

Mayor O'Brien opened the Council Meeting at 7:00 PM. followed by a short prayer and salute to the flag.

- **STATEMENT OF NOTICE OF PUBLICATION**

Municipal Clerk Farbaniec announced that this January 22, 2018 Council Meeting has been advertised and posted in accordance with Open Public Meetings Act Chapter 231, P.L. 1975 by advertising in the Home News Tribune, notifying the Star Ledger and the Sentinel Publishing Co., posting on the bulletin board, and is on file in her office.

- **ROLL CALL:**

Present: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo,
Melendez, Novak

Absent: None

Others Present: Mayor Kennedy O'Brien
Daniel E. Frankel, Business Administrator
Wayne A. Kronowski, C.F.O./Treasurer
Theresa A. Farbaniec, Municipal Clerk
Jessica Morelos, Assistant Municipal Clerk
Michael DuPont, Esq., Borough Attorney
Jay Cornell, P.E., Borough Engineer

Others Absent: None

- **APPROVAL OF PRIOR MINUTES OF THE MAYOR AND COUNCIL:**

Council President Kilpatrick moved the following Council Minutes be approved, subject to correction if necessary:

- ☒ January 1, 2018 - Reorganization Meeting
- ☒ January 8, 2018 - Special Meeting & Executive Session

Seconded by Councilman Buchanan.

Roll Call – Voice Vote, all Ayes.

- **PRESENTATION -**

a) Junior Bomber Cheerleaders

Mayor O'Brien asked Councilman Melendez to lead them in the presentation and called upon the coaches of the cheerleaders to come forward. Councilman Melendez explained how the Leprechauns and the Panthers merged into one creating the Junior Bombers teams and how these three cheerleader teams excelled, won and went on to compete in Nationals in Disney and won. The coaches explained these girls started their hard work back in August when they as one team worked together with one goal in mind and that was to make it to Florida and how they made it through each competition each winning a bid to make it to Florida. She thanked all of the cheerleaders, coaches and parents for a great overall season and congratulated the cheerleaders again on all of their accomplishments. Certificates of Recognition were handed out to each and every cheerleader from the Pee Wee Team, Junior Varsity and Varsity.

b) Proclamation Honoring John S. Wisniewski

Mayor O'Brien called forward Assemblyman John Wisniewski and read the following Proclamation into record:

Proclamation

Borough of Sayreville

WHEREAS, John S. Wisniewski was born in Perth Amboy in 1962 and is a lifelong resident of the Borough of Sayreville. John was nurtured and raised by his mother Cecelia, former Court Administrator for the Borough and his father Felix, a local millwright at the

National Lead factory. John was taught at an early age that working hard is not just about enriching yourself and others, but also about improving your community; and

WHEREAS, John graduated from Rutgers University in 1984 and from Seton Hall Law School in 1987. John married his wife Deborah in 1990 and together raised their three daughters – Emily, Sarah and Rachel in Sayreville; and

WHEREAS, He became interested in public service by watching his father serve as a Councilman for the Borough of Sayreville and helping with his father’s campaigns through the years. Encouraged by family and friends, John set out on his own political journey and was elected as President of the Sayreville Young Democrats in 1979; and

WHEREAS, In 1995, John won his first term in the New Jersey General Assembly with the highest vote of all district candidates on the ballot for General Assembly and overwhelmingly won ten more re-election campaigns; and

WHEREAS, John has also served as Chairman of the Transportation Committee of the Eastern Regional Conference of the Council of State Governments from 2006 to 2017 and Co-Chairman of the Eastern Regional Conference of the Council of State Governments in 2012. John has also served as the Chairman of the New Jersey Fire Safety Commission since 2002; and

WHEREAS, John is a fierce advocate and author of laws to improve safe driving. Sara’s Law - named after former Sayreville resident Sara Dubinin which created the next-of-kin database for first responders through the NJ Department of Motor Vehicles. John is also known for his role in discovering and investigating the Bridge Gate scandal related to the lane closures at the George Washington Bridge in 2013; and

WHEREAS, His legislative record is as impressive as any including serving as Deputy Speaker of the General Assembly from 2004 to 2017 and a sixteen year tenure as the longest serving Chairman of the Assembly Transportation, Public Works and Independent Authorities Committee.

NOW THEREFORE, I, Kennedy O’Brien, Mayor of the Borough of Sayreville, do hereby recognize the contribution that John Wisniewski has made to the Borough of Sayreville and the State of New Jersey, and have caused this Proclamation to be issued and the official seal of the Borough duly affixed this 22nd day of January, 2018 and the same duly attested by the Municipal Clerk.

/s/ Kennedy O’Brien, Mayor

ATTEST:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

Comments were made by John Wisniewski.

Council President Kilpatrick moved the Mayor’s Proclamation be received and filed. Motion was seconded by Councilwoman Novak.

Roll Call: Voice Vote, all Ayes.

• **OLD BUSINESS:**

a) Public Hearing on the following Ordinances:

Municipal Clerk Farbaniec read the heading for the following ordinances listed for Public Hearing:

Mayor O’Brien opened the meeting to the public on Ordinance #387-18.

There were no appearances.

Councilman Grillo moved the Public Hearing be closed and the Ordinance adopted on second and final reading and advertised according to law. Motion was seconded by Councilwoman Novak.

Roll Call:

Ayes: Councilpersons Grillo, Buchanan, Kilpatrick, Lembo, Melendez, Novak.

Nays: None

ORDINANCE #387-18
AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER XIX OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF SAYREVILLE TO AMEND
CHAPTER XIX – SWIMMING POOLS

(Co. Grillo - Sponsor – Public Hearing Jan. 22, 2018)

BE IT AND IT IS HEREBY ORDAINED by the Mayor and Borough Council of the Borough of Sayreville, in the County of Middlesex, State of New Jersey, that the Revised General Ordinances of the Borough of Sayreville are hereby amended as follows:

19-2.3 *License Required for public or quasi-public pools and beaches; fees; regulations; terms; revocation; inspections.*

- A.** *No person shall operate, conduct or maintain any public or quasi-public swimming pool or bathing area within the said Borough without having first obtained from the said Department of Health a license for such purpose and paid an annual fee to said Department of Health for said license in the amount of \$50.00. When the said license is issued, it shall be subject to the provisions of this chapter and such additional sanitary safeguards in respect to the premises to be used as said Department of Health shall deem that the public health may require. Such license shall set forth the method of disinfection and treatment of the water which shall be used by the owners or operators and the maximum number of person who shall be allowed to use such pool or beach at any one time and during any bathing period.*

- B.** *Such license shall be posted conspicuously at such pool or beach. Every such license shall expire on December 31st following the date of issue thereof, and may be revoked by said Department of Health for any violation of any provisions of this chapter or any of the additional safeguards prescribed by said Department in granting such license.*

- C.** *In the event a prospective licensee shall receive a conditional or temporary license or shall be denied a license, all further inspections necessary in order for the licensee to obtain a permanent annual license shall be charged at the rate of \$25.00 per inspection.*

19-2.3.1 *Adoption of Standards*

- A.** *The Swimming Pool Code of New Jersey, 1970, is hereby adopted by reference in full in accordance with N.J.S.A. 26:3-69.6. Three copies of said code have been placed on the file in office of the Borough Clerk upon the introduction of this chapter and will remain on file there until final action is taken on this chapter, for the use and examination of the public.*

- B.** *In addition to the above, the Public Recreational Bathing Statute, N.J.S.A. 26-1A-7 and 26:4A-7 (N.J.A.C. 8:26) as effective May 12, 2000, and as the same shall be updated in the future, shall be enforced.*

19-2.3.2 *Violations and penalties.*

Any violation of the provisions of this section shall be punishable as provided in Chapter 1-5 General Penalty.

BE IT FURTHER ORDAINED by the Mayor and Borough Council of the Borough of Sayreville, in the County of Middlesex, that **Chapter XIX**, entitled **SWIMMING POOLS**, of the Revised General Ordinances of the Borough of Sayreville, shall be amended to reflect such change.

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed and this Ordinance shall take effect immediately upon final passage and publication in accordance with law.

/s/ Steven Grillo, Councilman
(Sponsor)

ATTEST:

APPROVED:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien
Mayor

APPROVED AS TO FORM:

/s/ Michael R. DuPont, Esquire
Borough Attorney

Mayor opened the meeting for questions or comments on Ordinance 388-18. There were no appearances.

Councilman Grillo moved the public hearing be closed, the ordinance adopted on second and final reading and advertised according to law.

Comments:

Councilman Buchanan questioned section a. where it talked about the boards, committees, agencies, and council. Lower in the ordinance it reads that the council cannot have anyone on this committee. Councilman Grillo explained that that does not refer to this Council but to someone like the Cultural Arts Council, etc.

Councilman Buchanan then questioned the one year appointment and then out for two years. Councilman Grillo stated that if no other person on the committee wants to volunteer then it is the assumption that no one from that board wants to participate. Councilman Grillo said that the intent was for circulation that they do not keep the same members over and over again. But if the governing body would be more comfortable the ordinance could be amended as needed. Councilwoman Novak felt that it would have to be placed in the ordinance now-that an exemption can be made if no other member wants to be on. Councilman Grillo then said that he would move that there be on re-appointment for a maximum term of two years. Councilman Buchanan expressed his concern about the boards who only have three members such as the CDBG.

Councilman Buchanan then questioned having a Planner there. If the Planning Board has their Planner there and if the Council chooses to have their Planner there that would be two planners attending that meeting then attending the council meetings for updates, where is that money coming from? Is there a cap? Is there an annual salary? Councilman Grillo said that he felt a flat fee would be appropriate. That he did not see a large amount of work.

Borough Attorney stated that the changes are substantial and suggested the ordinance be Tabled.

Councilman Grillo than made a Motion to Table. Motion was seconded by Councilwoman Novak.

Roll Call: Voice Vote, all Ayes.

ORDINANCE #388-18 - Tabled
AN ORDINANCE AMENDING CHAPTER II, "ADMINISTRATION",
TO ADD SUBSECTION 2-68, "COAH OVERSIGHT COMMITTEE"
OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SAYREVILLE
(Co. Grillo - Sponsor – Public Hearing Jan. 22, 2018)

Mayor O'Brien opened the meeting up to the Public on Ordinance #389-18.

There being no appearances, Councilman Lembo moved the Public Hearing be Closed the Ordinance be Adopted on Second and final Reading and advertised according to law. Motion was seconded by Councilman Buchanan.

Roll Call:

Ayes: Councilpersons Lembo, Buchanan, Grillo, Kilpatrick, Melendez, Novak.

Nay: None

ORDINANCE #389-18

**AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCE
OF THE BOROUGH OF SAYREVILLE TO PROVIDE FOR THE COLLECTION OF
DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED
BY THE NEW JERSEY FAIR HOUSING ACT**

(Planning & Zoning Committee – Public Hearing Jan. 22, 2018)

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

WHEREAS, pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. 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 and spend non-residential development fees collected in accordance with the approved Spending Plan;

BE IT ORDAINED by the Mayor and Council of the Borough of Sayreville, Middlesex County, New Jersey, that Chapter 26 Section 111 of the Code of the Borough of Sayreville is hereby amended to include the following provisions regulating the collection and disposition of mandatory development fees to be used in connection with the Borough's affordable housing programs, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1, *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

1. Purpose

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

2. Basic Requirements

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

B. The Borough of Sayreville shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

3. Definitions

The following terms, as used in this Ordinance, 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.

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

“Developer” 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.

4. Residential Development Fees

A. Imposition of Fees

1) Within the Borough of Sayreville, all residential developers, except for developers of the types of developments specifically exempted in Section 4.B. below and developers of developments that include affordable housing, shall pay a fee of one percent (1.0%) 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.

2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of six percent (6.0%) 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.

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

1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance and approved by the Court as part of its approval of the settlement of litigation in In the Matter of the Application of the Borough of Sayreville, Docket No.: MID-L-4010-15, shall be exempt from the payment of development fees.

2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.

3) Improvements or additions to existing one and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.

4) Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

5. Non-Residential Development Fees

A. Imposition of Fees

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

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

3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 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.

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

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

2) 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.

3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.

4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.

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

6. Collection Procedures

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

B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The

Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

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

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

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

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

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

H. Except as provided in Section 5.A.3) 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.

I. Appeal of Development Fees

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

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Sayreville. 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.

7. Affordable Housing Trust Fund

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

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

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

- 2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
- 3) Rental income from municipally operated units;
- 4) Repayments from affordable housing program loans;
- 5) Recapture funds;
- 6) Proceeds from the sale of affordable units; and
- 7) Any other funds collected in connection with Sayreville's affordable housing program.

C. In the event of a failure by the Borough of Sayreville 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 Borough of Sayreville, 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.

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

8. Use of Funds

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Sayreville's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Borough of Sayreville for past housing activities.

C. 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 3, in which Sayreville is located.

1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.

2) Affordability assistance to households earning 30 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.

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

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

E. No more than 20 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.

1) 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.

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

9. Monitoring

The Borough of Sayreville 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 Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Sayreville's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

10. Ongoing Collection of Fees

A. The ability for the Borough of Sayreville to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Borough of Sayreville 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.

B. If the Borough of Sayreville 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).

C. The Borough of Sayreville 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 Borough of Sayreville retroactively impose a development fee on such a development. The Borough of Sayreville also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

REPEALER

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

SEVERABILITY

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

EFFECTIVE DATE

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

/s/ Pasquale Lembo, Councilman
(Planning & Zoning Committee)

ATTEST:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

APPROVED:

/s/ Kennedy O'Brien, Mayor

APPROVED AS TO FORM:

/s/ Jeffrey R. Surenian, Esq.
COAH Attorney

Mayor O'Brien opened the meeting to the Public for questions or comments on Ordinance #390-18. There being no appearances.

Councilman Lembo moved the Public Hearing be closed and the Ordinance be Adopted on second and Final Reading and advertised according to law. Motion was seconded by Councilman Buchanan.

Roll Call:

Ayes: Councilpersons Lembo, Buchanan, Grillo, Kilpatrick, Melendez, Novak, all ayes.

Nays: None.

ORDINANCE #390-18

AN ORDINANCE REPEALING CHAPTER 34, ENTITLED "AFFIRMATIVE MARKETING ORDINANCE," OF THE REVISED GENERAL ORDINANCE OF THE BOROUGH OF SAYREVILLE, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY

WHEREAS, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, et seq., the Borough of Sayreville 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 Borough of Sayreville, are affirmatively marketed to low and moderate income households, particularly those living and/or working within Housing Region 3, the COAH Housing Region encompassing the Borough of Sayreville; and

WHEREAS, in 2004, the Borough of Sayreville adopted an Affirmative Marketing Plan via Ordinance 850-04, designated as Chapter 34 in the Borough's Revised General Ordinance; and

WHEREAS, the Borough of Sayreville has prepared an amended Affirmative Marketing Plan in conformance with the current New Jersey Uniform Housing Affordability Controls, that will be adopted via resolution, as is the currently approved process, rendering the existing Chapter 34 unnecessary.

BE IT ORDAINED by the Mayor and Council of the Borough of Sayreville, Middlesex County, New Jersey that Chapter 34 of the Borough of Sayreville is hereby repealed in its entirety.

REPEALER

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

SEVERABILITY

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

EFFECTIVE DATE

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

/s/ Pasquale Lembo, Councilman
(Planning & Zoning Committee)

ATTEST:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

APPROVED:

/s/ Kennedy O'Brien, Mayor

APPROVED AS TO FORM:

/s/ Jeffrey R. Surenian, Esq.
COAH Attorney

Mayor O'Brien opened the meeting up to the public for any and all questions on ordinance #391-18.

There were no appearances.

Councilman Lembo moved the Public Hearing be closed and the Ordinance be adopted on second and final reading and advertised according to law. Motion was seconded by Councilman Buchanan.

Roll Call:

Ayes: Councilpersons Lembo, Buchanan, Grillo, Kilpatrick, Melendez, Novak.

Nays: None

ORDINANCE #391-18

**AN ORDINANCE AMENDING CHAPTER 35 OF THE REVISED GENERAL
ORDINANCE OF THE BOROUGH OF SAYREVILLE TO ADDRESS THE
REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING
AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH
THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS**

(Planning & Zoning Committee – Public Hearing Jan. 22, 2018)

BE IT ORDAINED by the Mayor and Council of the Borough of Sayreville, Middlesex County, New Jersey, that Chapter 35 of the Code of the Borough of Sayreville is hereby amended to include provisions addressing Sayreville's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing

Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Sayreville Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Council. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

Section 1. Monitoring and Reporting Requirements

The Borough of Sayreville 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 April 1, 2019, and on every anniversary of that date through April 1, 2025, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDC), 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 April 1, 2019, and on every anniversary of that date through April 1, 2025, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with 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 Borough 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 March 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough 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.

Section 2. 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 Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

“Affirmative marketing” 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 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 Borough'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 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 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, 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, et seq.

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

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

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

Section 3. 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 Borough of Sayreville pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

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

3. Any property in the Borough of Sayreville that is currently zoned for nonresidential uses and subsequently receives a zoning change or use variance or approval of a redevelopment plan to permit residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment plan to permit higher density residential development, provided such density is at least twice the density previously permitted, shall provide an affordable housing set-aside of 15% if the affordable units will be for rent and 20% if the affordable units will be for sale. No property shall be subdivided so as to avoid compliance with this requirement. Moreover, this provision governs municipal actions only and shall not entitle any property owner or developer to such action by the Borough. All affordable units created pursuant to this paragraph shall be governed by the provisions of this Ordinance.

Section 4. 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.

Section 5. 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

Section 6. 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 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 or 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 Sayreville 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 Borough of Sayreville'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 Borough of Sayreville 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 Borough of Sayreville 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 Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

3. Design:

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

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

4. Maximum Rents and Sales Prices:

a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the 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 Borough 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 Borough 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 Borough is located based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four.¹ 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 (1) above to HUD's determination of median income for the fiscal year 2017, and shall be utilized until the Borough 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 Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (1) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- 4) The resale prices of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to the 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.

¹ Currently, the Middlesex-Somerset-Hunterdon housing region pursuant to the Fair Housing Act (Region 3) has the same boundaries as the Middlesex-Somerset-Hunterdon HUD Fair Market Rent Area; thus, the process of computing a regional weighted average is not necessary for Region 3, but this language is provided in case, in future years, the HUD boundaries change.

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.

g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 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.

h. 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.

Section 7. 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.

Section 8. 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.

Section 9. 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 Borough of Sayreville 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 fifty (50) years, until Sayreville 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 Borough of Sayreville 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.

Section 10. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

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

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

Section 11. 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 Borough Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one 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.

Section 12. 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).

Section 13. 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.

Section 14. 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 Borough of Sayreville 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 fifty (50) years, until Sayreville 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 Borough of Sayreville 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 Middlesex. 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.

Section 15. 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.

Section 16. 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 Borough of Sayreville 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 plus a fifteen (15) year extended use period.

Section 17. 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.

Section 18. 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 Sayreville, including the following responsibilities which may not be contracted out to the Administrative Agent:

- a. Serving as Sayreville'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 Sayreville'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 Borough of Sayreville shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Borough'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 Borough's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Sayreville 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. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

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

Section 19. Administrative Agent

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

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

g. Notifying the following entities of the availability of affordable housing units in the Borough of Sayreville: Fair Share Housing Center, the New Brunswick, Plainfield Area, Perth Amboy and Metuchen/Edison branches of the NAACP, and the Latino Action Network.

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 Middlesex County Register of Deeds or Middlesex 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 Rerentals:

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 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 Borough Council and the Court, setting forth procedures for administering the affordability controls.

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.

Section 20. Affirmative Marketing Requirements

1. The Borough of Sayreville 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 3 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 3, comprised of Middlesex, Somerset, and Hunterdon 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 rerentals. The Administrative Agent designated by the Borough of Sayreville 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 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 Sayreville, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Brunswick, Plainfield Area, Perth Amboy and Metuchen/Edison branches of the NAACP, and the Latino Action Network.
10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

Section 21. 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 low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Sayreville Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - 3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - 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 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 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 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 low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

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.

Section 22. Appeals

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

REPEALER

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

SEVERABILITY

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

EFFECTIVE DATE

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

/s/ Pasquale Lembo, Councilman
(Planning & Zoning Committee)

ATTEST:

APPROVED:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien, Mayor

APPROVED AS TO FORM:

/s/ Jeffrey R. Surenian, Esq.
COAH Attorney

ORDINANCE 392-18 - Tabled for further revisions
AN ORDINANCE SUPPLEMENTING AND AMENDING ARTICLE III OF
CHAPTER XXVI, LAND DEVELOPMENT, OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF SAYREVILLE TO PERMIT
INCLUSIONARY MULTI-FAMILY DWELLINGS WITHIN THE
PLANNED RESIDENTIAL DEVELOPMENT DISTRICT OPTION
(Planning & Zoning Committee – Public Hearing Jan. 22, 2018)

Councilman Lembo moved the Ordinance be Tabled. Motion was seconded by Councilwoman Novak.

Roll Call:

Ayes: Councilmen Lembo, Buchanan, Grillo, Kilpatrick, Melendez, Novak.

Nays: None

b) Appointments (worksheet in packet)

Mayor O'Brien made the following appointments:

Municipal Prosecutor - 1 Year Term - Francis Womack

Motion made by Councilman Buchanan. Seconded by Councilwoman Novak.

Roll Call: Ayes: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo, Melendez,
Novak.

Nays: None

Public Defender - 1 Year Term - Roselli & Roselli

Motion made by Councilwoman Novak. Seconded by Councilman Grillo.

Roll Call: Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo,
Melendez.

Nays: None

Municipal Judge - 3 Year Term - Mike Sica

Motion made by Councilman Grillo. Seconded by Councilman Melendez.

Roll Call: Ayes: Councilpersons Grillo, Buchanan, Kilpatrick, Lembo,
Melendez, Novak.

Nays: None

Municipal Planner - 1 Year Term - Susan Gruel

Motion made by Councilwoman Novak. Seconded by Councilman Buchanan.

Roll Call: Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo,
Melendez.

Nays: None

Commission on Aging - 3 Year Term - Patricia Farrell
Motion made by Councilwoman Novak. Seconded by Council President
Kilpatrick.

Roll Call: Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo,
Melendez.

Nays: None

Human Relations Commission - 3 Year Term - Wilberto Holder
Motion made by Councilman Buchanan. Seconded by Councilwoman Novak.

Roll Call: Ayes: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo,
Melendez, Novak.

Nays: None

Human Relations Commission - 3 Year Term - Robert Stuber
Motion made by Councilwoman Novak. Seconded by Councilman Buchanan.

Roll Call: Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo,
Melendez.

Nays: None

Recreation Advisory Board - 3 Year Term - Michelle Maher
Motion made by Councilman Buchanan. Seconded by Councilman Melendez.

Roll Call: Ayes: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo,
Melendez.

Nays: None

Open Space Committee - 3 Year Term - Val Tarr

Motion made by Councilwoman Novak. Seconded by Councilman Buchanan.

Roll Call: Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo,
Melendez.

Nays: None

Planning Board Class III Member - 1 Year Term - Councilman Pasquale Lembo
Motion made by Councilman Buchanan. Seconded by Councilwoman Novak.

Roll Call: Ayes: Councilpersons Buchanan, Grillo, Kilpatrick, Lembo,
Melendez, Novak.

Nays: None

- **NEW BUSINESS:**

a) Introduction of the following ordinances:

ORDINANCE #393-18

**AN ORDINANCE SUPPLEMENTING AND AMENDING
ORDINANCE #235-13 FIXING THE SALARIES OF
CERTAIN BOROUGH OFFICIALS, OFFICERS AND**

EMPLOYEES FOR THE YEARS 2013, 2014, 2015 AND 2016

(Admin. & Finance Committee – Public Hearing Feb. 12, 2018)

Councilwoman Novak moved the Ordinance be Introduced on First Reading,
advertised according to law and a Public Hearing be scheduled for February 12, 2018.
Motion was seconded by Councilman Buchanan.

Roll Call

Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo, Melendez.

Nays: None

ORDINANCE #394-18

CALENDAR YEAR 2018

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

(Admin. & Finance Committee – Public Hearing Feb. 12, 2018)

Councilwoman Novak moved the Ordinance be Introduced on First Reading,
advertised according to law and a Public Hearing be scheduled for February 12, 2018.
Motion was seconded by Council President Kilpatrick.

Roll Call

Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo, Melendez.
Nays: None

- b) Clerk Farbaniec reported on having received the ❖ **Annual Debt Statement** which was filed with the Division of Local Government Services for Budget year ending **2017** from CFO Wayne Kronowski.

Councilwoman Novak made a motion to receive & file. Motion was seconded by Council President Kilpatrick.

Roll Call

Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo, Melendez, Novak.
Nays: None

CONSENT AGENDA/RESOLUTIONS

At this time Mayor O'Brien opened the meeting to the public on Consent Agenda Resolutions.

There were no appearances. **Council President Kilpatrick moved the public hearing be closed and the Consent Agenda Resolutions be approved on Roll Call Vote. Motion was seconded by Councilwoman Novak.**

Roll Call

Ayes: Councilpersons Kilpatrick, Buchanan, Grillo, Lembo, Melendez, Novak.
Abstain: Councilman Buchanan Abstained from voting on Resolution 218-36
Nays: None

RESOLUTION #2018-28

WHEREAS, all bills submitted to the Borough of Sayreville covering services, work, labor and material furnished the Borough of Sayreville have been duly audited by the appropriate committee;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that all bills properly verified according to law and properly audited by the appropriate committees be and the same are hereby ordered to be paid by the appropriate Borough officials.

/s/Kennedy O'Brien
Kennedy O'Brien, Mayor

/s/Daniel Buchanan
Councilman Daniel Buchanan

/s/Pasquale Lembo
Councilman Pasquale Lembo

/s/Steven Grillo
Councilman Steven Grillo

/s/Ricci Melendez
Councilman Ricci Melendez

/s/Victoria Kilpatrick
Councilwoman Victoria Kilpatrick

/s/Mary J. Novak
Councilwoman Mary J. Novak

**Bill list of January 22, 2018 in the amount of \$7,262,619.64
Bill List File for 2018 (See Appendix Bill List 2018-A for this date).**

RESOLUTION #2018-29

WHEREAS, the following named persons have applied for the renewal of an auto wrecker's license under the existing ordinances covering the following locations for the year 2018:

APPLICANT

Joseph V. Juliano
Julian's Garage

Donald M. Rzepka

LOCATION

919 Route #9
South Amboy, NJ 08879

2070 Hwy. #35

Al's Auto Body South Amboy, NJ 08879

Wayne Wagner-Wagcar, Inc. 502 Raritan Street
Walter's Auto Body Sayreville, NJ 08872

Steve Vrabel Victory Bridge Plaza
Economy Auto, Inc. South Amboy, NJ 08879

Thomas DePasquale South Pine Ave. & 10th St.
Wayne's Auto Body South Amboy, NJ 08879

WHEREAS, the Governing Body has considered the applications and the same appear to be in conformity with the terms of the ordinances; and

WHEREAS, it further appears that there are no present violations pending against said applicants;

NOW, THEREFORE, BE IT RESOLVED:

- 1) That the said applications are hereby approved and granted for the year 2018.
- 2) That upon receipt of the proper insurance coverage and satisfactory wrecker inspection reports, the Borough Clerk is hereby authorized and directed to issue said licenses.

/s/ Daniel Buchanan
Councilman
(Public Safety Committee)

ATTEST:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

BOROUGH OF SAYREVILLE:

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-30

BE IT AND IT IS HEREBY RESOLVED that the following person is hereby appointed to the following title and department as per NJ Civil Service Commission Procedures:

NAME OF APPOINTEE: Patrick Bielak
POSITION: Public Safety Telecommunications Operator
(Per Diem)
DEPARTMENT: Police Department
EFFECTIVE: January 16, 2018

BE IT FURTHER RESOLVED that the compensation to be paid such appointee shall be fixed and determined by the Salary Ordinance or appropriate resolution adopted thereunder fixing the compensation to be paid municipal employees and that this appointment be made subject to all the rules and regulations of the New Jersey Civil Service Commission.

/s/ Daniel Buchanan
Daniel Buchanan, Councilman
(Public Safety Committee)

ATTEST:

/s/ Theresa A. Farbaniec
Theresa A. Farbaniec, RMC
Municipal Clerk

BOROUGH OF SAYREVILLE

/s/ Kennedy O'Brien
Kennedy O'Brien
Mayor

RESOLUTION #2018-31

WHEREAS, Ikon at Route 35 Corporation is the holder of Plenary Retail Consumption License #1219-33-001-013 in the Borough of Sayreville; and

WHEREAS, the licensee did file a verified petition requesting authorization for the Borough of Sayreville to consider its renewal application for the 2017-2018 license term; and

WHEREAS, on December 7, 2017, David P. Rible, Director of the State Division of Alcoholic Beverage Control, did make a Special Ruling to permit the filing of a renewal application of an inactive license, pursuant to N.J.S.A. 33:1-12.39, Agency Docket No. 06-17-699 for a *two-year period*, covering the **2017/2018 and 2018/2019 license terms**; and

WHEREAS, the said Special Ruling of the Director does authorize the Mayor and Borough Council to consider the application for renewal of the subject license for the 2017/2018 license term and to grant or deny said application in the reasonable exercise of its discretion;

WHEREAS, said applicant has complied with the necessary requirements including payment of fees, etc.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Mayor and Borough Council do hereby grant the renewal of Plenary Retail Consumption License No. 1219-33-001-013 to the licensee for the 2017/2018 license term, pursuant to special conditions as contained in the Special Ruling issued by the Director of the State Division of Alcoholic Beverage Control issued on December 7, 2017, subject to the following conditions that remain as part of the license:

1. Licensee shall continue to implement and provide valet parking for its patrons on all nights of operation. The Chief of Police may grant a waiver, on occasion, of the requirement that valet parking be provided if the Licensee demonstrates, to the reasonable satisfaction of the Chief of Police, that Licensee's level of occupancy on such specific occasion is anticipated to be significantly less than the legal occupancy so as to satisfy the Chief that valet parking will not be necessary on such specific occasion. The granting of any such waiver on one occasion shall not entitle Licensee to such a waiver on any other occasion.
2. The above-described valet parking requirement shall remain in effect unless and until a recommendation for other appropriate traffic control procedures, developed by a licensed traffic or civil engineer or consultant at Licensee's expense, is received and approved by the Mayor and Council as a substitute measure.
3. Licensee shall institute a policy and instruct its parking lot attendants and employees to abide by a policy that requires that, when the parking facilities used by the Licensed Premises are at full capacity, any additional cars seeking to enter the parking lots shall be "waved off" by parking lot attendants in order to insure that traffic jams do not occur but that such traffic continues to move through and out of the area of the Licensed Premises when there are no legal spaces available in the Licensed Premises parking lots to accommodate additional cars.
4. Licensee shall strictly enforce a policy that patrons who have been admitted to enter the Licensed Premises who subsequently exit the Licensed Premises will not be permitted to re-enter the Licensed Premises on the same day/evening. This measure is intended to address the Mayor and Council's previous finding that drug activity was noted on the Licensed Premises and in recognition of the fact that a practice of allowing patrons to exit and then re-enter the Licensed Premises facilitates drug activities by providing an opportunity for such persons to retrieve contraband from their vehicles for use and/or distribution inside and adjacent to the Licensed Premises. Additionally, this measure is intended to alleviate the problem of patrons loitering in and around the parking lot during Licensee's operating hours and engaging in illegal, disorderly or nuisance causing behaviors.
5. Licensee's security staff shall be required to obtain photo identification cards, prepared by the Sayreville Police Department, that must be kept on their persons

at all times while employed at or located on Licensee's property. This measure is intended to alleviate difficulties encountered by police investigating complaints on the premises, in which members of the security staff are identified as either potential witnesses or suspects and is also designed in response to the findings of a previous ABC investigation in which it was discovered that some of the employees found on-site during the investigation were not properly entered in Licensee's employee records.

6. Licensee shall provide proper trash receptacles in the parking lot and shall cause Licensee's parking lots and outside premises, as well as all residential areas within a five hundred (500) foot radius of the Licensed Premises, to be cleaned of all litter, trash and other discarded items. Such cleaning shall be accomplished by ten o'clock in the morning (10:00 a.m.) each day following the hours of operation of the Licensed Premises such that the above-described areas shall be free from all such litter, trash and other discarded items as may be generated by and/or associated with Licensee's operation. To the extent that residents within such five hundred (500) foot radius consent to permit access to private property for the purposes of such cleaning on private property, Licensee shall cause such private property to be cleaned of all litter, trash and other discarded items, at Licensee's sole cost. This measure is designed to alleviate any problem associated with the accumulation of empty beverage containers, cans, bottles and other debris that results from the operation of the Licensed Premises.

7. Licensee shall install "zero tolerance" signs inside the Licensed Premises, at or adjacent to the entry to the premises, containing language indicating that patrons will be prosecuted to the fullest extent of the law for any possession, sale or distribution of any drug, controlled substance or drug paraphernalia. This measure is designed to discourage drug activity occurring at or on the Licensed Premises.

8. Licensee shall install soundproofing equipment and/or take any other necessary steps to limit the escape of sound and vibration from the Licensed Premises, sufficient to ensure that no audible sound is transmitted beyond the property line of the Licensed Premises. This measure is designed to alleviate concerns regarding noise levels as recounted from complaints received by members of the Council pertaining to the Licensed Premises.

9. Licensee shall cease all sales of alcohol at 1:30 a.m. and shall cease the playing of all music at 1:45 a.m. This measure is designed to facilitate the prompt and orderly exiting of patrons at or before the time of closing and to prevent large groups of patrons from exiting the Licensed Premises at the same time, resulting in loitering around the Licensed Premises and in the street, blocking traffic and inhibiting the dispersal of other patrons from the Licensed Premises and from the area.

10. Licensee shall institute a policy that on nights where patrons aged eighteen (18) through twenty (20) may be admitted to the premises along with patrons aged twenty-one (21) and over, such patrons over the age of twenty-one (21) shall be required to wear secure wristbands of a color differentiated from any wristbands required to be worn by patrons under the age of twenty-one (21). All such wristbands shall be incapable of being re-attached once removed, in order to prevent violations of laws prohibiting sales of alcohol to persons under twenty-one (21). This measure is designed to prevent violations of drinking age laws, as noted by the Council in previous findings of fact related to a prior disciplinary action.

11. Licensee shall securely stow all alcoholic beverages and shall not serve any alcohol whatsoever on those occasions that Licensee provides access to teenagers under the legal drinking age at events commonly referred to as "Teen Nights". During such events, all alcoholic beverages shall be removed from the bar areas and secured. This measure is designed to prevent violations of drinking age laws as noted by the Council in previous findings related to a prior disciplinary action.

12. Licensee shall require all security staff, except for undercover security staff employed by Licensee, to wear clothing or uniforms which are highly visible and well marked on the front and rear. This shall include orange shirts with black block letters stating "SECURITY". This measure is designed to ensure that security

staffers constitute a visible, identifiable and adequate security presence to discourage unlawful, disorderly, or hazardous activities within the Licensed Premises and in the parking lot to further assist police in identifying security personnel when patrolling or responding to complaints or calls.

13. Licensee shall institute a policy of providing security staff in a ratio of one (1) security employee for each fifty (50) patrons, and that such security personnel be stationed in the parking lot area of the premises at all times during the hours of operation to control and supervise the parking lot area, not only with regard to parking, but with regard to the conduct and behavior of the patrons while on the Licensed Premises. Parking attendants and valet parking staff shall not count as "security staff" in calculating the proper ratio of security staff to patrons. The ratio of one (1) security employee for every fifty (50) patrons is only for those security personnel who are being identified and/or are in uniform. Any undercover personnel that Licensee wishes to employ are in addition to the one per fifty patron security ratio. This measure is designed to ensure that the security staff employed by Licensee is sufficient to handle the numbers of patrons in attendance on a given night so as to constitute a visible, identifiable and adequate security presence, to discourage unlawful, disorderly, or hazardous activities within the Licensed Premises and in the parking lot.

14. On promotional evenings, when a large crowd is expected, Licensee will coordinate with the police.

15. Licensee shall strictly enforce a policy to bar admittance to any patron who is not wearing a non removable wristband, that has been provided to such patron by Licensee's valet parking attendant or parking supervisor, as evidence that the vehicle in which such patron arrived at the Licensed Premises has been parked in Licensee's parking lot. The only exception to this policy shall be for those patrons who demonstrate to Licensee before admittance that they hold a valid New Jersey motor vehicle license indicating that they reside within five hundred (500) feet of the Licensed Premises and have not arrived at the Licensed Premises in a motor vehicle. This condition is intended to restrict admittance to the Licensed Premises to only those patrons whose vehicles, as a driver or occupant thereof, are lawfully parked in Licensee's parking lot, in order to address issues raised by an Objector and her witnesses regarding illegal parking, property trespass, loitering and related nuisances.

16. Licensee shall institute a policy requiring its security staff to immediately report to the Sayreville Police Department any violations of Title 39 observed by such staff in and around the Licensed Premises, and to provide the Borough clerk, on a monthly basis, with a list of all such reports made by Licensee's security staff to police within the prior month.

17. On a weekly basis, Licensee will deliver in person, mail, or fax a copy of the E-141-A list, commonly known as the employee list, to the Police Department. DJs, dancers, and other entertainers are to be included as employees, as per ABC rules.

18. Licensee shall provide a list of entertainers who are booked prior to the scheduled date. The information shall be delivered to the Sayreville Police Department at the time a contract is executed and signed and the information shall be delivered to the Sayreville Police Department as to the name of the outside entertainer employees.

BE IT FURTHER RESOLVED THAT this Resolution shall take effect immediately and/or as required by law.

/s/ Mary J. Novak, Councilwoman
(Admin. & Finance Chairman)

ATTEST:

BOROUGH OF SAYREVILLE:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien, Mayor

RESOLUTION #2018 - 32
A RESOLUTION OF THE BOROUGH OF SAYREVILLE IN THE
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AUTHORIZING

**THE EXECUTION OF AN AGREEMENT BETWEEN THE BOROUGH
OF SAYREVILLE AND THE COUNTY OF MIDDLESEX**

WHEREAS, the County of Middlesex By Resolution 96-1478 established Open Space and Farmland Preservation Trust Fund pursuant to N.J.S.A. 40:12-10 *et seq.* and N.J.S.A. 40:12-16 *et seq.* and adopted operating procedures therefor; and

WHEREAS, the Borough of Sayreville has submitted a proposal to the County of Middlesex in connection with the improvement and/or development of a Green Acres Recreation Area known as Veterans Field and the Sayreville Recreation Complex; and

WHEREAS, the County of Middlesex has evaluated said proposal and finds that it meets the purposes for which monies deposited in the "Open Space, Recreation and Farmland and Historic Preservation Trust Fund" may be utilized; and

WHEREAS, the County of Middlesex has authorized a grant agreement under the Middlesex County Open Space Recreation and Farmland and Historic Preservation Trust Fund with the Borough of Sayreville for an amount not to exceed One Million Five Hundred Thousand (\$1,500,000.00) Dollars for the improvement and/or development of Green Acres Recreation Area, known as Veterans Field and the Sayreville Recreation Complex; and

WHEREAS, the Governing Body of the Borough of Sayreville recognizes the value of this Grant Agreement to the residents of the Borough of Sayreville; and

THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the proper Borough Officials and the Borough Administrator are authorized and directed to execute the Grant Agreement between the County of Middlesex and the Borough of Sayreville.

/s/ Ricci Melendez
Councilman
(Sponsor)

ATTEST:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

BOROUGH OF SAYREVILLE:

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-33

**A RESOLUTION OF THE BOROUGH OF SAYREVILLE IN THE
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AUTHORIZING
THE MAYOR AND BOROUGH CLERK TO AWARD A CONTRACT
TO V-COMM, LLC**

WHEREAS, the Governing Body of the Borough of Sayreville has been advised by Sayreville Police Department that the Sayreville Police Department is seeking a full service engineering and telecommunications firm specializing in public safety communication, public safety planning, needs assessment planning and radio systems design; and

WHEREAS, V-COMM, LLC is a highly qualified full service telecommunications engineering and consulting firm and has performed these same and related services for many agencies throughout the State of New Jersey and neighboring states; and

WHEREAS, V-COMM, LLC has submitted a proposal for such services to the Borough of Sayreville, which proposal has been reviewed and excepted by the Governing Body of the Borough of Sayreville; and

THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the proper Borough Officials are authorized and directed to execute the Contract with V-COMM, LLC for acceptance of Sayreville Radio System Activation on the Middlesex County System, which Contract shall not exceed the sum of Nine Thousand Five Hundred Thirty (\$9,530.00) Dollars.

/s/ Daniel Buchanan
Councilman
(Public Safety Committee)

ATTEST:

BOROUGH OF SAYREVILLE:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-34

BE IT RESOLVED that the proper Borough officials are hereby authorized to award contract to Atlas Elevator, Inc. of West Creek, NJ through State Contract #T-2946/A85648 for Elevator Maintenance, Repair and Inspection in an amount not to exceed \$18,000.00 per year and repairs shall be as needed.

/s/ Victoria Kilpatrick
Councilwoman
(Public Works Committee)

ATTEST:

BOROUGH OF SAYREVILLE:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-35

BE IT RESOLVED that the proper Borough officials are hereby authorized to award contract to EMR Power Systems, LLC of Trenton, NJ 08629-3787 through State Contract #T-2848/A81474 for Generator Maintenance and Repair through May of 2018, maintenance shall not exceed \$7,000.00 and repairs shall be as needed.

/s/ Victoria Kilpatrick
Councilwoman
(Public Works Committee)

ATTEST:

BOROUGH OF SAYREVILLE:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-36

WHEREAS, the Borough of Sayreville is in need of certain services, parts and equipment for its fleet; and

WHEREAS, the Borough of Sayreville, being a member of the National Joint Powers Alliance (NJPA) has reviewed the NJPA contractors and have found that a national contract has been given to Toms Ford of Keyport, NJ under Contract #06105-FMC; and

WHEREAS, the Governing Body of the Borough of Sayreville, through the due diligence of its Qualified Purchasing Agent, has ascertained that the contract price of Toms Ford of Keyport under the NJPA contract is the lowest possible price; and

BE IT AND IT IS HEREBY RESOLVED that Mayor Kennedy O'Brien and Theresa A. Farbaniec, Borough Clerk are hereby authorized and directed to execute the necessary documents to award the contract to Toms Ford of Keyport under NJPA Contract #06105-FMC for Ford Fleet Services, Parts and Equipment in an amount not to exceed \$60,000.00.

/s/ Victoria Kilpatrick
Councilwoman
(Public Works Committee)

ATTEST:

BOROUGH OF SAYREVILLE:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-37

WHEREAS, Michael Vail, Trustee, owner of real property located in the Borough of Sayreville has filed real property tax appeals for the years 2014, 2015, 2016 and 2017 affecting Block 276, Lots 8 and 12; and

WHEREAS, the Mayor and Borough Council upon advice of the Tax Assessor and Special Tax Counsel be and are hereby desirous of settling the pending Tax Court appeals; and

WHEREAS, the Tax Assessor and Special Tax Counsel after due deliberation and settlement conferences with Counsel for Michael Vail, Trustee, duly recommend the following:

- Appeal of 2014 assessment will not be changed
- Appeal of 2015 will be reduced to 675,000
- Appeal of 2016 assessment will not be changed
- Appeal of 2017 assessment will not be changed

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED, by the Mayor and Borough Council of the Borough of Sayreville as follows:

1. That the Tax Assessor and Special Tax Counsel be and are hereby authorized to cause to be drafted any and all documents and agreements which may be required to effectuate the settlement as herein above-proposed and authorized.
2. That a copy of this Resolution shall be kept on file with the Borough Clerk.

/s/Mary J. Novak
Mary J. Novak, Councilwoman
(Admin. & Finance Committee)

ATTEST:

/s/Theresa A. Farbaniec
Theresa A. Farbaniec, RMC
Municipal Clerk

APPROVED:

/s/Kennedy O'Brien
Kennedy O'Brien
Mayor

RESOLUTION #2018-38

WHEREAS, Borough Engineer David J. Samuel has recommended that certain increases and decreases be included in the following described project as will more fully appear by Closeout Contract Change Order No. 1:

- Project: Improvements to Smith Street
- Contractor: Lancha Construction Corp.
49 West Grochowiak Street
South River, NJ 08882
- Net Decrease: \$660.37
- Reason: Adjustment of original contract to reflect actual quantities installed and work performed.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED:

1. That the recommendation and approval of said Borough Engineer referred to above and in said Change Order be and the same is hereby accepted and approved:
2. That the Governing Body determines that said charges are proper and essential and that same be paid upon the submission of properly approved borough voucher.

/s/ Victoria Kilpatrick

Councilwoman
(Public Works Committee)

ATTEST:

BOROUGH OF SAYREVILLE:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-39
ACCEPTING FINAL WORK
AND AUTHORIZING FINAL PAYMENT
UPON EXPIRATION OF STATUTORY PERIOD

WHEREAS, the following named contractor has completed the following work as indicated on the project hereafter referred to, which work is apparently in accordance with the plans, specifications and contract documents:

- Project: Improvements to Smith Street Project
- Contractor: Lancha Construction Corp.
49 West Grochowiak Street
South River, NJ 08882
- Balance Due: \$ 5,781.44

WHEREAS, the Borough Engineer has fully issued a certificate certifying to the completion of the work and recommending payment in accordance with the terms thereof; and

WHEREAS, the Standing Committee of the Governing Body under whose jurisdiction this work falls has likewise inspected said work and has determined that it has been completed in apparent conformity with the plans and specifications; and

WHEREAS, the Statutes of New Jersey pertaining to the enforcement of mechanic's and materialmen's liens on municipal projects provide that notice thereof may be filed at any time within 45 days of the final acceptance of said work;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED:

1. That the project described in the preamble hereof is hereby accepted and approved with the proviso that such action is not to be construed as a waiver of any violation of the terms of said plans, specifications and contract documents if such violation should later appear.

2. That the Borough Clerk is authorized to insert a brief notice in a daily newspaper circulating in Middlesex County once a week for two consecutive weeks giving public notice of the final acceptance of said work so that any potential lien claimants may have notice thereof.

3. That upon expiration of the 45 days from the date hereof, the proper municipal officials be and they are hereby authorized and directed to execute and deliver a check to the said contractor covering the amount due him, less any retained percentage authorized by the contract documents.

4. That should the contract under which this work has been done provide for the release of any retained percentage upon the filing of a maintenance bond, that said percentage shall be paid said contractor upon the filing of a one-year 15% Maintenance Bond in the amount of \$43,360.79 and the approval of same as to form and sufficiency by the Borough Attorney.

/s/ Victoria Kilpatrick
Councilwoman
(Public Works Committee)

ATTEST:

BOROUGH OF SAYREVILLE:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-40

WHEREAS, on January 9, 2018, the Mayor and Council of the Borough of Sayreville received bids for the "Improvements to Pulaski Avenue"; and

WHEREAS, Certification as to Availability of Funds is annexed hereto;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council on this 22nd day of January, 2018 that:

1. Contract for the "Improvements to Pulaski Avenue" be awarded to Z Brothers Concrete Contractors, Inc. of Sayreville, NJ for their low bid price of \$1,586,565.00 as appears on their bid documents and attached hereto and made a part hereof, subject to the waiver of minor irregularities and concurrence of the award of the contract by the New Jersey Department of Transportation.

/s/ Victoria Kilpatrick
Councilwoman
(Public Works Committee)

ATTEST:

BOROUGH OF SAYREVILLE:

/s/ Theresa A. Farbaniec, RMC
Municipal Clerk

/s/ Kennedy O'Brien
Mayor

RESOLUTION #2018-41

BE IT AND IT IS HEREBY RESOLVED that the following transfers between 2017 Appropriation Reserves be and the same are hereby authorized to be made in the following manner to wit:

	<u>FROM</u>	<u>TO</u>
<u>CURRENT FUND</u>		
Municipal Clerk (1120-101-1-1102)	\$	\$ 1,000
Commission on Aging (1429723-2-1)		200
Natural Gas (1446-946-2-18150)	27,200	
Disposal Area Contract (1465-505-2-16040)		26,000
	<u>\$ 27,200</u>	<u>\$ 27,200</u>
	<u>\$ 27,200</u>	<u>\$ 27,200</u>

/s/ Mary J. Novak
Mary J. Novak, Councilwoman
(Admin. & Finance Committee)

ATTEST:

APPROVED:

/s/ Theresa A. Farbaniec

/s/ Kennedy O'Brien

RESOLUTIONS TO BE READ IN FULL READ BY THE BOROUGH ATTORNEY:

RESOLUTION #2018-42
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF SAYREVILLE,
COUNTY OF MIDDLESEX STATE OF NEW JERSEY ADOPTING THE
'AFFIRMATIVE MARKETING PLAN' FOR THE BOROUGH OF SAYREVILLE

WHEREAS, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, et seq., the Borough of Sayreville 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 Borough of Sayreville, are affirmatively marketed to low and moderate income households, with preference provided to homeless veterans, disabled veterans, and family members who are the primary residential caregivers to disabled veterans residing with them, particularly those households living and/or working within Housing Region 3, the COAH Housing Region encompassing the Borough of Sayreville.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Sayreville, County of Middlesex, State of New Jersey, do hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

- A. All affordable housing units in the Borough of Sayreville shall be marketed in accordance with the provisions herein.
- B. 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 Borough'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 Borough of Sayreville. 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 Borough of Sayreville, 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. Pursuant to N.J.S.A. 40:37A-114.1, preference for affordable housing within a housing project shall be provided to homeless veterans, disabled veterans, and family members who are the primary residential caregivers to disabled veterans residing with them. 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 Borough of Sayreville is located in COAH Housing Region 3, consisting of Middlesex, Somerset and Hunterdon 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 Hunterdon *Democrat*, the *Courier News* and the *Home News Tribune*.
 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 Middlesex County and the other two of which shall be circulated primarily outside of Middlesex County but within the housing region.
 5. The following regional cable television stations or regional radio stations shall be used during the first month of advertising. The developer must provide satisfactory proof of public dissemination:
 - a. WKXW (101.5 FM)
 - b. WOR (710 AM)
 - c. WCBS (880 AM)
 - d. Comcast of Central New Jersey
 - e. Cablevision of Raritan Valley
- 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. Sayreville Borough Hall
 2. Sayreville Borough Web Site
 3. Developer's Sales/Rental Offices
 4. Middlesex County Administration Building
 5. Somerset County Administration Building
 6. Hunterdon County Administration Building
 7. Middlesex County Library (all branches).
 9. Somerset County Library (all branches)

10. Hunterdon 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 New Brunswick, Plainfield Area, Perth Amboy, and Metuchen/Edison branches of the NAACP, and the Latino Action Network for dissemination to their respective constituents.

H. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Middlesex, Somerset and Hunterdon 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 3*** (attached to and hereby made part of this Resolution) as well as the following entities: Fair Share Housing Center, the New Brunswick, Plainfield Area, Perth Amboy, and Metuchen/Edison branches of the NAACP, and the Latino Action Network.

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:

Middlesex County Board of Realtors
Somerset County Board of Realtors
Hunterdon 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 Middlesex, Somerset, and Hunterdon:

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 Sayreville (along with copies of the application form) shall be provided to the following entities: Fair Share Housing Center, the New Brunswick, Plainfield Area, Perth Amboy, and Metuchen/Edison branches of the NAACP, and the Latino Action Network.

I. The following is a listing of community contact person(s) and/or organizations in Middlesex, Somerset, and Hunterdon Counties that will aid in the affirmative marketing program and provide guidance and counseling services to prospective occupants of very low, low and moderate income units:

1. Central Jersey Housing Resource Center, 600 First Avenue, Suite 3, Raritan, NJ 08869

2. Brunswick and Raritan Housing Corporation, 56 Throop Avenue, New Brunswick, NJ 08901

3. Housing Coalition of Central Jersey (PRAB), 100 Bayard Street, New Brunswick, NJ 08901

4. Northwest New Jersey Community Action Program, Inc. (NORWESCAP), 350 Marshall Street, Phillipsburg, NJ 08865

J. 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 3, comprised of Middlesex, Somerset and Hunterdon Counties. 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 Borough 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.*

/s/ Pasquale Lembo, Councilman
(Planning & Zoning Committee)

ATTEST:

/s/Theresa A. Farbaniec
Theresa A. Farbaniec, RMC
Municipal Clerk

APPROVED:

/s/Kennedy O'Brien
Kennedy O'Brien
Mayor

(BE SURE ATTACHMENT A IS ATTACHED)

At this time Mayor O'Brien opened the meeting up to the Public for questions or comments on Resolution 2018-42. There were no appearances. Councilwoman Novak moved the Public portion be closed and the Resolution adopted on Roll Call vote. Motion was seconded by Council President Kilpatrick.

Roll Call:

Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo, Melendez.

Nays: None.

RESOLUTION #2018-43

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF SAYREVILLE,
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY APPOINTING DANIEL FRANKEL AS
THE DESIGNATED MUNICIPAL HOUSING LIAISON**

WHEREAS, the Borough of Sayreville has petitioned the Superior Court of New Jersey for a Declaratory Judgment that its adopted Housing Element and Fair Share Plan is compliant with its constitutional obligation to provide its fair share of the regional need for very low-, low-, and moderate-income housing; and

WHEREAS, the Borough's adopted Housing Element and Fair Share Plan will result in the creation of housing units affordable to and intended for occupancy solely by qualified very low-, low-, and moderate-income households; and

WHEREAS, the Mayor and Council of the Borough of Sayreville has determined to

appoint and designate Daniel Frankel as its Municipal Housing Liaison, to fulfill the duties set forth in Chapter 35 of the Borough's Revised General Ordinance;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Sayreville, County of Middlesex, State of New Jersey, that the Borough of Sayreville hereby appoints Daniel Frankel as its designated Municipal Housing Liaison.

/s/ Pasquale Lembo, Councilman
(Planning & Zoning Committee)

ATTEST:

/s/Theresa A. Farbaniec
Theresa A. Farbaniec, RMC
Municipal Clerk

APPROVED:

/s/Kennedy O'Brien
Kennedy O'Brien
Mayor

At this time Mayor O'Brien opened the meeting up to the public for questions or comments on Resolution 2018-43. There were no appearances. Councilwoman Novak moved the Public portion be closed and the Resolution adopted on Roll Call vote. Motion was seconded by Council President Kilpatrick.

Roll Call:

Ayes: Councilpersons Novak, Buchanan, Grillo, Kilpatrick, Lembo, Melendez.

Nays: None.

- **EXECUTIVE SESSION** – None
- **PUBLIC PORTION**

At this time Mayor O'Brien opened the meeting to the public for questions or comments on any and all matters.

Those appearing were:

- Janice Benedetto, 1 Thomas Avenue, Melrose
Questioned the status of Ordinance 392-18 as well as the appeal process and COAH Litigation matter and the NL Intervenor Appeal Status.

Mr. DuPont responded that with respect to Ord. 392-18 the attorney's and Special Master are negotiating further language on that and that is why it was tabled here tonight. He said that with respect to the appeal – Jeff Surenian is now spear-heading the litigation. There has been discussions and motions and there will be additional hearings set forth in the next two to four weeks at which time discussions will include National Lead, Counsel Fees and a discussion on appeals. Mr. DuPont said that the appraisal has been sent back for further review. Mr. DuPont further explained the terminology – interlocutory. He said that the next court date has been changed to Feb. 8th.

Ms. Benedetto said that on Dec. 18 she had asked Mr. Kronowski for figures regarding Mr. Sachs and Mr. Leoncavallo spending and billing. Mr. Kronowski provided her with a report.

- Charles Lukie, Oak Street

Came back and complained again about nails in front of his property, driveway, etc. - causing flat tires. He went on to complain about the odor of human excrement in Melrose. He said that he has 197 calls logged in to law enforcement and they indicated to him that it is a town enforcement issue. They also told him to call his local Assemblyman, which he did do and in turn he was told to call his State Senator.

Mayor said that years ago a special phone number has been set up for these issues. Mayor informed him who our State Senators are and who the local Assemblypersons are.

Mr. Lukie questioned if 163 sewer lines could be hooked up to the sewer line running down Cross Avenue. The engineer said that is something that would be looked at when there is an application for the development of the property.

- Bob Krzyzkowski, 26 Gillen Drive.

Questioned how to get reimbursed for an overage he paid in his 2018 Taxes.

Explained by CFO Kronowski that he would have to complete and sign a voucher for the reimbursement.

He also asked if SERA could have a Town Hall Meeting explaining the status of the NL Redevelopment Site.

Mayor said he would send the request to the developer to hold a Town Hall Meeting. Council President Kilpatrick informed the Mayor that the developer is planning to come in and conduct a meeting.

- Ruth Ann Mahoney, 2 Gerard Place

Questioned the Zoning Boards consideration of an application for a Drug Rehab facility where the old nursing home was, near a grammar school. She said that there must be a better place for it.

Mayor expressed that he felt that there was not anyone sitting up there that is in favor of it. She was informed that they are appearing in front of the Zoning Board this Wednesday.

- William Caro, 11 Perrine Avenue

Commented on the wildlife in the Cross Avenue area.

There were no other questions or comments. Mayor O'Brien called for a Motion. **Councilwoman Novak made a motion to close the Public Portion. Seconded by Council President Kilpatrick.**

Roll Call: Voice Vote, all Ayes.

- **ADJOURNMENT**

No further business. Councilwoman Novak moved to adjourn the Council Session. Motion was seconded by Councilman Buchanan.

Roll Call – Voice Vote, all ayes. Carried.

Time 8:19 P.M.

Theresa A. Farbaniec, RMC
Municipal Clerk

Date Approved