

WEST AMWELL TOWNSHIP COMMITTEE MEETING

October 16, 2019 - 7:30 PM

CALL TO ORDER AND STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

The regularly scheduled meeting of the West Amwell Township Committee was called to order at 7:30 PM by Mayor Zachary Rich. Present were Deputy Mayor Gary Hoyer, Committeemen Stephen Bergenfeld, James Cally and John Dale along with Township Clerk Maria Andrews and Township Attorney Katrina Campbell.

Mayor Rich announced that this meeting is called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was faxed to the Hunterdon County Democrat and Trenton Times on January 10, 2019, was posted on the bulletin board in the Municipal Building on said date and has remained continuously posted as required under the Statute. A copy of this notice is and has been available to the public and is on file in the office of the Township Clerk.

FLAG SALUTE

Mayor Rich led those in attendance in the pledge to the nation's flag.

AGENDA REVIEW BY TOWNSHIP CLERK

Clerk Andrews noted there will be a brief discussion regarding the Historic Preservation Committee added to the agenda under Standing Committee Reports.

ANNOUNCEMENTS

- Free Rabies Clinic: Saturday, Nov. 2, 2019 from 1 PM – 3 PM
- Election Day is Tuesday, November 5, 2019
- The Municipal Offices will be Closed: 11/11/19 – Veterans Day
- There is only ONE Twp. Comm. Meeting in November: 11/20/19
- Please Come to the Table if You Wish to Address the Committee
- Kindly Turn Cell Phones Off During the Meeting

PRESENTATION OF MINUTES

A motion by Hoyer, seconded by Bergenfeld to approve the Township Committee's 10/2/19 Regular Session minutes with no revisions noted was unanimously approved by voice vote.

OPEN TO THE PUBLIC/TOPICS NOT ON THE AGENDA

Mayor Rich opened the floor to public comment. Scott McCloughan of 2 Melody Drive came forward to discuss the status of his Eagle Scout project. He noted he has been working on refurbishing the Korean War Memorial Sign and would like to confirm where the Committee would like to see it placed on the Municipal property. He suggested the grass area to the right of the front sidewalk would be a good spot and explained he will be constructing a paver walkway and small landscaped area around the sign with a bench. Committeeman Bergenfeld asked if the area next to the rock honoring the Veterans was considered. Mr. McCloughan commented the sign won't fit there because of the grassy hill. He expressed his project must be completed prior to his 18th birthday which is January 2, 2019 so he anticipates getting the sign installed before the ground freezes, likely sometime next month.

The Committee agreed the best location is to the right of the existing front sidewalk and asked Mr. McCloughan to coordinate with the Director of Public Works to determine the exact location.

Seeing no other members of the public come, a motion was made by Cally and seconded by Bergenfeld to close the floor to public comment. The motion was unanimously approved by voice vote.

SPECIAL PRESENTATIONS

Proclamation: Patrolman Cornelius Flemming – Service Recognition

AOIC Skillman came forward with Patrolman Flemming and explained the details of the traffic stop made by Patrolman Flemming.

Mayor Rich read the following Proclamation into the record:

PROCLAMATION

WHEREAS, Patrolman Cornelius Flemming made an impressive motor vehicle stop and subsequent arrest on September 17, 2019; and

WHEREAS, Patrolman Flemming's investigation on the scene resulted in the discovery of several fraudulent and stolen credit cards, several credit card manufacturing devices (*scanners*), possession of nearly \$1500 in stolen merchandise, possession of drugs and drug paraphernalia; and

WHEREAS, Patrolman Flemming's traffic stop also resulted in several motor vehicle violations being issued; and

NOW THEREFORE BE IT RESOLVED, that the West Amwell Township Committee extends, with great pride, their sincere appreciation for all of Patrolman Flemming's outstanding dedication, expertise and service to the community; and

BE IT FURTHER RESOLVED, that a copy of this Proclamation be placed in its entirety in the minutes of the October 16, 2019 meeting of the Township Committee and that a copy be presented to Patrolman Flemming.

IN WITNESS HEREOF, I have hereunto set my hand and caused the Seal of the Township of West Amwell to be affixed this 16th day of October, 2019.

Maria Andrews, Township Clerk, RMC

Zachary T. Rich, Mayor

Proclamation: Cathy Urbanski - Appreciation

Mayor Rich read the following Proclamation into the record:

PROCLAMATION

WHEREAS, Cathy Urbanski has been instrumental in keeping the Township of West Amwell apprised of PennEast's proposed pipeline expansion; and

WHEREAS, Cathy Urbanski has been an active member of the community demonstrating outstanding leadership; and

WHEREAS, Cathy Urbanski has devoted countless hours serving on various Township Board's, Committee's and Commissions; and

NOW THEREFORE BE IT RESOLVED, that the West Amwell Township Committee extends, with great pride, their sincere appreciation for all of Cathy's tireless dedication to all issues impacting the community; and

BE IT FURTHER RESOLVED, that a copy of this Proclamation be placed in its entirety in the minutes of the October 16, 2019 meeting of the Township Committee and that a copy be presented to Cathy Urbanski.

IN WITNESS HEREOF, I have hereunto set my hand and caused the Seal of the Township of West Amwell to be affixed this 16th day of October, 2019.

Maria Andrews, Township Clerk, RMC

Zachary T. Rich, Mayor

Proclamation: Mike Spille – Appreciation

Mayor Rich read the following Proclamation into the record:

PROCLAMATION

WHEREAS, Mike Spille has been instrumental in keeping the Township of West Amwell apprised of PennEast's proposed pipeline expansion; and

WHEREAS, Mike Spille has been an active member of the community demonstrating outstanding leadership; and

WHEREAS, Mike Spille has devoted countless hours serving on various Township Board's, Committee's and Commissions; and

NOW THEREFORE BE IT RESOLVED, that the West Amwell Township Committee extends, with great pride, their sincere appreciation for all of Mike's tireless dedication to PennEast's potential impact on the community; and

BE IT FURTHER RESOLVED, that a copy of this Proclamation be placed in its entirety in the minutes of the October 16, 2019 meeting of the Township Committee and that a copy be presented to Mike Spille.

IN WITNESS HEREOF, I have hereunto set my hand and caused the Seal of the Township of West Amwell to be affixed this 16th day of October, 2019.

Maria Andrews, Township Clerk, RMC

Zachary T. Rich, Mayor

Reports by Department Heads

Clerk Andrews noted that DPW Director Rollero had provided an email outlining the details of the proposed municipal parking lot expansion to provide for approximately 15 extra parking spaces in the rear lot of the building. The proposal essentially "squares off" the existing asphalt bump out to create a 15' x 100' gravel area for additional parking.

It was noted for the record that the Committee supported the creation of additional parking spaces.

Construction Office Manager Gail Brewi commented that she will likely have an update on the necessary permitting software for her office at the next Township Committee meeting. She reminded the Committee that the State will no longer be supporting the current software after June 30, 2020.

INTRODUCTION/PUBLIC HEARING ON ORDINANCES

Introduction: Ordinance 12, 2019 – AN ORDINANCE TO CREATE CHAPTER 135 OF THE TOWNSHIP OF WEST AMWELL, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO PROHIBIT SMOKING IN PUBLIC PLACES

Mayor Rich read Ordinance 12, 2019 by title.

ORDINANCE 12, 2019

AN ORDINANCE TO CREATE CHAPTER 135 OF THE TOWNSHIP OF WEST AMWELL, HUNTERDON COUNTY, NEW JERSEY TO PROHIBIT SMOKING IN PUBLIC PLACES.

WHEREAS, the Township of West Amwell, through adoption of West Amwell Municipal Code Chapter 135 recognizes that it is authorized to regulate smoking activities in public places within the Township of West Amwell; and

WHEREAS, the Township of West Amwell has been in contact with the West Amwell and South Hunterdon Regional High School Boards of Education about regulating smoking activities in public places owned/leased by the School Boards; and

WHEREAS, the Township Committee of the Township of West Amwell wishes to create Chapter 135 "Smoking," to prohibit smoking in public places.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of West Amwell, County of Hunterdon, State of New Jersey that Chapter 135, "Smoking" of the Code of the Township of West Amwell shall be created as follows:

Section 1.

Chapter 135. Smoking

§ 135-1. Definition.

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

BOARD OF EDUCATION PROPERTIES

All lands and grounds owned by the Township of West Amwell Board of Education or the South Hunterdon Regional High School Board of Education, including but not limited to all recreation fields, parking areas and grounds adjacent to the buildings owned or operated by the West Amwell Board of Education or the South Hunterdon Regional High School Board of Education.

PUBLIC BUILDINGS

Any Township- or Board of Education-owned or leased building, including but not limited to all schools, municipal buildings, library, senior center, recreation center, etc., in which the public is invited, or the public is permitted.

SMOKING

The burning or use of a lighted cigar, cigarette, pipe, e-cigarette, vape or any other matter or substance which contains tobacco and/or emits a vapor or smoke.

§ 135-2. Smoking prohibited on public places; signs to be posted.

- A. Smoking in public buildings, on recreation properties and on Board of Education properties as herein defined within the Township of West Amwell is prohibited.
- B. "No Smoking" signs or the international no smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross-section) shall be posted at each public building entrance and within said building, as well as at conspicuous locations on recreation properties and Board of Education properties, in a number and in a manner determined by the administrator in charge of each such building or recreation property to be sufficient to inform the public that there is no smoking allowed within the building or on any such recreation property. The signs may contain a warning that smoking within the building or on any such recreation property is subject to a fine. The failure to post any such sign shall not be a defense to a violation of this chapter.

§ 135-3. Enforcement.

The enforcement authorities of this chapter shall be the police officers of the Township of West Amwell.

§ 135-4 Violations and penalties.

- A. Any person who violated any provision of this chapter shall be subject to the following:
 - (1) A fine in the maximum amount of \$125 for the first violation.
 - (2) A fine in the maximum amount of \$200 for the second violation.
 - (3) A fine in the maximum amount of \$300 for each additional violation.
- B. The Municipal Court shall have the right, upon conviction for a first violation, to suspend such penalty upon the condition that the violator attend a program or programs relating to the harmful use of smoking and the use of tobacco products and that the violator product proof of attending said program.

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Section 2:

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

Section 3.

Repealer.

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

Section 4. Effective Date.

This Ordinance shall take effect upon final passage and publication.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of West Amwell held on October 16, 2019 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on November 20, 2019 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 150 Rocktown Lambertville Road, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Maria Andrews
Township Clerk

A motion by Cally, seconded by Bergenfeld to introduce Ordinance 12, 2019 was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

It was noted for the record that Ordinance 12, 2019 will be listed on the Committee's 11/20/19 agenda for public hearing.

Introduction: Ordinance 13, 2019 – AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT CHAPTER 109 “LAND DEVELOPMENT,” PART 2 “FEES, INSPECTIONS, GUARANTEES AND OFF-TRACT IMPROVEMENTS,” ARTICLE III “APPLICATION REVIEW FEES,” SECTION 6 “AMOUNT OF FEES AND ESCROW DEPOSITS DUE,” OF THE TOWNSHIP OF WEST AMWELL, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO REVISE THE FEES REQUIRED FOR LAND USE APPLICATIONS

Mayor Rich read Ordinance 13, 2019 by title.

ORDINANCE 13, 2019

AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT CHAPTER 109 “LAND DEVELOPMENT,” PART 2 “FEES, INSPECTIONS, GUARANTEES AND OFF-TRACT IMPROVEMENTS,” ARTICLE III “APPLICATION AND REVIEW FEES,” SECTION 6 “AMOUNT OF FEES AND ESCROW DEPOSITS DUE,” OF THE TOWNSHIP OF WEST AMWELL, HUNTERDON COUNTY, NEW JERSEY TO REVISE THE FEES REQUIRED FOR LAND USE APPLICATIONS

WHEREAS, the Township Committee of the Township of West Amwell, in consultation with the Township Planning Board, wishes to revise its application and review fees; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of West Amwell, County of Hunterdon, State of New Jersey that Chapter 109 “Land Development,” Part 2 “Fees, Inspections, Guarantees and Off-Tract Improvements,” Article III “Application and Review Fees,” Section 6 “Amount of fees and escrow deposits due,” of the Code of the Township of West Amwell shall be created as follows:

Section 1.

§ 109-6(A) shall be deleted in its entirety and replaced with the following:

- A. Each applicant shall, at the time of filing a submission with the Planning Board or Board of Adjustment, submit to the Township Treasurer by certified check or money order the

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following sums as application fees and escrow deposits. Where one application for development includes more than one approval request, the sum of the individual required fees shall be paid. Upon presentation of payment as set forth above, the applicant/owner/agent will execute an escrow agreement (see Appendix A of this Part 2) as well as a memorandum of understanding (see Appendix B of this Part 2).

Note: If an escrow account falls below 30% of the original amount, a request for additional funds will be made to bring the escrow account up to 50% of the original amount.

Application	Fee	Escrow to be Deposited
1. Subdivision reviews		
a. Informal review	\$500*	\$1,500
*Will be credited towards fees for review if the applicant proceeds within 1 year of informal review		
b. Sketch plat or concept plan	\$500 + \$150 per lot	\$1,500 + \$250 per lot
c. Preliminary plat, major	\$1,500 + \$150 per lot or new dwelling unit	With previous sketch approval: \$4,000 + \$250 per lot Without previous sketch approval: \$5,000 + \$300 per lot
d. Final plat, major	\$750 + \$100 per lot or new dwelling unit	Final subdivision: \$1,500 + \$250 per lot With developer's agreement: additional \$1,500
e. Resubmittal of an application for preliminary or final major subdivision approval when applicant has submitted an incomplete application as deemed by the Planning Board	No further application fees required as applicant will be billed out of escrow account for any further review of an incomplete application	
f. Minor subdivision	\$750 + \$150 per lot	\$1,500 + \$1,500 per lot
g. Extension of preliminary or final approval	—	\$500
Tax Map maintenance fees. The following fees shall be paid by the applicant at the time of filing of the deeds of subdivision approval by the Planning Board or the Board of Adjustment of the Township of West Amwell for the cost of making updates and modifications to the Tax Maps of the Township of West Amwell relating to said applications:		
Boundary line adjustment	\$150	\$2,000
2-3 lots, including remaining land	\$450	\$3,000
4-7 lots, including remaining land	\$750	\$3,000
8-12 lots, including remaining land	\$1,000	\$3,000
13-19 lots, including remaining land	\$1,250	\$3,000

20 lots or more	\$1,500 + \$50 per lot in excess of 20	\$5,000
i. Agricultural division of land	\$100	\$2,000 + \$250 per lot
2. Site plan reviews		
a. Informal review	\$500*	\$2,500
Informal review (100% agricultural use)	\$100*	\$2,500
* Will be credited towards fees for review if the applicant proceeds within 1 year of informal review		
b. Minor site plan	\$500	\$3,000
Minor site plan (100% agricultural use)	\$100	\$3,000
c. Major site plans:		
Preliminary plan	\$1,500 + \$150 per dwelling unit, or if nonresidential, \$0.10 per square foot of new construction + \$25 per acre of lot area	\$3,000 + \$250 per dwelling unit, or if nonresidential, the larger of \$0.30 per square foot of building area or \$250 per acre of lot area
Preliminary plan (100% agricultural use)	\$100	\$2,000 + \$0.30 per square foot of agricultural building area
Final plan	\$750	\$2,000 + \$100 per dwelling unit, or if nonresidential, the larger of \$0.10 per square foot of building area or \$100 per acre of lot area
Final plan (100% agricultural use)	\$100	\$1,500 + \$0.10 per square foot of agricultural building area
d. Resubmittal of application for preliminary or final major subdivision approval where the applicant has submitted an application deemed incomplete by the Planning Board.	No further application fees required as applicant will be billed out of escrow account for any review of an incomplete application	
e. Extension of preliminary or final approval	—	\$1,000
f. Telecommunications installations:		
If no new tower is proposed	\$1,000	\$4,000
If a new tower is proposed	\$2,000	\$10,000
3. General development plan review	\$2,500 + \$150 per dwelling unit + \$150 per nonresidential acre	\$5,000 + \$250 per dwelling unit + \$250 per nonresidential acre

4. Conditional use	\$500 plus applicable subdivision or site plan application fees	\$2,000 plus applicable subdivision or site plan escrow deposit
5. Appeals or interpretations under N.J.S.A. 40:55D-70a and b	\$250	\$1,500
6. Request for rezoning	\$500	Initial escrow of \$2,000 required; additional escrow to be established on a case-by-case basis with each individual request being reviewed by the Township professionals as to approximate cost prior to any action being taken
7. Variances*		
*Add subdivision and site plan fees if applicable		
a. N.J.S.A. 40:55D-70c single- or two-family	\$250	\$1,500 + \$250 per variance
All others	\$500	\$1,500 + \$250 per variance
b. N.J.S.A. 40:55D-70d	\$1,000	\$2,500 per variance: commercial
c. N.J.S.A. 40:55D-70d	\$200	\$1,500 per variance: residential
8. Permits under N.J.S.A. 40:55D-34 and 40:55D-36	\$250	\$1,500
9. Boundary line agreement	\$250	\$1,500
10. List of persons within 200 feet of subject lots	\$10 or \$0.25 per name, whichever is greater	Not required
11. Special meetings	\$750*	Each applicant who requests and obtains a special meeting in connection with any application for development or appeal shall post an additional escrow as required and determined by the administrative officer of the board upon consultation with board professionals

* If requested by the applicant and approved by the board

Section 2:

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

Section 3.

Repealer.

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

Section 4. Effective Date.

This Ordinance shall take effect upon final passage and publication.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of West Amwell held on October 16, 2019 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on November 20, 2019 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 150 Rocktown Lambertville Road, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Maria Andrews
Township Clerk

A motion by Cally, seconded by Bergenfeld to introduce Ordinance 13, 2019 was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

It was noted for the record that Ordinance 13, 2019 will be listed on the Committee's 11/20/19 agenda for public hearing.

Introduction: Ordinance 14, 2019 – AN ORDINANCE OF THE TOWNSHIP OF WEST AMWELL, COUNTY OF HUNTERDON, STATE OF NEW JERSEY, AMENDING CHAPTER 51 OF THE CODE OF THE TOWNSHIP OF WEST AMWELL ENTITLED “AFFORDABLE HOUSING” TO ADDRESS THE REQUIREMENTS OF THE FAIR SHARE HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS REGARDING COMPLIANCE WITH THE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATIONS

Mayor Rich read Ordinance 14, 2019 by title.

ORDINANCE 14, 2019

AN ORDINANCE OF THE TOWNSHIP OF WEST AMWELL, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY, AMENDING CHAPTER 51 OF THE CODE OF THE TOWNSHIP OF WEST AMWELL ENTITLED “AFFORDABLE HOUSING” TO ADDRESS THE REQUIREMENTS OF THE FAIR SHARE HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS REGARDING COMPLIANCE WITH THE TOWNSHIP’S AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), the Township of West Amwell filed an action for declaratory judgment requesting that the Court declare that the Township has complied with its constitutional obligation to provide a realistic opportunity for the development of housing that is affordable to low- and moderate-income families and individuals; and

WHEREAS, in order to carry out such constitutional obligation, the Code of the Township of West Amwell is to be amended to include provisions addressing the Township’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1 et seq., as amended and supplemented; N.J.A.C. 5:80-26.1 et seq., as amended and supplemented; and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurance 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; and

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

WHEREAS, the Housing Element and Fair Share Plan has been endorsed by the Township Committee and Mayor; and

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

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of West Amwell as follows:

Section 1. The Township Committee of the Township of West Amwell, County of Hunterdon, and State of New Jersey, hereby repeals Chapter 51 the Code of the Township of West Amwell in its entirety and replaces it with the following:

CHAPTER 51 AFFORDABLE HOUSING

ARTICLE I. General Program Purposes, Procedures

§ 51-1 Affordable Housing Obligation.

- A. This section of the Township Code sets forth regulations regarding the low and moderate income housing units in the Township consistent the "Substantive Rules of the New Jersey Council on Affordable Housing", N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., and the Township's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section applies requirements for very low-income housing as established in P.L. 2008, c.46 (the "Roberts Bill").
- B. This Ordinance is intended to assure 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 these units. This Ordinance shall apply except where inconsistent with applicable law.
- C. The West Amwell Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Plan has also been endorsed by the Township Committee of the Township of West Amwell. The Fair Share Plan describes the ways the Township shall address its fair share for low- and moderate-income housing as documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:93, as may be amended and supplemented.

§ 51-2 Definitions.

As used herein the following terms shall have the following meanings:

ACCESSORY APARTMENT

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

ACT

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

ADAPTABLE

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

ADMINISTRATIVE AGENT

The entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

AFFIRMATIVE MARKETING

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

AFFORDABILITY AVERAGE

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

AFFORDABLE

A sales price or rent within the means of a low- or moderate-income household as defined in N.J.S.A.52:27D-304 ; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE DEVELOPMENT

A housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT

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

AFFORDABLE HOUSING PROGRAM(S)

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

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93-3, and/or funded through an affordable housing trust fund.

AGENCY

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

AGE-RESTRICTED UNIT

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

ASSISTED LIVING RESIDENCE

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

CERTIFIED HOUSEHOLD

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

COAH

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

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

DEVELOPER

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

DEVELOPMENT

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

FAIR SHARE PLAN

The plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.S.A. 52:27D-309 through 52:27D-314.

HOUSING ELEMENT

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

INCLUSIONARY DEVELOPMENT

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

LOW-INCOME HOUSEHOLD

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

LOW-INCOME UNIT

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

MAJOR SYSTEM

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

MARKET-RATE UNITS

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

MEDIAN INCOME

The median income by household size for the applicable county, as adopted annually by COAH.

MODERATE-INCOME HOUSEHOLD

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

MODERATE-INCOME UNIT

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

NON-EXEMPT SALE

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

RANDOM SELECTION PROCESS

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

REGIONAL ASSET LIMIT

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by COAH's adopted Regional Income Limits published annually by COAH, or other Regional Income Limits that may be approved by the Court.

REHABILITATION

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

RENT

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

RESTRICTED UNIT

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

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY LOW-INCOME HOUSEHOLD

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

VERY LOW-INCOME UNIT

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

WEATHERIZATION

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

§ 51-3 Mandatory Affordable Housing Set-aside

Any multi-family development within the Township of West Amwell created through any Planning Board action on subdivision or site plan applications, rezoning, use variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six (6) dwelling units per acre, resulting in five or more dwelling units shall be required to set-aside at least 20 percent of said units for low- and moderate-income households. This requirement does not give any developer the right to any such rezoning, variance or other relief, nor does it establish any obligation on the part of the Township of West Amwell to grant such rezoning, variance or other relief.

§ 51-4 New Construction.

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

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

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

- B. Design. In inclusionary developments, to the extent possible, low- and moderate- income units shall be integrated with the market units.
- C. Utilities and Common Elements. In inclusionary developments, affordable units shall utilize the same type of heating source as the market units within the development, and the occupants of the affordable units shall have access to all of the same common elements and facilities as the occupants of the market units within the development.
- D. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- (1) Affordable units in a development shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
- (2) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
- (3) At least 13% of all affordable rental units shall be very low-income units (affordable to households earning 30% or less of median income). The very low-income units shall be counted as part of the required number of low income units within the development.
- (4) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - (c) At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (5) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

E. Accessibility Requirements:

- (1) 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.
- (2) 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:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel on the first floor;
 - (d) An interior accessible route of travel shall not be required between stories within an individual unit;

- (e) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - (1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (2) To this end, the builder of restricted units shall deposit funds within the Township of West Amwell's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (3) The funds deposited under paragraph (2) herein, shall be used by the Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of West Amwell.
 - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of West Amwell's affordable housing trust fund in care of the Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
 - (6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is impracticable to meet the requirements on the site. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

F. Maximum Rents and Sales Prices.

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH or as determined by the Court or other appropriate jurisdiction.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - (a) At least 10% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- (5) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one- and one-half-person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:

- (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one- and one-half-person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (10) The rent of low- and moderate-income units may be increased annually in accordance with N.J.A.C. 5:80-26.12(b), which requires rent increases to be consistent with the regional income limits published by COAH, or as otherwise established by the Court or other appropriate jurisdiction. 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.
- (11) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ 51-5 Condominium and Homeowners Association Fees.

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

ARTICLE II. Affordable Unit Controls and Requirements

§ 51-6 Purpose.

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

§ 51-7 Affirmative Marketing.

- A. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 2 and covers the period of deed restriction.
- B. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 3, consisting of Hunterdon, Middlesex and Somerset Counties.
- C. Although the Township has the ultimate responsibility for implementing all aspects of West Amwell's affordable housing program, the Administrative Agent designated by the Township shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
- D. 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.
- E. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- F. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of West Amwell.
- G. The Affirmative Marketing Plan for each affordable housing development 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.
- H. 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.

§ 51-8 Occupancy Standards.

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - (1) Provide an occupant for each bedroom;
 - (2) Provide children of different sexes with separate bedrooms;
 - (3) Provide separate bedrooms for parents and children; and
 - (4) Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§ 51-9 Selection of Occupants of Affordable Housing Units.

- A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
- B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 *et seq.*

§ 51-10 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years and, thereafter, until West Amwell takes action to release the unit from such requirements.
- B. Rehabilitated owner-occupied single-family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- D. 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.
- E. 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.

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

§ 51-11 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

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

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.
- E. Sellers or resellers of restricted ownership units will be charged a fee of 2.0 percent of the sale price for services provided by the Administrative Agent related to the sale or resale of their home. This fee shall apply to sellers who submit a signed intent to sell their restricted ownership units to the Administrative Agent on or after June 1, 2016 and the fee shall be collected at closing and paid directly to the Administrative Agent.”

§ 51-12 Capital Improvements To Ownership Units

- A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that 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.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at

the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 51-13 Buyer Income Eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. Notwithstanding the foregoing, however, the Administrative Agent may, in accordance with COAH's criteria, permit moderate-income purchasers to buy low-income units in housing markets determined by COAH to have an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing restrictions for low-income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to a certified household for a period not to exceed one year.
- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

§ 51-14 Limitations on Indebtedness Secured By Ownership Unit; Subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

§ 51-15 Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years and, thereafter, until West Amwell takes action to release the unit from such requirements.
- B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Warren. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure.

§ 51-16 Rent Restrictions for Rental Units; Leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

§ 51-17 Tenant Income Eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.

- (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- B. The applicant shall file documentation sufficient to establish the existence of the circumstances in (B)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ 51-18 Conversions.

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

ARTICLE III. Affordable Housing Administration

§ 51-19 Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison for the Township of West Amwell is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Township Committee and be subject to the approval of the Court or COAH, as appropriate.

- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Township of West Amwell.
- C. The Municipal Housing Liaison must meet COAH's requirements for qualifications, including initial and periodic training.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of West Amwell, including the following responsibilities if not contracted out to the Administrative Agent:
 - (1) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (2) The implementation of the Affirmative Marketing Plan and affordability controls, unless contracted to the Administrative Agent;
 - (3) When applicable, supervising all Administrative Agents;
 - (4) Monitoring the status of all restricted units in the Township of West Amwell's Fair Share Plan;
 - (5) Compiling, verifying and submitting annual reports as required by COAH;
 - (6) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
 - (7) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

§ 51-20 Administrative Agent.

- A. The Township shall designate by resolution of the Township Committee, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93 and UHAC.
- B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- C. The Administrative Agents shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manuals, including those set forth in N.J.A.C. 5:80-26.14, 15, 16 and 18 thereof, which includes:
 - (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;

- (2) Affirmative Marketing;
- (3) Household Certification;
- (4) Affordability Controls;
- (5) Records retention;
- (6) Resale and re-rental;
- (7) Processing requests from unit owners; and
- (8) Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
- (9) The Administrative Agent shall, as delegated by the Township Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ 51-21 Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - (a) A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - (b) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of West Amwell Affordable Housing Trust Fund of the gross amount of rent illegally collected;

- (c) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 - (2) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
- C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- D. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§ 51-22 Appeals.

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Executive Director of COAH.

Section 2. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 3. Severability. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any Court of competent jurisdiction that any such portion of this Ordinance is un-Constitutional, void or ineffective for any cause or reason, shall not affect any other portion of this Ordinance.

Section 4. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of West Amwell held on October 16, 2019 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on November 20, 2019 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 150 Rocktown Lambertville Road, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Maria Andrews
Township Clerk

A motion by Dale, seconded by Bergenfeld to introduce Ordinance 14, 2019 was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

Minutes: 10/16/19

It was noted for the record that Ordinance 14, 2019 will be listed on the Committee's 11/20/19 agenda for public hearing.

Introduction: Ordinance 15, 2019 – AN ORDINANCE OF THE TOWNSHIP OF WEST AMWELL AMENDING SECTIONS 109-116 AND 109-121 OF THE CODE OF THE TOWNSHIP OF WEST AMWELL REGARDING ACCESSORY APARTMENTS PURSUANT TO A SETTLEMENT AGREEMENT BETWEEN THE FAIR SHARE HOUSING CENTER AND THE TOWNSHIP OF WEST AMWELL DATED DECEMBER 2, 2018 AS APPROVED BY THE SUPERIOR COURT OF NEW JERSEY, SOMERSET COUNTY LAW DIVISION OF FEBRUARY 4, 2018

Mayor Rich read Ordinance 15, 2019 by title.

Ordinance 15, 2019

AN ORDINANCE OF THE TOWNSHIP OF WEST AMWELL AMENDING SECTIONS 109-116 AND 109-121 OF THE CODE OF THE TOWNSHIP OF WEST AMWELL REGARDING ACCESSORY APARTMENTS PURSUANT TO A SETTLEMENT AGREEMENT BETWEEN THE FAIR SHARE HOUSING CENTER AND THE TOWNSHIP OF WEST AMWELL DATED DECEMBER 2, 2018 AS APPROVED BY THE SUPERIOR COURT OF NEW JERSEY, SOMERSET COUNTY LAW DIVISION ON FEBRUARY 4, 2018

WHEREAS, the Township of West Amwell (the "Township") entered into a Settlement Agreement with the Fair Share Housing Center dated December 2, 2018 and authorized by Resolution No. 116-2018, arising out of a Declaratory Judgment action filed by the Township seeking a delineation of the Township's compliance with the Mt. Laurel doctrine and Fair Share Housing Act of 1985 ("Settlement Agreement"); and

WHEREAS, the Settlement Agreement was approved by the Superior Court of New Jersey, Somerset County Law Division on February 4, 2018; and

WHEREAS, the Settlement Agreement and the Court's approval require certain changes to the Township's ordinances to address compliance issues; and

WHEREAS, the Township Committee of the Township of West Amwell wishes to amend the Township's ordinances to comply with the requirements of the Settlement Agreement and Court's approval thereof and provide for an accessory apartment program;

BE IT ORDAINED, by the Mayor and Committee of the Township of West Amwell in the County of Hunterdon and State of New Jersey as follows:

SECTION 1. Section 109-116 entitled "Accessory apartments for affordable housing" is deleted in its entirety and replaced with the following:

A. Purpose.

(1) Accessory apartments are established in conjunction with the Township of West Amwell's affordable housing program, and the rules and regulations established herein shall be designed to ensure that each accessory apartment established hereunder shall be and remain creditworthy under the rules and regulations of the New Jersey Council on Affordable Housing (COAH), as may be modified by a Court of competent jurisdiction. The Township reserves the right to rescind or repeal this section at any time after the satisfaction of the Township's affordable housing obligations as specified in its certified housing plan.

(2) Not more than eleven (11) accessory apartments shall be created under this program.

(3) At least two (2) accessory apartments will be occupied by very-low income households. At least four (4) accessory apartments will be occupied by low-income households. Not more than five (5) accessory apartments will be occupied by moderate-income households.

Minutes: 10/16/19

(4) Accessory apartments shall be occupied by households meeting the income eligibility standards established by COAH or a court of competent jurisdiction as set forth in any agreement or deed restriction for a period of not less than ten (10) years. Two (2) accessory apartments shall be subject to such occupancy restriction for a period of not less than thirty (30) years.

B. Permitted Use.

Accessory apartments shall be a permitted use in all zones in West Amwell that permit single-family residential uses, provided that the appropriate approval of the existing or proposed septic system and potable water supply can be obtained.

C. Definition.

For the purpose of this section "accessory apartment" shall be defined as follows: "Accessory apartment" means a second dwelling unit located on a lot containing a single-family dwelling. Such a dwelling may be located within the principal structure, added to a principal structure, or located in a detached accessory building.

D. The creation of such a dwelling unit shall be clearly accessory to the primary use of the property as a single-family dwelling and shall in no way confer upon the property owner any future rights to subdivide the existing lot in order to place each unit on a separate lot. A deed restriction shall be applied to properties with accessory apartments specifying that such units may not be subdivided off in the future. The owner of the principal dwelling shall reside in the principal dwelling or the apartment at all times.

E. Apartments shall be established and maintained in a manner consistent with the rules and regulations of COAH, as may be modified by a court of competent jurisdiction, and all building codes.

F. The rents for accessory apartments, including an allowance for utilities, shall be affordable to qualified households as per COAH and UHAC regulations, as may be modified by a court of competent jurisdiction.

G. Accessory Apartments shall be marketed in a manner consistent with the affirmative marketing requirements of the New Jersey Council on Affordable Housing, as modified by a Court of competent jurisdiction.

G. Standards.

(1) Lot Area. Accessory apartments shall be permitted on lots of 20,000 square feet or greater. Accessory Apartments can be established on lots of less than 20,000 square feet, where an existing structure already exists that can be modified or altered to create an accessory apartment as long as all other standards of this chapter are met.

(2) The property on which the accessory apartment is proposed must be a conforming lot in terms of minimum required lot area, lot frontage, lot width, and lot depth. If the property on which the accessory apartment is proposed is subject to previously approved bulk variances, the addition of the accessory apartment shall not exacerbate the conditions requiring those variances.

(3) Roadway Access. The property on which the accessory apartment is proposed must abut and have direct driveway access to a public roadway.

(2) Unit size and type.

i. Accessory apartments shall contain at least 500 square feet of gross floor area and no more than 1,200 square feet, excluding garage space. No bedroom shall have a net floor area of less than 80 square feet.

ii. Each unit must contain a minimum of two rooms (one of which must be a bedroom) plus a bathroom. The bathroom must contain a flush toilet, sink, and bathroom tub or shower. Each unit must ~~and provide~~ living/sleeping space, ~~and~~ kitchen facilities, and complete sanitary facilities for the exclusive use of its occupants. All rooms must be accessible from within the apartment.

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(3) The accessory apartment shall be separate from the primary residence and private and secure from all attached units. Units attached to a principal dwelling must have and maintain a separate entrance to the outdoors or to a hall from which there is direct access to the outdoors without passing through any other unit. The accessory apartment shall not have its entrance located within the principal structure.

(4) If the apartment is located on the second floor, there shall be at least two means of access to the outdoors, available at all times, as approved by the Construction Official. Exterior stairways for the accessory apartment shall be located at the rear or side of the structure.

(5) Parking.

(a) A minimum of one off-street parking space per bedroom shall be provided for an accessory apartment situated in the side yard or rear yard only, provided that no more than two spaces shall be required in addition to existing on-site parking. Such parking spaces shall be reserved for use by the occupants of the accessory apartment. In no case can the parking provided for an accessory apartment result in a reduction of the existing parking for a principal dwelling below two spaces.

(b) Where new paved or gravel driveways or parking areas are proposed, a minimum five-foot setback from any side or rear property line shall be maintained. Landscaping and/or solid fencing shall be provided to screen such areas from adjacent properties and shall be depicted on the proposed site plan.

(6) Building setbacks. No new accessory apartment shall be located in any front yard setback. Building setbacks should be consistent within the zoning district and be within the building envelope.

(7) There shall be no more than one accessory apartment on any lot.

(8) The property must be in compliance with all applicable building and health codes.

H. Building height. Notwithstanding the building height limitations that apply to accessory structures elsewhere in the Township's Zoning Regulations, structures containing an accessory apartment which is developed in a manner consistent with this section shall be permitted to build up to 2 1/2 stories and not exceeding 35 feet.

I. Building permits; Certificate of Occupancy.

(a) A Certificate of Occupancy shall be required prior to the occupancy of the accessory apartment by the initial tenant consistent with the Township Code.

(b) Prior to the issuance of a Certificate of Occupancy for the initial tenant of the accessory apartment, there shall be a deed restriction recorded applying to the property running with the land that sets forth the applicable affordability controls.

(c) Prior to the issuance of a building permit and / or Certificate of Occupancy for an accessory apartment, a Zoning Permit Application, a site plan and architectural plans (signed and sealed by the appropriate professional) shall be submitted to the Zoning Officer for review to determine compliance with this Section and other applicable zoning requirements. Plans shall accurately depict the location, size and appearance of the proposed structure. Any construction relative to the creation of an accessory apartment shall be architecturally treated in a manner which is consistent with the appearance of other structures on site.

(d) Prior to the issuance of any approvals herein, the property owner shall submit proof that the proposed or existing septic system and potable water supply meets all requirements of the Board of Health or other applicable government agency.

(e) In addition, before a building permit and / or Certificate of Occupancy is issued, the applicant shall have entered into and recorded an agreement with the Township specifying that the proposed accessory apartment will be constructed, occupied and maintained in a manner consistent with the requirements of COAH (as modified by a court of competent jurisdiction), including:

- (i) the appropriate length of deed restriction;
- (ii) the status of the units as very low-, low-, or moderate-income units;
- (iii) the method and timing of payments/subsidies being paid by the Township; and
- (iv) any other relevant or pertinent items consistent with the intent and purpose of this section and this program in general.

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(f) If the unit is located on the second floor, prior to the issuance of building permits or a Certificate of Occupancy, the Construction Code Official shall inspect the unit for proper ingress and egress.

(g) The property owner must submit an affidavit of continuing use every two years.

J. Illegally created apartments.

In the case of any accessory apartment created illegally or without the proper approvals or permits which the property owner desires to legitimize as an accessory apartment under this Section, all of the requirements of this Section shall apply.

SECTION 2. Section 109-121 entitled "Accessory apartments" is deleted in its entirety.

SECTION 3. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of West Amwell for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Committee, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Hunterdon County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities.

The Township Clerk shall execute Affidavits of Proof of Service of the notices required by this section and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

Section 7. This Ordinance shall take effect upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing thereof with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of West Amwell held on October 16, 2019 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on November 20, 2019 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 150 Rocktown Lambertville Road, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Maria Andrews
Township Clerk

A motion by Cally, seconded by Dale to introduce Ordinance 15, 2019 was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

It was noted for the record that Ordinance 15, 2019 will be listed on the Committee's 11/20/19 agenda for public hearing.

Public Hearing: Ordinance 06, 2019 – **AMENDED:** AN ORDINANCE TO PROVIDE FOR AND DETERMINE THE RATE OF COMPENSATION OF OFFICIALS AND EMPLOYEES OF THE TOWNSHIP OF WEST AMWELL, COUNTY OF HUNTERDON, STATE OF NEW JERSEY

Minutes: 10/16/19

Mayor Rich read Ordinance 06, 2019 by title.

WEST AMWELL TOWNSHIP
Public Notice
Ordinance 06, 2019 – **Amended**

AN ORDINANCE TO PROVIDE FOR AND DETERMINE THE RATE OF COMPENSATION OF OFFICIALS AND EMPLOYEES OF THE TOWNSHIP OF WEST AMWELL, COUNTY OF HUNTERDON, NEW JERSEY.

SECTION 1

The following shall be the amended salary range of compensation for the following position of the township for the year 2019.

Court Administrator\$40,000.00 - \$70,000.00

SECTION II

Definitions and Benefits are outlined in the West Amwell Township Policy Manual adopted December 28, 2005 with amendments through April 23, 2014

SECTION III

All Ordinances and parts of Ordinances inconsistent with this Ordinance are hereby repealed.

SECTION IV

This Ordinance shall take effect after final adoption and publication according to the laws of the State of New Jersey.

APPROVED BY TOWNSHIP COMMITTEE

Zachary T. Rich, Mayor

ATTEST:

Maria Andrews, Township Clerk, RMC

Clerk Andrews noted the notice of introduction for Ordinance 06, 2019 was published in the 10/4/19 edition of the Trenton Times.

Mayor Rich opened the floor to public comment. Seeing no members of the public come forward, a motion was made by Dale and seconded by Hoyer to close the floor to public comment. The motion was unanimously approved by voice vote.

A motion by Bergenfeld, seconded by Dale to adopt Ordinance 06, 2019 was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

STANDING COMMITTEE REPORTS

Hal Shute provided an update on Open Space noting Deputy Mayor Hoyer has submitted an application to preserve 50 acres of his farm which will likely be a County preservation project.

Mayor Rich noted he would like an email sent out to all department heads reminding them to send in their 2020 budget requests by December 10, 2019.

Committeeman Bergenfeld commented on his recent attendance at a Historic Preservation Committee meeting providing the following details: The Committee would like to have a budget in 2020, they would like the Township Committee to adopt a formal resolution or ordinance recognizing them and their duties and they recently held a walking tour of Mt. Airy with plans to hold a bus tour next year. It was noted for the record that the Committee supported a resolution establishing the Historic Committee, but that they were not in favor of establishing an ordinance.

UNFINISHED BUSINESS

PennEast Status

It was noted for the record that Mr. Spille had provided an email update with the latest PennEast Court decisions and included a template for the Township to file a "Motion for Leave to Intervene" which Clerk Andrews will file prior to the 10/30/19 deadline.

Committeeman Hoyer provided an update on the application submitted by a resident to the NJDOT/Bureau of Aeronautics for a proposed helistop noting Zoning Officer Latini has indicated helistops are not permitted within the Township. Clerk Andrews confirmed she will provide that information to NJDOT.

NEW BUSINESS/OTHER

Resolution #103-2019: Amended Salary and Wage Resolution – P. Williamson

Resolution #103-2019 *Amending Resolution #64-2019*

BE IT RESOLVED by the Committee of the Township of West Amwell that the 2019 Salary and Wage Resolution, approved on May 1, 2019 be amended as follows:

<u>Position</u>	<u>Salary/Compensation</u>
Court Administrator Williamson	\$66,000.00

I hereby certify the foregoing to be a true copy of a Resolution adopted by the West Amwell Township Committee at a regular meeting held on October 16, 2019.

Maria Andrews, Township Clerk, RMC

A motion by Bergenfeld, seconded by Dale to approve Resolution #103-2019 was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

Resolution #105-2019: Authorizing the Planning Board to Work on the Redevelopment Plan

Resolution # 105-2019

TOWNSHIP OF WEST AMWELL HUNTERDON COUNTY

A RESOLUTION DETERMINING THAT THE PROPERTIES IDENTIFIED AS BLOCK 8, LOTS 23.02, 23.05, 24, 27, 29.02, AND 33 BE DESIGNATED AS A NON-CONDEMNATION REDEVELOPMENT AREA IN ACCORDANCE WITH THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ.

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. ("Redevelopment Law"), authorizes municipalities to determine whether certain parcels of land located therein constitute areas in need of redevelopment; and

WHEREAS, pursuant to Resolution No. 2019-45 adopted on February 20, 2019 (as amended by Resolution No. 86-2019 adopted on August 13, 2019), the Township Committee ("Committee") of the Township of West Amwell (the "Township") authorized and directed the Planning Board of the Township of West Amwell (the "Board") to conduct an investigation to determine whether certain properties, identified as Block 8, Lots 23.02, 23.05, 24, 25, 27, 29.02 33, 52.02, 52.03, and 56, or any portions thereof (the "Study Area"), meet the criteria set forth in the Redevelopment Law and should be designated as a Non-Condemnation Redevelopment Area, as that term is defined by the Redevelopment Law; and

WHEREAS, the Board conducted an investigation of the Study Area to determine whether it should be designated as a Non-Condemnation Redevelopment Area in accordance with the criteria and procedures set forth in N.J.S.A. 40A:12A-5 and 40A:12A-6; and

WHEREAS, as part of its investigation, the Board directed Charles Latini, P.P., AICP, to prepare an Area In Need of Redevelopment Investigation Study ("Area in Need Study") for the Board for its consideration in determining whether the Study Area should be designated a Non-Condemnation Redevelopment Area entitled "REDEVELOPMENT AREA DETERMINATION REPORT - Village Center Redevelopment Area;" and

WHEREAS, the Area in Need Study included a map prepared by Mr. Latini showing the boundaries of the proposed redevelopment area and locations of the parcels included therein, along with a statement setting forth the basis for its investigation in accordance with N.J.S.A. 40A:12A-6(b)(1); and

WHEREAS, the Board conducted a public hearing on October 15, 2019, with notice having been properly given pursuant to N.J.S.A. 40A:12A-6(b)(3); and

WHEREAS, at the public hearing, the Board reviewed the Area in Need Study and heard testimony from Mr. Latini and others; and

WHEREAS, at the public hearing, members of the general public were given an opportunity to be heard and to address questions to the Board and Mr. Latini concerning the potential designation of the Study Area as a Non-Condemnation Redevelopment Area; and

WHEREAS, after completing its investigation and public hearing on this matter, the Board concluded that there was sufficient credible evidence to support findings that satisfy the criteria set forth in the Redevelopment Law, particularly at N.J.S.A. 40A:12A-5 et seq., for designating the Study Area as a Non-Condemnation Redevelopment Area and that said designation is necessary for the effective redevelopment of the area comprising the Study Area; and

WHEREAS, the Board further concluded that there was sufficient credible evidence to support findings that any designation of the Study Area as a Non-Condemnation Study Area shall not authorize the municipality to exercise the power of eminent domain to acquire any property in the Study Area; and

WHEREAS, in accordance with the Redevelopment Law and as memorialized by Resolution, dated October 15, 2019, the Board recommended to the Township Committee that Block 8, Lots 23.02, 23.05, 24, 27, 29.02, and 33 be designated as a Non-Condemnation Redevelopment Area; and

WHEREAS, the Board recommended that Block 8, Lots 25, 52.02, 52.03, and 56 be excluded from such designation as they did not meet the requirements of the Redevelopment Law; and

WHEREAS, the Township Committee considered the Board's recommendation at its regularly scheduled public meeting on October 16, 2019; and

WHEREAS, at the Township Committee's public meeting, members of the general public were given an opportunity to be heard and to address questions concerning the potential designation of the Study Area as a Non-Condemnation Redevelopment Area; and

WHEREAS, Township Committee accepted the recommendation of the Board to declare a portion of the Study Area (Block 8, Lots 23.02, 23.05, 24, 27, 29.02, and 33) as a Non-Condemnation Redevelopment Area; and

WHEREAS, in order to effectuate the Township Committee's designation of the Study Area as an Area in Need of Redevelopment, the preparation of a Redevelopment Plan and presentation to the Planning Board and Township Committee is required; and

WHEREAS, the Township Committee desires to authorize Mr. Latini to draft a Redevelopment Plan in consultation with the Board and to authorize the Board to review the Redevelopment Plan and transmit the proposed Plan to the Township Committee for its consideration upon completion of the Planning Board's review.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of West Amwell, County of Hunterdon, State of New Jersey as follows:

1. That the Township Committee accepts the recommendation from the Planning Board of the Township of West Amwell and finds that Block 8, Lots 23.02, 23.05, 24, 27, 29.02, and 33 as shown on the official tax map of the Township of West Amwell be and are hereby deemed to be a Non-Condensation Redevelopment Area pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and
2. That the designation of Block 8, Lots 23.02, 23.05, 24, 27, 29.02, and 33 as a Non-Condensation Redevelopment Area shall not authorize the Township to exercise the power of eminent domain to acquire any property in the Study Area; and
3. That the Township hereby reserves all other authority and powers granted to it under the Redevelopment Law; and
4. That the Clerk of the Township of West Amwell shall forthwith transmit a copy of the within Resolution to the Commissioner of the Department of Community Affairs for review; and
5. That within ten (10) days of the Township Committee's adoption of the within Resolution, the Clerk of the Township of West Amwell shall serve notice of the Township Committee's determination and the within Resolution upon all record owners of property within the Non-Condensation Redevelopment Area, those whose names are listed on the tax assessor's records, and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of the determination and Resolution may be sent and upon the Commission of the New Jersey Department of Community Affairs; and
6. That Charles Latini, P.P., A.I.C.P., having been previously retained by the Township, is authorized and directed to prepare a Redevelopment Plan for Block 8, Lots 23.02, 23.05, 24, 27, 29.02, and 33, including an outline for the planning, development and redevelopment of the Study Area pursuant to N.J.S.A. 40A:12A-7 and present same to the Planning Board and Township Committee at the hourly rate stated in his proposal; and
7. That the Planning Board shall transmit a report containing its recommendation concerning the Redevelopment Plan to the Township Committee. The Planning Board's report shall include an identification of any provisions in the proposed Redevelopment Plan which are inconsistent with the Master Plan and recommendations concerning these inconsistencies and any other matters as the Planning Board deems appropriate; and
8. That this Resolution shall take effect immediately.

I hereby certify the foregoing to be a true copy of a Resolution approved by the West Amwell Township Committee at their regular meeting on October 16, 2019.

Maria Andrews, Township Clerk, RMC

A motion by Hoyer, seconded by Bergenfeld to approve Resolution #105-2019 was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

Discussion: First Annual Holiday Tree Lighting Event

Construction Office Manager Gail Brewi commented she is working on coordinating a Tree Lighting event for Friday, December 6, 2019 tentatively starting at 6:00 PM. She indicated she is working with Music Mountain Theatre to kick off the event with a presentation and would like to include the school's vocal ensemble, chorus and key club as well as the Fire Department, Parks and Recreation and various local businesses to help with the festivities. The Committee endorsed the event and expressed support for Ms. Brewi's efforts. It was noted the holiday tree will be donated by the Bergenfeld Farm and the DPW will coordinate the planting of it on the municipal property.

Discussion: Township Wide Garbage Service – to Replace Republic Services

Mayor Rich noted Township residents are having major issues with Republic Services regarding their customer service, their billing practices and unreliable trash pick-up. He suggested he would like to provide alternate options for residents and asked the Committee if they supported his efforts to research alternatives. It was noted for the record that the Committee agreed with Mayor Rich that residents would appreciate garbage service options.

OPEN TO THE PUBLIC

Mayor Rich re-ordered the agenda to address any open to the public comments prior to the Committee entering into Closed Session.

Mayor Rich opened the floor to public comment. Dave Beaumont of 205 Rock Road West came forward and provided an overview on the South Hunterdon Regional High School report card noting the math scores are consistently lower than the language arts scores. He clarified that with such small class sizes it is hard to make fair comparisons because theoretically 1 student with low scores could drastically impact the scoring percentages.

Mayor Rich commented that he believes there are three major issues in the school: Grades, vaping and a very high percentage of students classified with Attention Deficit Disorder (ADD).

Mr. Beaumont noted the 3rd grade scores were lower than normal just as the regionalization occurred. He suggested someone from the school come to an upcoming Township Committee meeting to discuss the various issues.

Committeeman Cally remarked that former Lambertville Mayor DeVecchio had budgeted \$25,000 for a feasibility study but noted the current administration won't authorize utilizing the full amount.

It was noted for the record that Attorney Campbell will reach out to the school for information regarding the number of students who have Individual Education Plans (IEP's) and ask how that number compares to the State average.

Ms. Brewi spoke up from the public as a resident and commented that while she was attending back to school night she noticed the school is renting space to the Center for Educational Advancement (CEA) and the middle school kids are having class in trailers. She questioned why this is the case.

On a final note Mr. Beaumont updated the Committee on the Equalization Table the State produced on home values. He noted West Amwell looks pretty good, while Lambertville had more property sales higher than the assessed values.

OTHER

Resolution #104-2019: Closed Session – Personnel/Contracts – Litigation/Affordable Housing

Resolution #104-2019

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist,

NOW, THEREFORE BE IT RESOLVED by the Committee of West Amwell Township, County of Hunterdon, State of New Jersey, as follows:

Minutes: 10/16/19

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows: Mt. Laurel Litigation, personnel/contracts and subjects falling under Attorney-Client privilege.
3. It is anticipated at this time that the above stated subject matter will be made public when the matter has been resolved.
4. This resolution shall take effect immediately.

Maria Andrews, Township Clerk, RMC

A motion by Cally, seconded by Bergenfeld to enter into Closed Session was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

A motion by Cally, seconded by Dale to return to Open Session was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

The Committee was in Closed Session from 9:19 PM – 10:57 PM.

Upon returning to Open Session a motion was made by Hoyer and seconded by Dale to promote AOIC Skillman to Lieutenant of the Police Department and specifying that his current Sergeant salary together with the stipend for AOIC will be the new salary for the Lieutenant position. The motion was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

ADMINISTRATIVE

A motion by Cally, seconded by Rich to approve the vouchers for payment as listed on the 10/16/19 bill list was unanimously approved by roll call vote.

Bergenfeld: Yes, Cally: Yes, Dale: Yes, Hoyer: Yes, Rich: Yes

CORRESPONDENCE

The Committee ordered the correspondence listed on the agenda, filed.

ADJOURNMENT

A motion by Bergenfeld, seconded by Dale to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 11:00 PM.

Maria Andrews, Township Clerk, RMC

Approved: 11/20/19