TOWNSHIP OF BORDENTOWN

TOWNSHIP COMMITTEE REGULAR MEETING AGENDA

DATE: AUGUST 12, 2019 TIME: 7:00 P.M. MEETING ROOM, MUNICIPAL BUILDING

ATTENDANCE:	PRESENT	ABSENT	
	_____	_____	Mayor Benowitz
	_____	_____	Deputy Mayor Fuzy
	_____	_____	Committeeman Holliday
	_____	_____	Committeeman Kostoplis
	_____	_____	Committeeman Mason
	_____	_____	Michael Theokas, Administrator
	_____	_____	Clerk Carrington
	_____	_____	Attorney Fahey
	_____	_____	Chief Financial Officer Elsasser

1. Salute to the flag and moment of silence

2. Roll Call

3. Open Public Meeting Announcement

   In compliance with the Open Public Meetings Act, adequate notice of this meeting was provided in the following manner:

   On January 7, 2019, advance written notice of this meeting was posted on the bulletin board opposite the main entrance to the meeting room in the Municipal Building; was emailed to the BURLINGTON COUNTY TIMES and THE TIMES; was filed with the Clerk of Bordentown Township; and was mailed to all persons who requested and paid for such notice.

   The proceedings of this meeting, which are open to the public, are being electronically recorded and will act as the minutes of the meeting in conjunction with the abbreviated form of the minutes. Requisite minutes are kept for all meetings, whether open or closed to the public.

4. Resolution to meet in closed session

   BE IT RESOLVED by the Township Committee of the Township of Bordentown that it does hereby recess this Regular Meeting to meet in Closed Session for the purpose of discussing:

   - Environmental Litigation

   It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.

5. Mayor's Proclamation recognizing the 2019 Softball Group 2 Sectional Champions from Bordentown Regional High School and further recognizing the accomplishments of Burlington County Player of the Year, Annabella Pisapia, and the entire Girls Softball Team

6. Administrative Review

a. Review of agenda

b. Review of correspondence

1) Bordentown Sewerage Authority is holding a public hearing regarding proposed rate adjustments on September 16 at 6 p.m. Notice is posted on the township bulletin board.

CONSENT AGENDA ITEMS:

a. Township Committee review and discussion of Consent Agenda Items.

b. Questions or comments from the audience on consent agenda items.

c. Motion, Second and Roll Call to adopt Resolutions #2019-213 through #2019-228.

7. Resolution #2019-213 entitled APPROVING THE TRANSACTION OF ITEMS OF ROUTINE BUSINESS: MINUTES OF MEETINGS AND FILING OF REPORTS

8. Resolution #2019-214 entitled ACKNOWLEDGING RECEIPT OF REPORT OF AUDIT FOR THE YEAR 2018

9. Resolution #2019-215 entitled RESOLUTION to RENEW MEMBERSHIP IN THE SOUTHERN NEW JERSEY REGIONAL EMPLOYEE BENEFITS FUND

10. Resolution #2019-216 entitled AUTHORIZING REFUND OF OVERPAYMENT OF TAXES

11. Resolution #2019-217 entitled AUTHORIZING REFUND OF OVERPAYMENT OF LICENSE FEES

12. Resolution #2019-218 entitled AUTHORIZING EXECUTION OF THE FY2019 BURLINGTON COUNTY ANNUAL ALLIANCE PLAN AGREEMENT

13. Resolution #2019-219 entitled RESOLUTION AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT BETWEEN THE BOROUGH OF FIELDSBORO AND THE TOWNSHIP OF BORDENTOWN FOR CONSTRUCTION CODE SERVICES

14. Resolution #2019-220 entitled RESOLUTION TO APPOINT THOMAS KENNEDY TO THE POSITION OF PUBLIC WORKS LABORER IN THE DEPARTMENT OF PUBLIC WORKS

15. Resolution #2019-221 entitled RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY APPOINTING MICHAEL THEOKAS AS THE MUNICIPAL HOUSING LIAISON FOR THE TOWNSHIP OF BORDENTOWN

16. Resolution #2019-222 entitled RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY APPROVING THE AFFORDABLE HOUSING SPENDING PLAN

17. Resolution #2019-223 entitled RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY TO APPROPRIATE FUNDS OR BOND IN THE EVENT OF A SHORTFALL IN FUNDING FOR THE TOWNSHIP'S AFFORDABLE HOUSING PROGRAMS

18. Resolution #2019-224 entitled RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY ENDORSING THE HOUSING ELEMENT AND FAIR SHARE PLAN ADOPTED BY THE PLANNING BOARD

19. Resolution #2019-225 entitled RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY ADOPTING THE 'AFFIRMATIVE MARKETING PLAN' FOR THE TOWNSHIP OF BORDENTOWN

20. Resolution #2019-226 entitled RESOLUTION PARTIALLY RESCINDING RESOLUTION #2019-167 AUTHORIZING THE RENEWAL OF PLENARY RETAIL CONSUMPTION LIQUOR LICENSE #0304-33-008-015 HELD BY 175 ROUTE 130, LLC

21. Resolution #2019-227 entitled A RESOLUTION ACCEPTING THE PROPOSAL FROM TUREK CONSULTING, LCC, FOR ADDITIONAL ARCHAEOLOGICAL SERVICES REGARDING THE CULVERT REPLACEMENT

22. Resolution #2019-228 entitled APPROVING THE TRANSACTION OF ITEMS OF ROUTINE BUSINESS: PAYMENT OF BILLS

23. Ordinance #2019-13 entitled AN ORDINANCE REPEALING AND REPLACING CHAPTER 5.44 OF THE TOWNSHIP CODE AND ORDINANCE #2013-17 REGARDING PEDDLING AND SOLICITING

    a. Public Hearing

    b. Consideration of Adoption

24. Ordinance #2019-14 entitled AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, CREATING CHAPTER 95 SECTION 905, ENTITLED "DEVELOPMENT FEES"

    a. Public Hearing

    b. Consideration of Adoption

25. Ordinance #2019-15 entitled AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN AMENDING THE GENERAL CODE OF THE TOWNSHIP OF BORDENTOWN BY REPEALING AND REPLACING SECTION 1100 OF CHAPTER 25 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

    a. Public Hearing

    b. Consideration of Adoption

26. Administrator and Staff Reports

27. Township Committee Reports

28. Public Participation: Questions, comments or statements from members of the public in attendance

29. Any additional matters or correspondence to be reviewed, discussed or acted upon at the discretion of the Township Committee

30. Motion to Adjourn – Next Township Committee Meeting scheduled for Monday, September 9, 2019.

ALL LEGISLATION LISTED ABOVE IS SUBJECT TO CHANGE UNTIL IT IS OFFICIALLY ADOPTED BY THE GOVERNING BODY.

Office of the Mayor
Township of Bordentown
Proclamation

WHEREAS, the Bordentown Regional High School Softball Team players are Michaela Luyber, Makenza Goleniecki, Annabella Marino, Jenna Ryan, Annabella Pisapia, Cali McCormick, Rachel Scranton, Tatum Hart, Haley Cope, Eleanor Dunlevy, Olivia Bisceglie, Angelina Marino, Brianna Fischer and Sofia Peterson. Nicole O'Leary served as Head Coach who was chosen as the Burlington County Scholastic League **Coach of the Year,** and Assistant Coaches, Kara Lynch, Rachel Gagliardo, Anastasia Salera had the opportunity to work with this amazing team throughout their victorious journey during the 2019 Softball Season; and

WHEREAS, the team achieved the title of Central Jersey Group 2 Sectional Champions winning the game 10-0 in a two night game with having 16 hits with Annabella Pisapia pitching with allowing only 3 hits with 14 strikeouts; Annabella Marino had a home run and Michaela Luyber went 3 for 3 with a double, Lina Marino went 4 for 5 making the game a sensational win for the team; and

WHEREAS, the team played against Delran winning 15-0 with 13 team hits, Sofia Peterson went 3 for 3 with 2 home runs, Michaela Luyber, Jenna Ryan and Haley Cope all had doubles and Annabella Pisapia pitched with 9 strikeouts and only 1 hit in 5 innings in the N.J. State Semi-Finalist Game; and

WHEREAS, the girls lost in the N.J. State Finals by a score of 2-1 but played hard having 5 hits and only gave up 7 hits; and

WHEREAS, many of the players had many recognitions bestowed upon them such as, Burlington County Scholastic League All Stars 1st Team Makenza Goleniecki and Annabella Pisapia, 2nd Team Michalea Luyber, Annabella Marino, Haley Cope, Angela Marino, Carpenter Cup All Star Team Annabella Pisapia and Brianna Fischer, NJ Pride Super 36 Senior All Star Game Michaela Luyber, South Jersey Girls Softball Association All South Jersey Team was Annabella Pisapia, Courier Post South Jersey Pitcher of the Year Annabella Pisapia, First Team All Group 2, Annabella Pisapia, Second Team All Group 2, Annabella Marino, Third Team All Group 2 Makenza Goleniecki and Burlington County All County Softball Team Annabella Pisapia and Annabella Marino.

NOW, THEREFORE, LET IT BE RESOLVED, I, Steve Benowitz, Mayor, of the Township of Bordentown, County of Burlington and State of New Jersey, do hereby recognize these outstanding athletes for their level of excellence displayed for the 2019 Softball Season.

Steve Benowitz

STEVE BENOWITZ
MAYOR

NOTICE

PLEASE TAKE NOTICE that The Bordentown Sewerage Authority shall hold a public hearing on proposed adjustments to its Rate Schedule on Monday, September 16, 2019 at 6:00 p.m., at the Authority office, 954 Farnsworth Avenue, Bordentown, New Jersey 08505. The Authority shall provide evidence at the hearing showing that the proposed adjustments are necessary and reasonable and shall provide the opportunity for cross-examination on such evidence. A transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party upon payment of a reasonable fee.

THE BORDENTOWN SEWERAGE AUTHORITY

/s/ Richard D. Eustace

Richard D. Eustace, Executive Director

RESOLUTION #2019-213

APPROVING THE TRANSACTION OF ITEMS OF ROUTINE BUSINESS: MINUTES OF MEETINGS.

BE IT RESOLVED by the Township Committee of the Township of Bordentown that the Closed Session Meeting Minutes and the Regular Session Meeting Minutes of July 29, 2019; as submitted by the Clerk and posted on the bulletin board, be and are hereby approved as (___ submitted) (___ corrected).

CERTIFICATION

I, MARIA CARRINGTON, Acting Municipal Clerk of the Township of Bordentown, County of Burlington, State of New Jersey, do hereby certify the foregoing to be a true and accurate copy of the resolution adopted by the Township Committee of the Township Committee of the Township of Bordentown at a meeting held on the 12th day of August 2019.

MARIA CARRINGTON
Acting Municipal Clerk

RESOLUTION #2019-214

ACKNOWLEDGING RECEIPT OF REPORT OF AUDIT FOR THE YEAR 2018

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2017 has been filed by a Registered Municipal Accountant with the Township of Bordentown Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Findings and Recommendations," as evidenced by the group affidavit form of the governing body; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject members of the governing body to the penalty provisions of R.S. 52:27BB-52 - to with:

> R.S. 52:27BB-52 - "A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined no more than one thousand dollars ($1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

NOW THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Bordentown hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

I, MARIA CARRINGTON, Acting Township Clerk, do hereby certify that this is a true copy of a resolution duly passed by the Township Committee of the Township of Bordentown at a meeting held on August 12, 2019.

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MARIA CARRINGTON
Acting Township Clerk

RESOLUTION NO. 2019-215

RESOLUTION to RENEW MEMBERSHIP IN THE SOUTHERN NEW JERSEY REGIONAL EMPLOYEE BENEFITS FUND

WHEREAS, a number of public entities in the State of New Jersey have joined together to form the **Southern New Jersey Regional Employee Benefits Fund**, hereafter referred to as "FUND," as permitted by N.J.S.A. 11:15-3, 17:1-8.1, and 40A:10-36 *et seq.,* and;

WHEREAS, the FUND was approved to become operational by the Departments of Insurance and Community Affairs and has been operational since that date, and;

WHEREAS, the statutes and regulations governing the creation and operation of a joint insurance fund, contain certain elaborate restrictions and safeguards concerning the safe and efficient administration of the public interest entrusted to such a FUND;

WHEREAS, the Township Committee of the Township of Bordentown, hereinafter referred to as "LOCAL UNIT" has determined that membership in the FUND is in the best interest of the LOCAL UNIT.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the LOCAL UNIT hereby:

1. Becomes a member of the FUND for the period outlined in the LOCAL UNIT's Indemnity and Trust Agreements.
2. Agrees to participate in the Health Insurance and/or Prescription Insurance and/or Dental Insurance as defined pursuant to N.J.S.A. 17B:17-4, the FUND's Bylaws, and Plan of Risk Management.
3. Adopts and approves the FUND's Bylaws.
4. Authorizes the Mayor and Township Clerk to xecute an application for membership and any accompanying certifications.

BE IT FURTHER RESOLVED that the governing body of the LOCAL UNIT is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying membership in the FUND as required by the FUND's Bylaws, and to deliver these documents to the FUND's Executive Director with the express reservation that these documents shall become effective only upon:

1. Approval of the LOCAL UNIT by the FUND.
2. Receipt from the LOCAL UNIT of a Resolution accepting assessment.
3. Approval by the New Jersey Department of Insurance and Department of Community Affairs.

I, MARIA CARRINGTON, Acting Township Clerk, do hereby certify that this is a true copy of a resolution duly passed by the Township Committee of the Township of Bordentown at a meeting held on August 12, 2019.

_____
MARIA CARRINGTON
Acting Township Clerk

RESOLUTION #2019-216

AUTHORIZING REFUND OF OVERPAYMENT OF TAXES

BE IT RESOLVED, by the Township Committee of the Township of Bordentown that, as requested by the Tax Collector, it hereby authorizes a refund of overpayment of 2019 taxes in the amount of $348.32 to Title Forward for Block 93.02 Lot 21 commonly known as 3 Wyndham Court.

I, MARIA CARRINGTON, Acting Township Clerk, do hereby certify that this is a true copy of a resolution duly passed by the Township Committee of the Township of Bordentown at a meeting held on August 12, 2019.

_____

MARIA CARRINGTON
Acting Township Clerk

RESOLUTION #2019-217

AUTHORIZING REFUND OF OVERPAYMENT OF LICENSE FEES

BE IT RESOLVED, by the Township Committee of the Township of Bordentown that, as requested by the Township Clerk, it hereby authorizes a refund of overpayment of 2019-2020 Business License Application fees in the amount of $1,100.00 to Wallace Okulicz of 38 Georgetown Road, Bordentown, NJ 08505.

I, MARIA CARRINGTON, Acting Township Clerk, do hereby certify that this is a true copy of a resolution duly passed by the Township Committee of the Township of Bordentown at a meeting held on August 12, 2019.

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MARIA CARRINGTON

RESOLUTION 2019-218

AUTHORIZING EXECUTION OF THE FY2019 BURLINGTON COUNTY ANNUAL ALLIANCE PLAN AGREEMENT

WHEREAS, the New Jersey Governor's Council on Alcoholism and Drug Abuse has notified the Board of Chosen Freeholders of Burlington County that the Council will award grants to Municipal Alliance Committees in Burlington County in accordance with the Burlington County Municipal Alliance Plan for FY2016 which was approved by the Board of Chosen Freeholders; and

WHEREAS, the grant funds will be paid to the Board of Chosen Freeholders of Burlington County for disbursement to municipalities in Burlington County which have formed Municipal Alliance Committees whose Requests for Proposal have been approved by the Governor's Council; and

WHEREAS, the Governor's Council required that a Letter of Agreement be made between the Governor's Council and the Board of Chosen Freeholders of Burlington County for the administration of the grant funds before the first disbursement of funds by the Governor's Council; and

WHEREAS, the following grant has been approved to the Bordentown Alliance known as Bordentown Residents Against Drugs ("B.R.A.D.") established in accordance with Ordinance #1989-18 in the following amount:

Alliance DEDR Allocation	**$ 14,804.00**
City/Twp. Cash Match (25%)	**$ 3,701.00**
In-Kind Match	**$ 11,103.00**

WHEREAS, the Board of Chosen Freeholders prepared agreements with the municipalities which have been awarded said grants which must be fully executed before any monies can be disbursed to the municipalities for the grant period from July 1, 2019 through June 30, 2020; and

WHEREAS, an Agreement amongst the Burlington County Board of Chosen Freeholders, the Township of Bordentown and the City of Bordentown has been forwarded.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown that it hereby authorizes the Mayor and Clerk to execute this Agreement on behalf of the City of Bordentown.

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I hereby certify that the foregoing Resolution was duly adopted by the Township Committee of the Township of Bordentown at a regular meeting conducted on the 12th day of August 2019.

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Maria Carrington
Acting Township Clerk

RESOLUTION #2019-219

RESOLUTION AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT BETWEEN THE BOROUGH OF FIELDSBORO AND THE TOWNSHIP OF BORDENTOWN FOR CONSTRUCTION CODE SERVICES

WHEREAS, the Borough of Fieldsboro desires to contract with the Township of Bordentown for the provision of Construction Code Services; and

WHEREAS, the Township of Bordentown is agreeable to providing those services to the Borough of Fieldsboro in exchange for the fees generated by the construction office and upon certain other specified conditions; and

WHEREAS, the Uniform Shared Services and Consolidation Act, P.L, c.63 *NJ.S.A.* 40A:65-l *et seq.*, permits local units of this State to enter into a contract with any other local unit for the joint provision within their combined jurisdictions of any service which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, *N.J.A.C.* 5:23-4.6 authorizes two municipalities to administer and enforce the regulations and the sub code under the regulations;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown, County of Burlington, State of New Jersey, hereby approves entering into a Shared Services Agreement between the Borough of Fieldsboro and Township of Bordentown for the purpose of Construction Code Services; and

BE IT FURTHER RESOLVED that the Mayor and Township Clerk are hereby authorized to sign an agreement substantially similar to the attached document on behalf of the Township of Bordentown.

CERTIFICATION

I, MARIA CARRINGTON, Acting Township Clerk of the Township of Bordentown, County of Burlington, State of New Jersey, do hereby certify that this is a true and accurate copy of a resolution adopted by the Township Committee of the Township Committee of the Township of Bordentown at a meeting held on the 12th day of August 2019.

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MARIA CARRINGTON
Acting Township Clerk

RESOLUTION #2019-220

RESOLUTION TO APPOINT THOMAS KENNEDY TO THE POSITION OF PUBLIC WORKS LABORER IN THE DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Township Committee has determined that there is a need to appoint a Public Works Laborer in the Department of Public Works; and

WHEREAS, the Township Committee, upon recommendation by the Public Works Director, has concluded that Thomas Kennedy is best qualified to fill this position; and

WHEREAS, the necessary and appropriate background investigation has been conducted and Mr. Kennedy has met the qualifications necessary to fill this position;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown that it does hereby appoint Mr. Thomas Kennedy to the position of Public Works Laborer in the Department of Public Works, effective August 13, 2019; and

BE IT FURTHER RESOLVED that compensation to Mr. Kennedy shall be set at $15.00 per hour in accordance with Ordinance #2019-07 and the existing Township – AFSCME Local 3827-D collective bargaining agreement; and

BE IT FURTHER RESOLVED that Mr. Kennedy is appointed in accordance with and subject to the New Jersey Civil Service Commission rules and regulations.

It is hereby certified that the foregoing is a true and correct copy of a resolution adopted by the Township Committee of the Township of Bordentown at a meeting held on August 12, 2019.

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MARIA CARRINGTON, ACTING TOWNSHIP CLERK

RESOLUTION 2019-221

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY APPOINTING MICHAEL THEOKAS AS THE MUNICIPAL HOUSING LIAISON FOR THE TOWNSHIP OF BORDENTOWN

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

WHEREAS, the Township's Affordable Housing Ordinance sets forth the duties of the Municipal Housing Liaison in which the Municipal Housing Liaison is required to oversee the Township's affordable housing programs; and

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

NOW THEREFORE BE IT RESOLVED, by the Governing Body of Bordentown Township, County of Burlington, State of New Jersey that Michael Theokas is hereby appointed by the Governing Body of the Township of Bordentown as the Municipal Housing Liaison for the administration of the affordability controls of the Township's housing program.

I hereby certify that the above resolution was duly adopted by the Township Committee of the Township of Bordentown at a regular meeting conducted on the 12th day of August 2019.

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Maria Carrington
Acting Township Clerk

RESOLUTION 2019-222

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY APPROVING THE AFFORDABLE HOUSING SPENDING PLAN

WHEREAS, on June 26, 2017 and June 11, 2019 the Township of Bordentown ("Township") signed a settlement agreement and an amended settlement agreement (respectively) with Fair Share Housing Center ("FSHC"), which established the Township's fair share obligation and preliminarily approved the Township's compliance mechanisms in accordance with the March 10, 2015 decision of the Supreme Court, which transferred responsibility to review and approve housing elements and fair share plans from the Council on Affordable Housing ("COAH") to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, pursuant to the settlement agreement and amended settlement agreement with FSHC, the Township must implement a Spending Plan in accordance with N.J.A.C. 5:93-5.1, et. seq.; and

WHEREAS, the Township of Bordentown has prepared a Spending Plan consistent with P.L.2008, c.46 COAH regulations and the settlement agreements entered into between the Township and FSHC; and

WHEREAS, the Township desires to submit its Spending Plan to the Court in connection with the Compliance Action for its review and approval.

NOW THEREFORE BE IT RESOLVED, the by the Township Committee of the Township of Bordentown, County of Burlington, State of New Jersey hereby approves the Spending Plan that is attached hereto as Exhibit A.

I hereby certify that the above resolution was duly adopted by the Township Committee of the Township of Bordentown at a regular meeting conducted on the 12th day of August 2019.

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Maria Carrington
Acting Township Clerk

RESOLUTION 2019-223

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY TO APPROPRIATE FUNDS OR BOND IN THE EVENT OF A SHORTFALL IN FUNDING FOR THE TOWNSHIP'S AFFORDABLE HOUSING PROGRAMS

WHEREAS, on or about July 2, 2015, the Township of Bordentown ("Township") filed a Declaratory Judgment Complaint in Superior Court of New Jersey pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

WHEREAS, the Township simultaneously pursued, and ultimately secured, a protective order providing Bordentown immunity from all exclusionary zoning lawsuits while it pursues approval of its Housing Element and Fair Share Plan, which is still in full force and effect; and

WHEREAS, the Township adopted a Housing Element and Fair Share Plan on or about August 8, 2019; and

WHEREAS, the Township has prepared a Spending Plan consistent with P.L.2008, c.46 COAH regulations; and

WHEREAS, in the event funding sources as identified in the proposed Spending Plan prove inadequate to complete the affordable housing programs included in the Township's Housing Element and Fair Share Plan and any future amendments thereof, and to the extent permitted by law, the Township shall provide sufficient funding to address any shortfalls.

NOW THEREFORE BE IT RESOLVED, the Governing Body of Bordentown Township, County of Burlington, State of New Jersey that to the extent permitted by law, do hereby agree to appropriate funds or authorize the issuance of debt to fund any shortfall in its affordable housing program that may arise whether due to inadequate funding from other sources or for any other reason; and

BE IT FURTHER RESOLVED that, the Township agrees to appropriate funds or authorize the issuance of debt within 90 days of written notification by the Council on Affordable Housing or a court of competent jurisdiction; and

BE IT FURTHER RESOLVED that the Township may repay debt through future collections of development fees, as such funds become available.

I hereby certify that the above resolution was duly adopted by the Township Committee of the Township of Bordentown at a regular meeting conducted on the 12th day of August 2019.

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Maria Carrington, Acting Township Clerk

RESOLUTION 2019-224

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY ENDORSING THE HOUSING ELEMENT AND FAIR SHARE PLAN ADOPTED BY THE PLANNING BOARD

WHEREAS, on July 2, 2015, the Township of Bordentown ("Township") filed a declaratory action with the Superior Court of New Jersey pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its obligation to create the realistic opportunity to meet its "fair share" of the regional need for low- and moderate-income housing pursuant to the "Mount Laurel doctrine;" and

WHEREAS, the Township simultaneously pursued, and ultimately secured, a protective order providing Bordentown immunity from all exclusionary zoning lawsuits while it pursues approval of its Housing Element and Fair Share Plan, which is still in full force and effect; and

WHEREAS, the Township engaged in negotiations with the Fair Share Housing Center ("FSHC") and executed a settlement agreement with FSHC on June 26, 2017; and

WHEREAS, a Fairness Hearing was held on June 18, 2018, at which time the settlement agreement was approved, and said approval was later memorialized in an Order dated June 29, 2018; and

WHEREAS, subsequent to the Fairness Hearing, the Township entered into negotiations with KJonson Enterprises, LLC and KJohnson Urban Renewal, LLC and entered into separate settlement agreements on October 9, 2018 and March 11, 2019, respectively; and

WHEREAS, as a result of those negotiations and settlement agreements, the Township and FSHC entered into an amended settlement agreement on June 11, 2019; and

WHEREAS, in accordance with the terms of the settlement agreements, the Township's planner, Heyer, Gruel & Associates, prepared a Housing Element and Fair Share Plan; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:44D-13, the Planning Board held a public hearing on the Housing Element and Fair Share Plan on August 8, 2019 and adopted the 2019 Amended Housing Element and Fair Share Plan on the same day; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the 2019 Housing Element and Fair Share Plan is attached hereto as Exhibit A; and

WHEREAS, the Governing Body of the Township of Bordentown wishes to endorse the 2019 Housing Element and Fair Share Plan and seeks approval of the 2019 Housing Element and Fair Share Plan from the Court.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of Bordentown Township, County of Burlington, State of New Jersey:

1. That it hereby endorses the 2019 Housing Element and Fair Share Plan, as adopted by the Bordentown Township Planning Board on August 8, 2019 via the Planning Board resolution, attached hereto as Exhibit A.
2. That it authorizes and directs its professionals to file with the Court (i) the 2019 Housing Element and Fair Share Plan, (ii) the resolutions of the Planning Board adopting and the Township Committee endorsing the Amended Housing Element and Fair Share Plan, and (iii) any additional documents the professionals deem necessary or desirable.
3. That it authorizes its professionals to seek Court approval of the 2019 Housing Element and Fair Share Plan at a properly noticed Compliance Hearing.
4. That it reserves the right to amend the 2019 Housing Element and Fair Share Plan, should that be necessary.

I hereby certify that the above resolution was duly adopted by the Township Committee of the Township of Bordentown at a regular meeting conducted on the 12th day of August 2019.

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Maria Carrington
Acting Township Clerk

RESOLUTION 2019-225

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY ADOPTING THE 'AFFIRMATIVE MARKETING PLAN' FOR THE TOWNSHIP OF BORDENTOWN

WHEREAS, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, *et seq*., the Township of Bordentown is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created by the rehabilitation of rental housing units within the Township of Bordentown, are affirmatively marketed to low and moderate income households, particularly those living and/or working within Housing Region 5, the COAH Housing Region encompassing the Township of Bordentown.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Committee of the Township of Bordentown, County of Burlington, State of New Jersey, do hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

A. All affordable housing units in the Township of Bordentown shall be marketed in accordance with the provisions herein.

B. The Township of Bordentown has a Prior Round obligation that has been fulfilled and a Third Round obligation covering the years from 1999-2025. This Affirmative Marketing Plan shall apply to all developments that contain or will contain low and moderate income units, including those that are part of the Township's prior round Fair Share Plan and its current Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan. This Affirmative Marketing Plan shall also apply to any rehabilitated rental units that are vacated and re-rented during the applicable period of controls for rehabilitated rental units.

C. The Affirmative Marketing Plan shall be implemented by one or more Administrative Agent(s) designated by and/or under contract to the Township of Bordentown. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developers/sellers/owners of affordable unit(s), and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Administrative Agent.

D. In implementing the Affirmative Marketing Plan, the Administrative Agent, acting on behalf of the Township of Bordentown, shall undertake, at the minimum, all of the following strategies:

1. Publication of an advertisement in one or more newspapers of general circulation within the housing region.

2. Broadcasting of an advertisement by a radio or television station broadcasting throughout the housing region.

3. At least one additional regional marketing strategy using one of the other sources listed below.

E. 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 or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Township of Bordentown is located in COAH Housing Region 5, consisting of Gloucester, Burlington and Camden Counties.

F. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following requirements:

1. All newspaper articles, announcements and requests for applications for very low-, low- and moderate-income units shall appear in the *Philadelphia Inquirer* and the *Courier-Post.*

2. The primary marketing shall take the form of at least one press release and a paid display advertisement in the above newspapers once a week for four consecutive weeks. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.

3. The advertisement shall include a description of the:

a. Location of the units;

b Directions to the units;

c. Range of prices for the units;

d. Size, as measured in bedrooms, of units;

e. Maximum income permitted to qualify for the units;

f. Location of applications;

g. Business hours when interested households may obtain an application; and

h. Application fees.

4. Newspaper articles, announcements and information on where to request applications for very low, low and moderate income housing shall appear at least once a week for four consecutive weeks in at least three locally oriented newspapers serving the housing region, one of which shall be circulated primarily in Gloucester County and the other two of which shall be circulated primarily outside of Gloucester County but within the housing region.

5. The developer must provide satisfactory proof of public dissemination. See Attachment A" COAH's ***Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 5*** (attached to and hereby made part of this Resolution).

G. Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program shall be available/posted in the following locations:

1. Bordentown Township Hall

2. Bordentown Township Web Site

3. Developer's Sales/Rental Offices

4. Gloucester County Administration Building

5. Burlington County Administration Building

6. Camden County Administration Building

7. Gloucester County Library (all branches).

8. Burlington County Library (all branches)

9. Camden County Library (all branches)

Applications shall be mailed by the Administrative Agent and Municipal Housing Liaison to prospective applicants upon request. Also, applications shall be available at the developer's sales/rental office and multiple copies of application forms shall be mailed to Fair Share Housing Center, the Latino Action Network, Willingboro NAACP,

Southern Burlington County NAACP, Supportive Housing Association, and the New Jersey Housing Resource Center.

H. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Gloucester, Burlington, and Camden Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers identified in Attachment A, Part III, Marketing, Section 3d. of COAH's ***Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 5*** (attached to and hereby made part of this Resolution) as well as the following entities: Fair Share Housing Center, the Latino Action Network, Willingboro NAACP, Southern Burlington County NAACP, Supportive Housing Association, and the New Jersey Housing Resource Center.

1. Quarterly informational flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members:

   Gloucester County Board of Realtors
   Burlington County Board of Realtors
   Camden County Board of Realtors

2. Quarterly informational circulars and applications shall be sent to the administrators of each of the following agencies within the counties of Gloucester, Burlington, and Camden:

   Welfare or Social Service Board (via the Director)
   Rental Assistance Office (local office of DCA)
   Office on Aging
   Housing Authority (municipal or county)
   Community Action Agencies
   Community Development Departments

3. Quarterly informational circulars and applications shall be sent to the chief personnel administrators of all of the major employers within the region, as listed on Attachment A, Part III, Marketing, Section 3d.

4. In addition, specific notification of the availability of affordable housing units in Bordentown (along with copies of the application form) shall be provided to the following entities: Fair Share Housing Center, the Latino Action Network, Willingboro NAACP, Southern Burlington County NAACP, Supportive Housing Association, and the New Jersey Housing Resource Center.

I. A random selection method to select occupants of very low-, low- and moderate-income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (l). The Affirmative Marketing Plan shall provide a regional preference for very

low-, low- and moderate-income households that live and/or work in COAH Housing Region 5, comprised of Gloucester, Burlington, and Camden. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low, low and moderate income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the Township prior to the affirmative marketing of the units.

J. The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify very low, low and moderate income households; to place income eligible households in very low, low and moderate income units upon initial occupancy; to provide for the initial occupancy of very low, low and moderate income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to very low, low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C 5:80-26-1, *et seq*.

K. The Administrative Agent shall provide or direct qualified very low, low and moderate income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.

L. All developers/owners of very low-, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.

M. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very low-, low- and moderate-income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.

N. The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C.5:80-26-1, *et seq*.

I hereby certify that the above resolution was duly adopted by the Township Committee of the Township of Bordentown at a regular meeting conducted on the 12th day of August 2019.

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Maria Carrington
Acting Township Clerk

RESOLUTION 2019-226

RESOLUTION PARTIALLY RESCINDING RESOLUTION #2019-167 AUTHORIZING THE RENEWAL OF PLENARY RETAIL CONSUMPTION LIQUOR LICENSE #0304-33-008-015 HELD BY 175 ROUTE 130, LLC

WHEREAS, the Plenary Retail Consumption Liquor License renewal application of 175 Route 130 LLC, liquor license #0304-33-008-015 had been submitted and seemed complete in all respects; and

WHEREAS, said renewal application states the license was last actively used on April 4, 2017; and

WHEREAS, the NJ Division of Alcoholic Beverage Control determined a Special Ruling under N.J.S.A. 33:1-12.39 is required for the 2019–2020 licensing term and has requested that Resolution #2019-167, adopted on June 10, 2019 be rescinded with respect to liquor license #0304-33-008-015 until such time as a Special Ruling is filed, and

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Bordentown, County of Burlington, State of New Jersey that Resolution #2019-167, adopted on June 10, 2019, is hereby rescinded with respect to liquor license #0304-33-008-015

BE IT FURTHER RESOLVED that a certified copy will be transmitted to the NJ Division of Alcoholic Beverage Control.

I, MARIA CARRINGTON, Acting Township Clerk, do hereby certify that this is a true copy of an ordinance adopted by the Township Committee of the Township of Bordentown on the 12th day of August, 2019.

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MARIA CARRINGTON
Acting Township Clerk

RESOLUTION #2019-227

A RESOLUTION ACCEPTING THE PROPOSAL FROM TUREK CONSULTING, LCC, FOR ADDITIONAL ARCHAEOLOGICAL SERVICES REGARDING THE CULVERT REPLACEMENT

WHEREAS, the Township Committee of the Township of Bordentown recognized in Resolution #2019-209 the need for archaeological services regarding the culvert replacement in the Township of Bordentown; and

WHEREAS, the Township Engineer, Turek Consulting LLC, has submitted documentation warranting the need for additional archaeological services in order to complete the culvert replacement project; and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township to expend additional funds for archaeological services rendered through Turek Consulting LLC to best fulfill the needs of the Township at a price not to exceed $25,000; and

WHEREAS, this is to certify to the Township Committee of the Township of Bordentown that funds for this resolution are available as follows:

BUDGET ACCOUNT	YEAR	COST	DETAIL
C-04-55-963-100	CAPITAL	$25,000.00	Archaeological Services

_____
JEFFREY C. ELSASSER
CMFO/CTC/PURCHASING AGENT

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown as follows:

The Township Administrator is hereby authorized extend its contract with Turek Consulting LLC of 220 North Coles Avenue, Maple Shade NJ 08052, for Archaeological Services regarding the Culvert Replacement with an additional amount not to exceed $15,000 (total contract amount not to exceed $75,000.00).

I, MARIA CARRINGTON, Acting Township Clerk, do hereby certify that this is a true copy of a resolution duly passed by the Township Committee of the Township of Bordentown at a meeting held on August 12, 2019.

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MARIA CARRINGTON
Acting Township Clerk

RESOLUTION #2019-228

APPROVING THE TRANSACTION OF ITEMS OF ROUTINE BUSINESS: PAYMENT OF BILLS

BE IT RESOLVED by the Township Committee of the Township of Bordentown that all of the bills listed to be paid on the list dated August 12, 2019, as submitted by the Office of Treasurer are hereby approved for payment and the Office of the Treasurer is directed to pay the same.

CERTIFICATION

I, MARIA CARRINGTON, Acting Township Clerk of the Township of Bordentown, County of Burlington, State of New Jersey, do hereby certify the foregoing to be a true and accurate copy of the resolution adopted by the Township Committee of the Township Committee of the Township of Bordentown at a meeting held on the 12th day of August 2019.

MARIA CARRINGTON
Acting Township Clerk

TOWNSHIP OF BORDENTOWN

ORDINANCE No. 2019-13

AN ORDINANCE REPEALING AND REPLACING CHAPTER 5.44 OF THE TOWNSHIP CODE AND ORDINANCE #2013-17 REGARDING PEDDLING AND SOLICITING

WHEREAS, the Township Committee of the Township of Bordentown finds that the peddling, soliciting and canvassing can have a negative impact on the quality of life in the Township or Bordentown; and

WHEREAS, the Township Committee desires to enact reasonable regulations for peddling, soliciting and canvassing in order to preserve the quality of life in the Township without unduly restricting trade; and

WHEREAS, the Township Committee now seeks to repeal and replace Township Code Chapter 5.44 entitled "Peddlers and Solicitors" in its entirety and Ordinances #2013-17 with the provisions herein.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown that:

Section 1. Chapter 5.44 of the code of the Township of Bordentown and Ordinance #2013-17 are hereby repealed and replaced with the following:

Chapter 5.44. Peddlers and Solicitors

5.44.010. Definitions

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

APPLICANT – an individual representing one's self or any business, firm, partnership, corporation, organization, club or association.

PEDDLE or SOLICIT or CANVAS – The act of going from door to door or house to house within this township without prior express invitation or request from the occupant of the premises at which the call is made, or going from place to place within the Township of Bordentown, for any purpose or in any fashion, including but not limited to the vending, selling, offering for sale, distribution, dissemination or delivery of goods, food products, wares, merchandise or services, or written, oral or recorded intelligence or communication or invitation of any kind, including ringing of a bell, buzzer or alarm, or requesting, inviting or taking orders or subscriptions for present or future delivery or furnishing of any such things or matters; or for the purpose of making canvasses, surveys or the like or doing any other act which is commonly comprehended within the terms "peddling," "soliciting" or "canvassing."

PERSON – Any person, firm, partnership, corporation, organization, club or association or any principal or agent thereof.

5.44.020. License Required; Exceptions

A. No person shall peddle, solicit or canvas, as defined in this chapter, from door to door or place to place within this township without first obtaining a license by filing an application, paying a license fee and obtaining said license in compliance with the provisions of this chapter.

B. The following persons engaged in door-to-door activity are exempt from obtaining a license **from the Township**:
   1. Any person who sells goods, the proceeds of which are devoted exclusively to the purpose of a philanthropic, charitable or religious society on whose behalf the person acts as an agent, with or without pay.
   2. Any person intending to distribute noncommercial or not-for profit handbills, pamphlets, leaflets, circulars advertisements of printed material.
   3. Any person:
      (a) Campaigning for any elected public office or public question, which is to be voted upon in the Township at a general, special, primary, fire or school board election or in a national or state election;
      (b) Distributing handbills, pamphlets, leaflets, circulars advertisements of printed material with respect thereto; or
      (c) Otherwise engaging in political speech.
   4. Any person engaging in the advocacy of noncommercial or not-for-profit causes, whether or not in connection with a larger organization, or engaging in spontaneous speech, including, but not limited to, speech between neighbors.
   5. Any person honorably discharged from the military of the United States and any person who is an exempt fireman who holds a valid license issued by the County Clerk pursuant to N.J.S.A. 45:24-9 et seq.
   6. Any person holding a solicitation license or permit issued under any legislation of the United States government or by a state agency pursuant to statute.
   7. An organization or person, for profit or nonprofit, that is only delivering flyers, brochures, leaflets and other such similar materials, wherein there is no solicitation of moneys or funds from the property owners or other persons.

C. Nothing in this section shall be construed as exempting the persons listed in paragraph B above from compliance with the provisions of this chapter that do not deal with or relate to licenses, including but not limited to, the provisions set forth in Sections 5.44.060, 5.44070, 5.44.080 and 5.44.090.

5.44.030. Application; Fee

A. Applicants as defined by this chapter must file with the Township Clerk a sworn application, in writing, which shall provide the following information at a minimum:
   1. Name and physical description of the individual applicant.
   2. Complete permanent home and local address of the applicant.
   3. Description of the nature of the business and the goods, services or wares to be sold.
   4. If employed by another person or company, the name, address and contact information of the employer together with the credentials therefrom establishing the exact relationship.

5. The length of time for which the right to do business is desired and the days of the week and the hours of the day within which said business will be conducted.
6. The source of supply of the goods, food, property or services proposed to be sold, where such goods, food, services or products are located and the method of delivery.
7. Appropriate evidence as the good character and business responsibility that the applicant as will enable an investigator to properly evaluate such character and business responsibility.
8. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, where and when so convicted, the nature of the offense and the penalty, if any.

B. Fingerprinting
   1. All applicants shall be fingerprinted in order to be checked for previous criminal history.
   2. Fingerprinting is to be done at a state-approved fingerprint center. The cost of the fingerprinting shall be set by the State and paid by the applicant to the fingerprint center.

C. Fee. At the time application is made, the applicant shall pay to the Township of Bordentown a nonrefundable application fee in the amount of $75 for each year or a fraction thereof. All licenses shall terminate at the close of December 31 of the year in which they are issued.

5.44.040. Investigation; License Issuance

A. No license shall be issued until the application has been approved by the Bordentown Township Police Department allowing adequate time for their investigation and review of the fingerprinting results. If the investigation and/or fingerprint results indicated that an applicant has been convicted of an offense involving moral turpitude or that that the application information is false or misleading in any material respect or that the applicant' s moral character or business responsibility or record of other offenses is of such a nature as to present danger to public good, safety or welfare, the Chief of Police or his or her designee shall deny the application and note the findings on the application. No license will be issued.

B. Upon approval by the Bordentown Township Police Department, the applicant will be scheduled to appear at the police department for the applicant to be issued a photo identification badge which serves as the license.

C. At the time that the photo identification badge serving as the license is issued, licensees shall be provided a sample of the Township of Bordentown "No Knock" sticker and a copy of this ordinance.

D. Every license shall apply only to the person to whom it was issued, and no license shall be transferrable.

5.544.050. Appeal of License Denial

Any person whose application for a license has been denied by action of the Chief of Police, the Township Clerk or their designee may file an appeal with the Township Clerk within 15 days after the action to be heard by the Township Committee. The Township Committee will rule on the appeal within 30 days after the appeal is filed. In deciding the appeal, the Township Committee will consider the sworn testimony of the denied applicant, the Chief of Police, the Township Clerk and other witnesses whose testimony would be relevant to the issue before the Township Committee.

5.44.060. Rules and regulations for conduct of business

Every person engaged in peddling, soliciting or canvassing or like activities as defined in this chapter in the Township of Bordentown shall conduct himself or herself according to the following provisions which are hereby established as a "Code of Conduct for Peddlers, Solicitors and Canvassers" in the Township of Bordentown:

A. The person shall not enter or remain upon any resident's property, whether rented or owned, upon which it is posted that solicitors are not permitted or notice of similar content.
B. All persons subject to licensing under this chapter shall display the photo identification badge issued by the Police Department in a visible manner.
C. The person shall not enter or attempt to enter any dwelling unit without express invitation from the occupant therein.
D. The person shall immediately leave the resident's property upon request by the resident to do so.
E. The person shall not indicate that the Township endorses or sponsors any of the views expressed or the organization for which support or contribution is sought.
F. The person shall not make false claims, misrepresentations or materially incorrect statements concerning the solicitation, organizations represented or the use to be made of the amount solicited.
G. The person shall not engage in any course of alarming conduct or engage in conduct so as to alarm or seriously annoy the occupant of the dwelling.
H. The person shall not engage in any conduct that is prohibited by any statute, regulation or ordinance in effect in the Township of Bordentown.
I. Persons shall not distribute obscene merchandise or printed material or printed material that advocates unlawful conduct.
J. No person peddling, soliciting, canvassing or distributing printed material shall litter the streets or cause the littering of streets, public places or property within the Township with any merchandise or printed material.
K. Any person or organization receiving money or any other thing for a value of $ 1 or more from any contributor under a solicitation made pursuant to this chapter shall give to the contributor a written receipt signed by the solicitor showing the date and the amount received, provided that this section shall not apply to any contribution collected by means of a closed box or receptacle used in solicitation where the use thereof has been approved by the Township in accordance with this chapter where it is impractical to determine the amount of each contribution.
L. When soliciting contributions for charitable purposes, the person shall verbally advise the prospective donee of the percentage of the funds received and/or collected by the organization which are used directly for the purposes or cause stated for the collection and the percentage of such funds used indirectly to support the purpose or cause stated, i.e., used for administrative expenses, related causes, etc. In addition, he shall also present to the prospective donee a pamphlet or other written documents prominently setting forth the above-stated information.
M. No person shall go upon any property or create any sound in a manner calculated to attract the attention of any occupant of a residence on which is posted a sign expressly prohibiting such activity.

5.44.070. Permitted Hours

Peddling, soliciting and canvassing as well as other like activities are limited to the hours between 10 AM and 7 PM.

5.44.080. Soliciting Prohibited - Signs and Stickers

A. No licensed or unlicensed peddler, solicitor or canvasser shall peddle, solicit or canvas at any property when barred by the resident by a sign with words to the effect that peddlers, solicitors or canvassers are not invited or are prohibited.

B. In an attempt to allow residents to be free from door-to-door solicitations, residents may elect to display prominently on their outer most front doors an official "No Knock" sticker issued by the Township Police Department that signifies that the residents do not wish to be disturbed by any knocking on their doors or ringing of their door bells.

   (1) No licensed or unlicensed peddler, solicitor or canvasser shall knock on the door or ring the doorbell of any residence upon which a "No Knock" sticker is so affixed. At the time that the license is issued as set forth in Section 4 above, the individual shall be provided a sample of the Township "No Knock" sticker and a copy of this Ordinance.

   (2) Peddling, soliciting or canvassing or any like activities conducted at a property at which a “No Knock” sticker is posted shall constitute a violation.

5.44.090. Soliciting Prohibited – Impeding Roadways

A. No person shall stand in the roadway of the Township, County or State impeding or delaying the progress of a vehicle for the purpose of soliciting the purchase or goods, merchandise or tickets or for the purpose of soliciting contributions for any cause unless approved by the Township Committee by way of resolution.

B. Any person desiring to engage in the aforementioned activities shall apply in writing to the Township Clerk at least 30 days prior to the event or times of solicitation setting forth the name and address of the organization and responsible individuals, location of the proposed activities, date and time of the proposed activities and purpose.

C. A report will be created in conjunction with the Bordentown Township Police Department to be delivered to the Township Committee by way of the Township Administrator.

D. The Township Committee shall review the report and determine whether to approval or disapprove the requested in activity with whatever conditions may be deemed appropriate.

E. No resolution shall take effect with respect to county or state roadways unless the County Board of Chosen Freeholders or the Commissioner of Transportation shall approve the same.

5.44.090. Revocation of licenses

A. Any license issued under the terms of this chapter by the Township of Bordentown may be revoked by the Chief of Police or the Township Clerk the by a fair preponderance of the evidence for any of the following reasons:

   1. Fraud, misrepresentation or other dishonesty in the conduct of licensed activity
   2. A violation of any provision of this chapter
   3. Conviction of the licensee for any felony or high misdemeanor or a misdemeanor of disorderly person’s offense involving moral turpitude.
   4. Conduct of the licensed activity, whether by the licensee himself or herself or his or her agents or employees, in an unlawful manner or such a manner as to constitute a breach of the peace or a menace to the public health, safety or general welfare.

B. Upon revocation of the license, the former licensee may file an appeal with the Township Clerk within 15 days after the action to be heard by the Township Committee. The Township Committee

will rule on the appeal within 30 days after the appeal is filed. In deciding the appeal, the Township Committee will consider the sworn testimony of the former licensee, the Chief of Police, the Township Clerk and other witnesses whose testimony would be relevant to the issue before the Township Committee.

5.44.010. Enforcement, Violations and Fines

F. Any person required by this chapter to procure a license who fails to obtain a license or otherwise violates or fails to comply with the terms of the license or any provision of this chapter shall be subject to a fine up to $500.

G. Any person exempt from licensing under Section 5.44.020(B) who fails to comply with Sections 5.44.060, 5.44070, 5.44.080 or 5.44.090 shall be subject to a fine up to $500.

Section 2. Repealer. Any and all ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

Section 3. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable to any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that is allows the Township to meet the goals of the Ordinance.

Section 4. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

INTRODUCED: July 29, 2019
PUBLIC HEARING: August 12, 2019
ADOPTED:

TOWNSHIP OF BORDENTOWN

ORDINANCE 2019-14

AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, CREATING CHAPTER 95 SECTION 905, ENTITLED "DEVELOPMENT FEES"

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown, Burlington County, New Jersey, as follows:

Section 1. Chapter 25, Section 905, entitled "Development Fees," is hereby created to read as follows:

A. Purpose

1. 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).

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

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

B. Basic Requirements

1. This Ordinance shall not be effective until approved by the Court.

2. The Township of Bordentown shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

C. Definitions

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

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

"COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Fair Housing Act.

"Construction Official" means the construction office or his/her designee.

"Development fee" means money paid by a developer for the improvement of property as permitted at N.J.A.C. 5:97-8.3.

"Developer" means 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" means 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" means those 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.

"Township" means the Township of Bordentown

D. Residential Development Fees

1. Imposition of Fees

a) Within the Township of Bordentown, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

b) 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 six percent (6%) percent 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.

c) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

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

a) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

b) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a 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.

c) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

d) Developers of houses of worship and other uses that are entitled to exemption from New Jersey real property tax shall be exempt from the payment of a development fee, provided that such development does not result in the construction of any additional housing or residential units, including assisted living and continuing care retirement communities.

e) A development shall be exempt from an increase in the percentage of the development fee, provided the building permit was issued prior to the effective date of this article, or prior to any subsequent ordinance increasing the fee percentage. The developer shall have the right to pay the fee based on the percentage in effect on the date the building permit was issued.

f) With the exception of the construction of an accessory additions, alterations or improvements made to existing structures resulting in an increase in the equalized assessed value totaling less than $100,000 shall be exempt if:

i. The addition(s) increases the square footage of an existing structure by less than 50%; or

ii. The improvements involve alterations to, or the rebuilding and/or replacement of, less than 50% of the square footage of an existing structure.

iii. For purposes of determining eligibility for exemption from the imposition of development fees, all additions, improvements, alterations and any replacement or rebuilding of an existing structure shall be aggregated in determining the total increase in equalized assessed value.

g) Any development or improvement to structures of owner-occupied property in which there is located an affordable accessory residence. This exemption shall only apply to development or improvements to the property during the period of affordability controls.

h) The construction of a new accessory building or other structure on the same lot as the principal building shall be exempt from the imposition of development fees if the assessed value of the structure is determined to be less than $100,000.

E. Non-Residential Development Fees

1. Imposition of Fees

a) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

b) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

d) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5% unless otherwise exempted below.

2. Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development

a) The two and a half percent (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.

b) 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.

c) 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.

d) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Bordentown as a lien against the real property of the owner.

e) Pursuant to P.L. 2009, c. 90 and P.L.2011, c. 122, the non-residential statewide development fee of two and one-half (2.5%) percent for non-residential development is suspended for all non-residential projects that received preliminary or final site plan approval subsequent to July 17, 2008 until July 1, 2013, provided that a permit for the construction of the building has been issued prior to January 1, 2015.

F. Collection Procedures

1. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.

2. 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.

3. The Construction Official responsible for the issuance of a Construction Permit shall notify the Township Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.

4. Within 90 days of receipt of such notification, the Township Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.

5. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

6. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

7. Should the Township of Bordentown fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).

8. Except as provided in hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

9. Appeal of Development Fees

a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Bordentown. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq*., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

b) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Bordentown. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, *et seq*.,

within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing Trust Fund

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

2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

a) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Bordentown;

b) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;

c) Rental income from municipally operated units;

d) Repayments from affordable housing program loans;

e) Recapture funds;

f) Proceeds from the sale of affordable units; and

g) Any other funds collected in connection with Bordentown Township's affordable housing program.

3. In the event of a failure by the Township of Bordentown 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 Bordentown, or, if not practicable, then within the County or the Housing Region.

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.

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

H. Use of Funds

1. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Bordentown'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.

2. Funds shall not be expended to reimburse the Township of Bordentown for past housing activities.

3. At least 30 percent 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 percent or less of the median income for Housing Region 5, in which Bordentown Township is located.

a) 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.

b) Affordability assistance to households earning 30 percent 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 percent 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.

c) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Township of Bordentown, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

4. The Township of Bordentown 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.

5. No more than 20 percent 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.

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

b) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

I. Monitoring

The Township of Bordentown shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Township), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Township owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Bordentown Township's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

J. Ongoing Collection of Fees

1. The ability for the Township of Bordentown to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Township of Bordentown has first 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.

2. If the Township of Bordentown fails to renew its ability to impose and collect development fees prior to 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).

3. The Township of Bordentown shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Township of Bordentown retroactively impose a development fee on such a development. The Township of Bordentown also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

SECTION 2. At least three copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Township Clerk.

SECTION 3. This ordinance shall take effect upon final passage and publication according to law.

SECTION 4. The Township Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this Ordinance, after public hearing thereon, the Township Clerk is further directed to publish notice of passage thereof and file a copy of this Ordinance as finally adopted with the County Planning Board as required by N.J.S.A. 40:55D-16 and with the Township Tax Assessor.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent

jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

INTRODUCED: July 29, 2019
PUBLIC HEARING: August 12, 2019
ADOPTED:

RECORD OF VOTE													
First Reading							Second Reading						
COMMITTEE	AYE	NAY	NV	AB	ORD	SEC	COMMITTEE	AYE	NAY	NV	AB	ORD	SEC
Holliday							Holliday						
Kostoplis							Kostoplis						
Mason							Mason						
Fuzy							Fuzy						
Benowitz							Benowitz						
- indicates Vote AB - absent NV - not voting ORD - moved SEC - seconded													

I, MARIA CARRINGTON, Acting Township Clerk, do hereby certify that this is a true copy of an ordinance introduced by the Township Committee of the Township of Bordentown on the 29th day of July, 2019.

MARIA CARRINGTON, Acting Township Clerk

TOWNSHIP OF BORDENTOWN

ORDINANCE 2019-15

AN ORDINANCE OF THE TOWNSHIP OF BORDENTOWN AMENDING THE GENERAL CODE OF THE TOWNSHIP OF BORDENTOWN BY REPEALING AND REPLACING SECTION 1100 OF CHAPTER 25 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 Committee of the Township of Bordentown, Burlington County, New Jersey, based upon the recommendations of the Township's professionals, desires to repeal and replace Section 1100 of Chapter 25 Land Development Ordinance of the Code of the Township of Bordentown to include provisions addressing Bordentown Township's constitutional obligation to provide for its fair share of very low-, 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, N.J.S.A.52:27D-301 et. seq.; and

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

WHEREAS, the Bordentown Township Planning Board has prepared a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.; and

WHEREAS, this Ordinance implements and incorporates the Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Bordentown, County of Burlington as follows:

Section 1. Chapter 25 Section 1100, entitled "Fair Share Housing" shall be repealed and replaced as follows:

Chapter 25 Section 1100: Affordable Housing

§25.1101 **Monitoring and Reporting Requirements.**

The Township of Bordentown shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Housing Element and Fair Share Plan:

1. Beginning on July 1, 2020, and on every anniversary of that date through July 1, 2025, the Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

2. Beginning on July 1, 2020, and on every anniversary of that date through July 1, 2025, the Township shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

3. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.

4. By July 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, 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, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low-income housing obligations.

§25.1102 **Definitions.**

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

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

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

"Administrative agent" means the entity 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" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

"Affordability average" means the average percentage of median income at which new restricted units in an affordable housing development are affordable to very low-, low- and moderate-income households.

"Affordable" means, 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" means 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 percent affordable housing development.

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

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

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

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

"Alternative living arrangement" means 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” means 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” means a household that has been certified by an Administrative Agent as a very low-income, low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

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

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

“Inclusionary development” means 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” means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

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

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

“Market-rate units” means housing not restricted to very low-, low- and moderate-income households that may sell or rent at any price.

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

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

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

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

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

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

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

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

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26-1, et seq.

“Very low-income household” means a household with a total gross annual household income equal to or less than 30 percent of the regional median household income by household size pursuant to the New Jersey Fair Housing Act of 1985, N.J.S.A.52:27D-301 et. seq.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household pursuant to the New Jersey Fair Housing Act of 1985, N.J.S.A.52:27D-301 et. seq.

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

§25.1103 **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 the Township of Bordentown pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.

2. This Ordinance shall apply to <u>all</u> developments that contain very low-, low- and moderate-income housing units, including any currently unanticipated future developments that will provide very low-, low- and moderate-income housing units, and also including projects funded with Low Income Housing Tax Credits.

§25.1104 **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 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 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 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by 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.

§25.1105 **Phasing Schedule for Inclusionary Zoning.**

In inclusionary developments, the following schedule for the issuance of certificates of occupancy for the required affordable housing units relative to the issuance of certificates of occupancy for the permitted market units shall be followed:

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

§25.1106 **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 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low-income units shall be counted as part of the required number of low-income units within the development.

    b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.

    c. 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 percent of the total low- and moderate-income units;

        2) At least 30 percent of all low- and moderate-income units shall be two-bedroom units;

        3) At least 20 percent 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.

    d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted very low-, 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.

2. Accessibility Requirements:

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

    b. All restricted townhouse dwelling units and all restricted units in other multistory 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 the 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-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Bordentown Township has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

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

   b) To this end, the builder of restricted units shall deposit funds within the Township of Bordentown's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

   c) The funds deposited under paragraph 6)b) above shall be used by the Township of Bordentown 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.

   d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Bordentown for the conversion of adaptable to accessible entrances.

   e) 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 Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

7) 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, very low-, low- and moderate-income units shall be integrated with the market units.

   b. In inclusionary developments, very low-, 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 most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and using the calculation set forth below. Income limits for all affordable units that are created in the Township for which income limits are not already established

through a federal program exempted from the UHAC pursuant to N.J.A.C 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by the Department of Housing and Urban Development ("HUD") as follows:

1) Regional income limits shall be established for the region within which the Township is located based on the median income by household size, which shall be established by a regional weighted average of 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 hour is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within a housing region is summed. The sum is divided by the estimated total households form the most recent decennial Census in the Township's housing region. This quotient represents the original 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 percent 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 percent 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 percent 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 are the result of applying the percentages set forth in paragraph (i) above to HUD's determination of median income for the fiscal year 2019 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 (i) 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 very low-, 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 above methodology. 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 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent 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 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent 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 to two one-person households.

    4) 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 percent 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 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

g. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

h. The price of owner-occupied very low-, 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.

i. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

§25.1107 **Utilities.**

1. Affordable units shall utilize the same type of heating 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.

§25.1108 **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 unit, strive to:

1. Provide an occupant for each bedroom;

2. Provide children of different sexes with separate bedrooms;

3. Provide separate bedrooms for parents and children; and

4. Prevent more than two persons from occupying a single bedroom.

§25.1109 **Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

1. Control periods for newly constructed restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, except as modified by the terms of the settlement agreement between the Township of Bordentown and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented, and each newly constructed restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Bordentown Township 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, except as modified by the terms of the settlement agreement between the Township of Bordentown and Fair Share Housing Center (FSHC), as said settlement agreement may be further 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.

§25.1110 **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 very low-, 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 approved 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 13.

§25.1111 **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 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Committee, 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 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 percent of the household's eligible monthly income.

§25.1112 **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 percent 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).

§25.1113 **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 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.

§25.1114 **Control Periods for Restricted Rental Units.**

1. Control periods for newly constructed restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, except as modified by the terms of the settlement agreement between the Township of Bordentown and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented, and each newly constructed restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Bordentown Township 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, except as modified by the terms of the settlement agreement between the Township of Bordentown and Fair Share Housing Center (FSHC), as such settlement agreement may be further 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 Burlington. 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.

§25.1115 **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 five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

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.

§25.1116 **100% Affordable Projects.**

1. All 100% affordable projects, including projects funded through Low Income Housing Tax Credits, shall comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et. seq., except as modified by the terms of the settlement agreement executed between the Township of Bordentown and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented. All such projects shall be required to have an initial thirty (30) year affordability control period.

§25.1117 **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 percent 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 percent 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 percent 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 percent (40 percent 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 percent (40 percent 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 percent (40 percent 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 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

§25.1118 **Municipal Housing Liaison.**

1. There is hereby created the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Bordentown Township, including the following responsibilities which may <u>not</u> be contracted out to the Administrative Agent:

    a. Serving as Bordentown 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 Bordentown Township's Fair Share Plan;

    c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;

d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

2. The Township of Bordentown shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Township's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Township's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Bordentown Township shall adopt a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee.

3. Subject to the approval of the Court, the Township of Bordentown shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Township in accordance with this Ordinance. The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

§25.1119 **Administrative Agent.**

An Administrative Agent may either be an independent entity serving under contract to and reporting to the municipality, or the municipality itself, through a designated municipal employee, department, board, agency or committee, pursuant to N.J.A.C. 5:80-26.14(c). ***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 be qualified through a training program sponsored by the Affordable Housing Professionals of New Jersey before assuming the duties. 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:

1. Affirmative Marketing:

   a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Bordentown and the provisions of N.J.A.C. 5:80-26.15; and

   b. Providing counseling or contracting to provide counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

   a. Soliciting, scheduling, conducting and following up on interviews with interested households;

   b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

   c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

   d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, 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 the Township of Bordentown when referring households for certification to affordable units; and

g. Notifying the following entities of the availability of affordable housing units in the Township of Bordentown: Fair Share Housing Center, the Latino Action Network, Willingboro NAACP, Southern Burlington County NAACP, Supportive Housing Association, and the New Jersey Housing Resource Center.

3. Affordability Controls:

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

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

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

d. Communicating with lenders regarding foreclosures; and

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

4. 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.

5. 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.

6. 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 Committee and the Court, setting forth procedures for administering the affordability controls. The Operating Manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s).

7. 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.

§25.1120 **Affirmative Marketing Requirements.**

1. The Township of Bordentown shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

2. 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. It is a continuing program that directs marketing activities toward Housing Region 5 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Camden, Gloucester, and Burlington Counties.

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

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

6. 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.

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

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Bordentown Township, and copies of the application forms, to the following entities: Fair Share Housing Center, the Latino Action Network, Willingboro NAACP, Southern Burlington County NAACP, Supportive Housing Association, and the New Jersey Housing Resource Center.

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

§25.1121 **Enforcement of Affordable Housing Regulations.**

1. 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.

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

    a. 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:

1) A fine of not more than $500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

2) In the case of an Owner who has rented a very low-, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Bordentown Affordable Housing Trust Fund of the gross amount of rent illegally collected;

3) In the case of an Owner who has rented a very low-, 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.

b. 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.

1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the very low-, 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.

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

3) 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 very low-, 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.

4) 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 very low-, 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 very low-, 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.

5) Failure of the very low-, 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 very low-, low- and moderate-income unit as permitted by the regulations governing affordable housing units.

6) 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.

§25.1122 **Appeals.**

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

Section 2. At least three copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Township Clerk.

Section 3. This ordinance shall take effect upon final passage and publication according to law.

Section 4. The Township Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this Ordinance, after public hearing thereon, the Township Clerk is further directed to publish notice of passage thereof and file a copy of this Ordinance as finally adopted with the County Planning Board as required by N.J.S.A. 40:55D-16 and with the Township Tax Assessor.

Section 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

INTRODUCED: July 29, 2019
PUBLIC HEARING: August 12, 2019
ADOPTED:

RECORD OF VOTE													
First Reading							Second Reading						
COMMITTEE	AYE	NAY	NV	AB	ORD	SEC	COMMITTEE	AYE	NAY	NV	AB	ORD	SEC
Holliday							Holliday						
Kostoplis							Kostoplis						
Mason							Mason						
Fuzy							Fuzy						
Benowitz							Benowitz						
- indicates Vote AB - absent NV - not voting ORD - moved SEC - seconded													

I, MARIA CARRINGTON, Acting Township Clerk, do hereby certify that this is a true copy of an ordinance introduced by the Township Committee of the Township of Bordentown on the 29th day of July, 2019.

MARIA CARRINGTON, Acting Township Clerk