K. Occupancy Standards.

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

- (1) Provide an occupant for each bedroom;

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

L. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- (1) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until West Windsor takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (2) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (3) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- (4) At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (5) 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.
- (6) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

M. 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:

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

N. Buyer Income Eligibility.

- (1) 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.
- (2) Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- (3) A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one (1) year.
- (4) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage

insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

O. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- (1) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- (2) With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

P. Capital Improvements to Ownership Units.

- (1) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- (2) Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten (10) year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

Q. Control Periods for Restricted Rental Units.

- (1) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years,

until West Windsor takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

- (2) 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 Mercer. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (3) A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit; or
 - (c) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

R. Rent Restrictions for Rental Units; Leases.

- (1) A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (2) 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.
- (3) 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.
- (4) No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

S. Tenant Income Eligibility.

- (1) 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:

- (a) Very-low income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median household income by household size.
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median household income by household size.
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median household income by household size.
- (2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (a) 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;
 - (b) 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;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (e) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances in (2)(a) through (2)(e) above with the Administrative Agent, who shall counsel the household on budgeting.

§200-237.1. Municipal Housing Liaison.

A. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of West Windsor Township's responsibility to promote and oversee the provision of affordable housing pursuant to the Fair Housing Act of 1985.

B. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADMINISTRATIVE AGENT

The entity responsible for administering the affordability controls of some or all units in the affordable housing program for West Windsor to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

MUNICIPAL HOUSING LIAISON

The municipal employee duly designated by the governing body with the responsibility for monitoring, reporting oversight and general administration of the affordable housing program for the Township of West Windsor.

C. Establishment of position and compensation; powers and duties.

- (1) Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for West Windsor Township.
- (2) Subject to the approval of the Court, the Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee.
- (3) The Municipal Housing Liaison shall be responsible for monitoring, reporting, oversight and general administration of the affordable housing program for West Windsor Township, including the following responsibilities which may not be contracted out to an Administrative Agent:
 - (a) Serving as West Windsor Township's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents, and interested households;
 - (b) Monitoring the status of all restricted units in West Windsor Township's Housing Element and Fair Share Plan;
 - (c) Compiling, verifying and publishing on the Township's website all referenced monitoring reports as required by the Court;
 - (d) Coordinating meetings with affordable housing providers and the administrative agent(s) as applicable; and

- (e) Attending continuing education programs as required to obtain and maintain certification as a Municipal Housing Liaison.
- (4) Subject to approval by the Court, West Windsor Township may contract with or authorize a consultant, authority, government or any agency charged by the governing body, which entity shall have the responsibility of administering the affordable housing program of West Windsor Township. If West Windsor Township contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and affirmative marketing plan, the Municipal Housing Liaison shall supervise the contracting administrative agent.
- (5) Compensation. Compensation shall be fixed by the governing body at the time of the appointment of Municipal Housing Liaison.

§200-237.2. Administrative Agent.

C. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of West Windsor Township's responsibility to promote and oversee the provision of affordable housing pursuant to the Fair Housing Act of 1985.

D. Establishment of position; powers and duties.

An Administrative Agent may be an independent entity serving under contract to and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

(3) Affirmative Marketing:

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

(4) 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, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (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;
- (f) Employing a random selection process as provided in the Affirmative Marketing Plan of West Windsor Township when referring households for certification to affordable units; and

(5) 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 Mercer County Register of Deeds or Mercer 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.

(6) Resales and Re-rentals:

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

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

(7) Processing Requests from Unit Owners:

- (a) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
- (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- (c) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (d) Making determinations on requests by owners of restricted units for hardship waivers.

(8) Enforcement:

- (a) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (b) 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;
- (c) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
- (d) 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;
- (e) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

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

(9) Additional Responsibilities:

- (a) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (b) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
- (c) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§200-237.3. Affirmative Marketing Requirements.

- A. The Township of West Windsor shall adopt by resolution an Affirmative Marketing Plan, subject to the approval of the Court that is compliant with N.J.A.C. 5:80-25.15, as it may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the FSHC, New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, Ocean, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch and Trenton Branches of the NAACP, and the Supportive Housing Alliance of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.

- D. The Township has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Township shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the Mercer County Library Headquarters, Monmouth County Headquarters Library, Ocean County Library, West Windsor Library, the West Windsor Municipal Building and the developer's rental office. Pre-applications may be emailed to prospective applicants upon request. Otherwise, hard copies are available from the Township's Municipal Housing Liaison.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§200-237.4. Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:

- (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than five hundred dollars (\$500.00) per day or imprisonment for a period not to exceed ninety (90) days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into West Windsor Township's Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- (2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
 - (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In

the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two (2) 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 (2) year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, 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.
- (e) 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.
- (f) 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.

C. Appeals.

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

SECTION II.

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

SECTION III.

This ordinance shall take effect upon final passage and publication in accordance with the law.

INTRODUCTION:

PUBLIC HEARING:

ADOPTION:

MAYOR'S APPROVAL:

EFFECTIVE DATE:

2019-12 ORDINANCE SUMMARY

This ordinance replaces Section 200-237 of Article XXXI of Chapter 200, entitled “Application and interpretation of low/moderate income housing provisions,” with an updated set of affordable housing regulations. They include requirements as to monitoring; requiring that 13% of all affordable rental units be affordable to very-low income households earning 30% or less of the regional median household income; establishing standards for rehabilitation programs and alternative living arrangements; providing for a phasing schedule, low- and moderate-income unit split, bedroom distribution and accessibility requirements; providing that low- and moderate-income units be integrated with the market units to the extent possible; establishing standards for determining maximum rents and sales prices; providing that affordable units utilize the same type of heating source as market units; providing occupancy standards as to the number of persons per bedroom and providing that children of different sexes have separate bedrooms; setting forth the parameters governing the control periods for affordable units; setting forth standards as to buyer income eligibility and limitations on indebtedness; establishing what capital improvement could be used to increase the maximum resale price of for-sale units; providing for buyer and tenant eligibility; providing for the positions of Municipal Housing Liaison and Administrative Agent and setting forth their duties; establishing affirmative marketing requirements and standards; and setting forth the standards governing enforcement of affordable housing regulations.

This ordinance was introduced on March 4, 2019. The public hearing on this Ordinance will be held at the Township Council meeting of March 19, 2019 at 7:00 p.m. in the West Windsor Township Municipal Building, 271 Clarksville Road, West Windsor, New Jersey.

Prior to the public hearing date you may obtain a complete copy of the ordinance, free of charge, by contacting the Township Clerk’s office at West Windsor Township (609-799-2400) or coming to the Township Clerk’s office at the West Windsor Township Municipal Building.

[Affordable Housing Ord from D Novak with summary added 02-25-19.docx](#)

RESOLUTION

- WHEREAS, on July 7, 2015, the Township filed a declaratory judgment action seeking a declaration that it has satisfied its constitutional fair share obligation under the *Mt. Laurel* doctrine and Fair Housing Act and an order immunizing it from builder's remedy suits; and
- WHEREAS, the Hon. Mary C. Jacobson, A.J.S.C. entered orders granting such immunity for specified periods; and
- WHEREAS, in March 2018, Judge Jacobson issued an Opinion and entered an Order establishing the Township's Prior Round Obligation at 899, consistent with Prior Round judgments, a New Construction Obligation at 1,500, and a Rehabilitation Obligation at 132; and
- WHEREAS, on October 10, 2018 Township Council approved a Settlement Agreement between Fair Share Housing Center, an intervenor in the declaratory judgment action, and the Township establishing the Prior Round and New Construction Obligations at 899 and 1,500 and the Rehabilitation Obligation at 30, later reduced to 27 by virtue of an October 30, 2018 amendment to the Settlement Agreement; and
- WHEREAS, on November 27 and November 28, 2018, Judge Jacobson conducted a fairness hearing on the Settlement Agreement; and
- WHEREAS, on December 3, 2018 Judge Jacobson rendered a decision from the bench, with reasons spread upon the record, approving the Settlement Agreement; and
- WHEREAS, on January 10, 2019 Judge Jacobson entered an Order Approving the Settlement Agreement; and
- WHEREAS, such Order requires the adoption of implementing ordinances within 90 days of the date of its entry and adoption of the Housing Element and Fair Share Plan satisfying a number of conditions set forth in the Order; and
- WHEREAS, the Order also continued the Township's immunity from builder's remedy suits until entry of a final judgment of compliance and repose, which will contain a provision extending the grant of immunity, or until the court terminates the grant; and
- WHEREAS, a Master Plan hearing on the Housing Element and Fair Share Plan was duly noticed and held on February 27, 2019; and

WHEREAS, the Housing Element and Fair Share Plan that was the subject of the February 27, 2019 Master Plan hearing was adopted by the West Windsor Planning Board at such hearing; and

WHEREAS, the Housing Element and Fair Share Plan is in conformance with the Settlement Agreement and the Order Approving the Settlement Agreement; and

WHEREAS, it is in the best interest of the Township for the Township Council to endorse such Housing Element and Fair Share Plan.

NOW, THEREFORE, BE IT RESOLVED on this 27th day of February 2019 that the Housing Element and Fair Share Plan is endorsed by the West Windsor Township Council.

Adopted: February 27, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 27th day of February, 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Tax Collector, Kelly A. Montecinos, has certified the following taxpayer overpaid their taxes; and

WHEREAS, the Tax Collector is requesting that the overpaid taxes be refunded.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor that the following refund be made:

<u>Taxpayer</u>	<u>Refund</u>
PAYEE: Princeton Baptist Church 261 Washington Road Princeton, NJ 08540 ASSESSED OWNER: Princeton Baptist Church PROPERTY LOCATION: 261 Washington Road BLOCK: 40 LOT: 4.01	\$686.50
Total	\$686.50

Adopted: March 4, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 4th day of March, 2019

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor, pursuant to N.J.S.A. 40A:11-12a and N.J.A.C. 5:34-7.29(c), may by resolution and without advertising for bids, purchase any goods or services under the State of New Jersey Cooperative Purchasing Program for any State contracts entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury; and

WHEREAS, the Township of West Windsor has the need on a timely basis to purchase technological goods or services utilizing State contracts; and

WHEREAS, SHI International is an authorized vendor under NJ State Contract M0003-89851, and

WHEREAS, on January 7, 2019 by resolution 2019-R022 the Township Council authorized the Business Administrator to purchase Software License and Related Services from SHI International under NJ State Contracts M0003-89849 in the amount of \$85,000.00; and

WHEREAS, a certification of funds for the original contract was received from the Chief Financial Officer and funds for said contract were available in the following line item appropriation accounts:

4 05 2015 06 001	Network/Computer/Printer/Scanners	\$ 886.10
4 05 2018 15 001	Network/Computer/Printer/Scanners	\$ 84,113.90

WHEREAS, the Chief Financial Officer has approved funding for the above from the following account:

105 04 268	Technology/Computer Services	\$ 4,397.90
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NOW, THEREFORE, BE IT RESOLVED, that the Township Council authorizes the Business Administrator Marlina Schmid to increase the contract amount to date by \$4,397.90 with SHI International under NJ State Contracts M0003-89851 to a revised contract amount of \$89,397.90.

Adopted: March 4, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 4th day of March, 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor Planning Board entered into a professional services agreement with Burgis Associates, Inc. on January 3, 2018 for Planning Consultant Services; and

WHEREAS, a certification of funds for the original contract was received from the Chief Financial Officer and funds for said contract were available in the following line item appropriation account:

Land Use – Consultant Fees	105-33-210	\$50,000.00
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WHEREAS, the scope of work authorized in the original contract remains in force and effect; and

WHEREAS, the Chief Financial Officer has certified that funds are available for said contract in the following line item appropriation accounts:

Land Use – Consultant Fees	105-33-210A	\$1,258.00
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NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that the Chief Financial Officer is hereby authorized to increase the contract amount to date by \$1,258.00 with Burgis Associates, Inc. to a revised contract amount of \$51,258.00.

Adopted: March 4, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 4th day of March 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor Council entered into a professional services agreement with Miller, Porter & Muller Resolution 2018-R218 on October 1, 2018 for Land Use Litigation Services; and

WHEREAS, a certification of funds for the original contract was received from the Chief Financial Officer and funds for said contract were available in the following line item appropriation account:

Legal – Litigation	105-46-228	\$20,000.00
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WHEREAS, the scope of work authorized in the original contract remains in force and effect; and

WHEREAS, the Chief Financial Officer has certified that funds are available for said contract in the following line item appropriation accounts:

Legal – Litigation	105-46-228A	\$4,135.84
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NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that the Chief Financial Officer is hereby authorized to increase the contract amount to date by \$4,135.84 with Miller, Porter & Muller to a revised contract amount of \$24,135.84.

Adopted: March 4, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 4th day of March 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor Council entered into a professional services agreement with Ruderman, Horn & Esmerado Resolution 2018-R030 on January 16, 2018 for Labor Attorney Services; and

WHEREAS, a certification of funds for the original contract was received from the Chief Financial Officer and funds for said contract were available in the following line item appropriation account:

Legal – Labor Counsel	105-46-210	\$50,000.00
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WHEREAS, the scope of work authorized in the original contract remains in force and effect; and

WHEREAS, the Chief Financial Officer has certified that funds are available for said contract in the following line item appropriation accounts:

Legal – Labor Counsel	105-46-210A	\$19,705.00
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NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor that the Chief Financial Officer is hereby authorized to increase the contract amount to date by \$19,705.00 with Ruderman, Horn & Esmerado to a revised contract amount of \$69,705.00.

Adopted: March 4, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 4th day of March 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, the Township of West Windsor Council entered into a professional services agreement with Parker McCay P.A. Resolution 2017-R045 on January 30, 2017 for Township Attorney Services; and

WHEREAS, the consultant shall continue to represent the Township in all matters assigned to it until a new agreement becomes effective; and

WHEREAS, the scope of work authorized in the original contract remains in force and effect; and

WHEREAS, the Chief Financial Officer has certified that funds are available for said contract in the following line item appropriation accounts for 2018:

Legal – Legal Fees	105-46-223a	\$89,851.75
Legal – Legal Fees- Township Council	105-46-224a	\$11,534.93
Legal – Litigation	105-46-228a	<u>\$30,897.18</u>
Total		\$132,283.86

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Windsor ratifies and affirms the 2018 expenditures for Parker McCay P.A. for professional services as Township Attorney in the amount of \$132,283.86.

Adopted: March 4, 2019

I hereby certify that the above resolution was adopted by the West Windsor Township Council at their meeting held on the 4th day of March 2019.

Gay M. Huber
Township Clerk
West Windsor Township

RESOLUTION

WHEREAS, plug-in electric vehicles (EV) are now becoming a popular, practical and increasingly prevalent means of transportation, with real-world vehicle range, competitive pricing, increasing consumer choices and improved national charging infrastructure; and

WHEREAS, the transportation sector needs support to move toward adoption of clean energy technology, including plug-in electric vehicles (EV), that reduces our dependence on fossil fuels and supports a healthy environment and economy; and

WHEREAS, the State of New Jersey 2019 Energy Master Plan Committee recognizes the importance of clean and reliable transportation, including electric vehicles; and

WHEREAS, West Windsor Township is dedicated to being a leader in the use of clean energy, establishing policies and programs that conserve energy, and promote sustainability.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of West Windsor that West Windsor Township supports and encourages the Township Administration, residents and businesses to appropriately do the following:

- Increase charging infrastructure on township properties by pursuing the installation of EV chargers
- Support equitable availability for EV ownership by residents without access to personal chargers by seeking ways to increase charger availability at workplaces, apartment complexes, train stations and other longer term parking places
- Encourage the installation of EV charging options for all new residential and commercial construction
- Encourage the installation of EV charging options when opportunities arise during property modifications in shopping and other commercial areas
- Encourage and cooperate with outside companies seeking to bring EV chargers into the area
- Ensure a smooth and streamlined process for individuals and businesses seeking to install EV chargers
- Provide parking regulations as needed to protect EV charging spaces so they will be available for EVs while charging
- Encourage EVs through support and encouragement of consumer awareness activities such as displays, shows and information through the West Windsor Environmental Commission.

Adopted: March 4, 2019

I hereby certify this is a true copy of a Resolution adopted by the West Windsor Township Council at their meeting held on the 4th day of March 2019.

Gay M. Huber
Township Clerk
West Windsor Township

**WEST WINDSOR TOWNSHIP ENVIRONMENTAL COMMISSION
RESOLUTION ENDORSING THE
A TOWNSHIP RESOLUTION IN SUPPORT OF ELECTRIC VEHICLES**

Whereas it is the desire of the West Windsor Township Environmental Commission to promote matters which enhance the health, safety, quality of life, and environment of the community;
And

Whereas the West Windsor Township Environmental Commission supports increased utilization of electric powered vehicles and the needed supportive infrastructure to reduce global climate change and air pollution and the impacts upon the State, County and Municipality;
And

Whereas plug-in electric vehicles are now becoming a popular, practical and increasingly prevalent means of transportation, with real-world vehicle range, competitive pricing, increasing consumer choices and improved national charging infrastructure; and

Whereas the transportation sector needs support to move toward adoption of clean energy technology, including plug-in electric vehicles, that reduces our dependence on fossil fuels and supports a healthy environment and economy; and

Whereas the State of New Jersey 2019 Energy Master Plan Committee recognizes the importance of clean and reliable transportation, including electric vehicles; and

Whereas West Windsor Township is dedicated to being a leader in the use of clean energy, establishing policies and programs that conserve energy, and promote sustainability

Whereas amongst the purposes of the West Windsor Township Environmental Commission is offering advice and recommendations to the West Windsor Township Administration, Mayor and Township Council regarding matters related to the environment;

NOW, THEREFORE, BE IT RESOLVED, that the West Windsor Township Environmental Commission endorses the attached Municipal Resolution, as amended, in support of Electric Vehicles and recommends adoption by the West Windsor Township Council.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Mayor Hemant Marathe and all members of the Council, Township of West Windsor.

Motion to Approve the Resolution moved by A. Mandel.
Seconded by T. Wahrman

Roll Call Vote: Unanimous Yes

Date: February 14, 2019

AGREEMENT
BETWEEN COUNTY OF MERCER AND
TOWNSHIP OF WEST WINDSOR;
HOMELAND SECURITY GRANT FUNDS

WHEREAS, the New Jersey Office of Homeland Security and Preparedness has approved the use of grant funds for the purchase of a vehicle for the transport of an explosives detection canine, and authorized related equipment; and

WHEREAS, the County of Mercer ("County") has allocated funds in the 2016 State Homeland Security Grant Spending Plan in the amount of \$43,193.12 for an explosives detection canine vehicle, and authorized related equipment; and

WHEREAS, the Township of West Windsor ("Township") has agreed to comply with the terms of the Homeland Security Grant in connection with the receipt of the grant funds for the acquisition and use of a vehicle for the transport of an explosives detection canine, and authorized related equipment; and

WHEREAS, due to the requirements regarding the purchase of a vehicle specific to a police department, it is necessary for the County, through its Office of Emergency Management, to reimburse the Township for the vehicle acquisition cost; and

WHEREAS, the Township adopted Resolution No. 2019-R027, adopted on January 22, 2019, agreeing to accept funds from the County in the amount of \$43,193.12 from the 2016 State Homeland Security Grant for said reimbursement; now, therefore,

IT IS ON this 4th day of March, 2019, agreed as follows:

1. The County shall issue 2016 Homeland Security Grant funds in the amount of \$43,193.12 to the Township for purposes of reimbursing the Township for the purchase of an explosives detection canine response vehicle, and any authorized related equipment.
2. The parties agree that the County shall have no liability for, or ownership of, the subject vehicle or authorized related equipment. The parties further agree that the County shall not be responsible for any maintenance or repair service of the subject vehicle, or any authorized related equipment.
3. The Township agrees to defend and indemnify the County from any claims or liability arising out of the Township's use of the subject vehicle, and any authorized related equipment.

4. This Agreement can only be amended or modified pursuant to a writing signed by the parties hereto.
5. The laws of the State of New Jersey shall govern this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by the proper officers as of the day and year aforesaid.

ATTEST:

COUNTY OF MERCER

JERLENE H. WORTHY, CLERK
BOARD OF CHOSEN FREEHOLDERS

BRIAN M. HUGHES
MERCER COUNTY EXECUTIVE

ATTEST:

TOWNSHIP OF WEST WINDSOR

GAY M. HUBER
TOWNSHIP CLERK

HEMANT MARATHE
MAYOR