

REGULAR MEETING  
LAWRENCE TOWNSHIP COUNCIL  
LAWRENCE TOWNSHIP MUNICIPAL BUILDING  
COUNCIL MEETING ROOM – UPPER LEVEL

August 28, 2018

The following are the Minutes of a Regular Meeting of the Lawrence Township Council that was held on Tuesday, August 28, 2018, at 6.00 p.m.

The meeting was opened with the Inspiration and Pledge of Allegiance, led by Municipal Clerk.

At the commencement of the meeting Mayor Bobbitt read the following statement of proper notice:

**STATEMENT OF PROPER NOTICE:** "Adequate notice of this meeting of the Lawrence Township Council being held on Tuesday, August 28, 2018, has been provided through the posting of the annual meeting schedule of said Council in accordance with Section 13 of the Open Public Meetings Act." Said Notice was forwarded to The Trentonian, The Times and The Princeton Packet on December 26, 2017.

The roll was then called as follows:

Present: Councilmembers Kownacki, Lewis, Powers and Mayor Bobbitt.  
Absent: Councilman Maffei.

Also in attendance were Kevin Nerwinski, Esq., Municipal Manager and David Roskos, Esq., Municipal Attorney.

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Special Proclamations, Recognitions and Presentations

**Direct Energy Representative – Solar Energy Feasibility Presentation**

Mayor Bobbitt stated he is excited to introduce George Ford a representative from Direct Energy Solar who will be giving a presentation on Solar Energy Feasibility. He then turned the floor over to Mr. Ford who greeted the Council and fellow residents of Lawrence and thanked the Council for their time this evening. He indicated first and foremost he would like to let the Council know that the staff of Lawrence Township has been very accommodative not only in discussion concerning this project but on other projects they have been looking at in the Township for local businesses and non-profits.

Mr. Ford proceeded to discuss a project they will be starting very soon with the New Jersey Conference Seventh-day Adventists on Brunswick Avenue which they are very excited about and indicated they are currently going through the Zoning process and while the staff was diligent and mindful of the Township procedures they were also very accommodating in helping them through the process and thanked the staff for their assistance.

Mr. Ford imparted tonight's discussion will entail Solar Energy in Lawrence Township and that Lawrence Schools have already done a solar project in years past and applauded the Township on their forward thinking and consideration in doing a project utilizing solar energy. He then provided a brief background relative to his company Direct Energy that is wholly owned by a company called Centrica; a UK-based utility over 200 years old and is similar to PSE&G or Con Edison in New York. The company does \$40 billion in revenue a year here in North America and under the Direct Energy name \$15.5 billion in revenue. They have 36,000 employees worldwide and a Global 500 investment grade publicly traded company.

Mr. Ford stated that Direct Energy takes position on both sides of the energy which is the supply side and demand management and the supply being the actual commodity that someone buys their electricity from for their home, business or municipality. And, gas, strategic management and wholesale are all commodities as well. On the demand side of the equation they provide energy insights to their customers, solar plus storage projects and down near the MetLife Stadium they have a 30,000 square foot facility where they build their own combine heat and power units along with standby generators under the name Energy Rodux. They also do energy efficiency projects such as LED lighting.

Mr. Ford indicated today they are starting to see the utility grid transformed as the typical grid is operated under either coal or nuclear that is starting to shift to a more cleaner, renewable grid which means they are looking more at projects like solar, wind, battery storage and combining them to become basically micro grids located centrally right at the point of usage versus a power plant down the road or power that runs up a line 20 or 40 miles away. And, their solutions include LED lighting and on the supply side a picture which provides insight as to all the different mechanism inside of the energy that they have their hands-on including a panoramic power division which is a web base monitoring system that is a very futuristic product enabling businesses and entities like a municipality to gain real insight on how their energy is used.

Mr. Ford specified when they work with their customers; specifically, a municipality such as Lawrence or a big business they have a three stage process that they like to approach and engage with their customers. First, they like to take the opportunity to explore to get a better understanding of what the customer's goals and objectives are; map out their sites and analyze their performance, efficiency and resiliency of the existing systems and work with the business or municipality to identify options to help improve their existing energy systems and meet their business objectives by developing an action plan based on the whole lifecycle of those systems

as well as partnering with the business or municipality to implement the solution with every aspect from engineering, building, maintenance, measuring and commissioning permission to finance and communicate with the grid itself. And indicated one of the things he was very happy about when first visiting the Township is that they have already done an LED lighting retrofit so they are one step ahead of the game being they have already reduced their energy consumption which is something he appreciates as taxpayer and savings right out of the gate.

Mr. Ford imparted their project approach and execution priority is responsiveness which is very important to their organization as they are committed to ensuring effective implementation that minimizes destruction while providing a high level of status reporting and issue escalation right to the customers and proceeded to discuss a very large system installed with complex logistics at the Reed School in Newtown, Connecticut and his team working evenings, weekends, and even during school breaks with school/town officials and the local utilities to ensure that school activity was not impacted or risk the safety of students or community members. As for the Lawrence Township they would work closely with the municipality and personnel to ensure there are no disruptions to their day-to-day business at the Township. With regards to quality, they have a very thorough and robust team that goes through and vets all the equipment they use for the projects and they use very reliable equipment from tier one manufacturers; some of the most diversified companies in the world - such as LG who is one of the world's largest solar panel manufacturers. Third, they follow a detailed project plan to ensure the successful construction of the system with limited financial risk by both parties. They break the projects into three phases which are the Pre-Construction Phase to get through the initial findings and paperwork, Construction Phase and the Post Construction Phase. In addition, Direct Energy Solar will work with the team in Lawrence to develop a specific plan for each one of the projects.

Mr. Ford indicated they are starting to see a lot of Solar which will continue to transform given how the grid is being operated today. Also, they have completed the Engineering, Performance and Capabilities (EPC) that they will be using at the Lawrence locations. The company they will be using was founded in 2008 and joined Centrica and Direct Energy in 2014 and to date they have over 100 megawatts of project sold and over 9,000 installations throughout America and they are very proud of the energy projection which is over 246 gigawatt hours of electricity being produced and the hours equating in money to about \$100M. He reiterated that they offer custom solutions based upon each individual customer and proceeded to review the various solar options and systems they installed for customers throughout the State as well as the cost and financing options for municipalities. The first being a pay up front benefit and reap savings over the 25 to 30 years; Second, no upfront payment and purchase the system under a municipal tax lease with 100-percent financing, 10-year lease purchase agreement with a tax-exempt rate and energy credits self-funding the lease; Third, the Township entering into a Power-Purchase Agreement with the solar company which many municipalities and schools implement that will allow them to install solar at different locations.

Mr. Ford explained that they would enter into a pre-determined fixed rate agreement for 20 or 25 year for the town to purchase the power from the solar company who will pay for the system to be built and installed at the various locations and they can anticipate a 40 to 50 percent savings on the town's electricity cost at no cost to the taxpayers and continued to discuss a preliminary layout design as it pertains to installation of solar panels at Lawrence Township police, public works and the senior center, environmental benefits, the Letter of Intent if they decide to move forward with the projects, measurements for each of the locations, contract review, filing of applications with the utilities, permitting and building the project. He then opened the floor for comments and questions.

Mr. Nerwinski stated the presentation stems from a conversation he had with the Mayor regarding sustainability which he stressed he would like for him to explore and that this is the second phase of that sustainable exploration and advised that both the Township Engineer and the Assistant Engineer are in the audience and they have spoken with Mr. Ford and have taken the reins with regards to this program. He specified his main concern is the possible interruption of municipal activities and the aesthetics of the solar panels at the proposed three locations; but, the concern is minimal compared to the future benefits and savings. Additional comments and questions took place relative to how the project would impact the Township's Sustainable Jersey Certification; the installation timeframe as it relates to the Solar Investment Tax Credit dropping 30-percent and New Jersey dismantling Net-Energy Metering in 2020 which would allow residents to get the full retail credit when they have pull power from the grid; the Township being grandfathered into the Abstract Program, Net Energy Metering and the 30-percent Tax Credit if they decide to install solar before 2020 and then comparing the two alternatives - buying versus leasing solar and the possible loss of the tree line at the Public Works Department and Senior Center facilities.

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#### Public Participation

*Mr. Jeffrey Vamos, Pastor of Lawrenceville Presbyterian Church*, stated in hearing Mr. Ford's presentation brought back memories as his church just entered into a power purchase agreement to build their system which went online in January and commended the Township Council on their forward thinking regarding solar energy.

He then spoke about the broken immigration system as it relates to undocumented persons and there being little consensus in Washington as to how to fix it and the policy system being busted and the effects it has on the local communities with regards to public safety and moral values and discussed undocumented residents often being invisible and fearful of law enforcement and them being victimized because of their fear to report a crime due to current legislation and events and expressed his support and passage of the Fair and Welcoming Resolution that is on the agenda for approval. In closing, Rev. Vamos thanked Chief Ubry and the Township Staff for their cooperation

and hard work and indicated when future generations look back they will see this was a time of great moral crisis and their children will say they responded with justice, reason and compassion and he thinks the Welcoming Resolution is a step in that direction and a step towards an adequate answer to that question that their children might ask them in the future.

*Mr. Bill Bowers, 31 Colonial Lake Drive,* advised that he has been a resident of Lawrence for 45 years and his neighborhood has always being a welcoming community to families from all over the world, many from Central/Eastern European and Africa countries that do not have the same democracy as America and proceeded to discuss the present day need for reassurance so that all families, not just undocumented people, can feel safe given some are becoming fearful of government and because the Resolution on the Agenda stands to reassure their neighbors and provide the Township employees with useful guidance he is urging the passage of the Fairness and Welcoming Resolution for approval this evening,

*Ms. April Armstrong, 180 Franklin Corner Road,* advised that she was thinking about the Lawrence Township form of government and the Township having local rights to enforce for themselves, what kind of community they are or want to be within the boundaries set by the Federal government and continued to elaborate on the rights of local communities and those communities as well as Lawrence Township determining how they want live and their communities to be exceeding the boundaries set outside their limits.

*Mr. Paul Larson, 170 Darrah Lane chair of the Lawrence Township Trails Open Space Stewardship Advisors Committee and Trustee of the local Historical Society,* advised on Friday, September 14<sup>th</sup> at 7:00 p.m. in the Heely Room at The Lawrenceville School there is going to be a lecture on David Brearley; a native son of Lawrence Township and one of their founding fathers who signed the U.S. Constitution and continued to elaborate on the things they deal with present day regarding elections as it relates to Mr. Brearley and invited all to attend.

Mr. Larson advised that a 1912 book entitled "The Courts and Lawyers of New Jersey" that referenced to portrait of David Brearley supposedly hanging in the Supreme Courtroom which has since changed quarters so it will be another lead to track down and follow. Also, The Crossroads of the American Revolution, of which both Lawrence Township and the Lawrence Historical Society are heritage partners, have a program called Meet Your Revolutionary Neighbors who write short bios and come up with new sketches of characters and on their website they have a display of 58 neighbors they have done so far and the new group is coming out in September and one of the neighbors is David Brearley. The last item of discussion has to do with the 1716 Brearley House which is a different Brearley relative and indicated that the Preservation New Jersey puts out every year a list of the (10) ten most endangered historical places in New Jersey and at the top of the list this year is something they call "Pattern Brickwork Houses", an unique architectural type house and 95-percent of all the

examples are found in New Jersey which the Brearley House is an example of which is something he wanted to bring to their attention.

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#### Review and Revisions of Agenda

The Municipal Clerk requested that Resolution 306-18 (18-D.4) – Authorizing a Refund to Budman Alignment & Body Works, be included on the agenda.

On a motion by Ms. Lewis, seconded by Mr. Powers, the Agenda was amended to include the above revision.

Same was carried on the following roll call vote:

Ayes: Councilmembers Kownacki, Lewis, Powers and Mayor Bobbitt.  
Nays: None.  
Absent: Councilman Maffei.

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#### Adoption of Minutes

On a motion by Ms. Lewis, seconded by Mr. Powers, the Minutes of Regular Meeting of April 3, 2018 and April 17, 2018 were approved on the following roll call vote:

Same was carried on the following roll call vote:

Ayes: Councilmembers Kownacki, Lewis, Power and Mayor Bobbitt.  
Nays: None  
Absent: Councilman Maffei.

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On a motion by Ms. Lewis, seconded by Mr. Powers, the Minutes of Closed Session Meeting of July 17, 2018 were approved on the following roll call vote:

Same was carried on the following roll call vote:

Ayes: Councilmembers Kownacki, Lewis, Power and Mayor Bobbitt.  
Nays: None  
Absent: Councilman Maffei.

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Awarding or Rejecting of Bids

Mayor Bobbitt asked for comments from the public. There being none, Mayor Bobbitt asked for comments from Council.

On a motion by Ms. Lewis, seconded by Mr. Powers, Resolution (9-A), Authorizing Awarding Bid for Rehabilitation of 16 Poillon Court, was presented for adoption.

Resolution No. 281-18

WHEREAS, on Thursday, July 19, 2018, bids were received and publically opened for the rehabilitation of 16 Poillon Court; and

WHEREAS, two (2) bids were received and reviewed by the appropriate Township Officials; and

WHEREAS, the lowest responsible bidder was Unlimited Builders Construction, LLC that submitted a bid in the amount of \$17,750.00 to perform the tasks required in the rehabilitation; and

WHEREAS, in accordance with N.J.A.C. 5:50-14, a Certificate of Availability of Funds has been provided and the account to be charged is 8-19-56-853-299 (Affordable Housing Trust Fund); and

WHEREAS, Unlimited Builders Construction, LLC has performed satisfactorily;

WHEREAS, the owner of 16 Poillon Court has been deemed eligible to participate in the rehabilitation program;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey, that pursuant to the recommendations of the Municipal Manager, the Mayor and the Municipal Clerk hereby authorize the acceptance of the bid and the execution of a contract with Unlimited Builders Construction, LLC, P. O. Box 9029, Hamilton NJ 08650 in the amount of \$17,750.00.00 for the purpose of rehabilitating 16 Poillon Court;

BE IT FURTHER RESOLVED that the Municipal Manager is hereby authorized to draft the necessary agreement, subject to the approval of the Municipal Attorney as to form and content thereof

Same was carried on the following roll call vote:

Ayes: Councilmembers Kownacki, Lewis, Powers and Mayor Bobbitt.  
Absent: Councilman Maffei.

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Mayor Bobbitt asked for comments from the public. There being none, Mayor Bobbitt asked for comments from Council.

On a motion by Ms. Lewis, seconded by Mr. Powers, Resolution (9-B), Authorizing Awarding Bid for Rehabilitation of 53 Quince Court, was presented for adoption.

Resolution No. 282-18

WHEREAS, on Thursday, July 19, 2018, bids were received and publically opened for the rehabilitation of 53 Quince Court; and

WHEREAS, one (1) bid was received and reviewed by the appropriate Township Officials; and

WHEREAS, the lowest responsible bidder was Windsor Guild Building, LLC that submitted a bid in the amount of \$22,750.00 to perform the tasks required in the rehabilitation; and

WHEREAS, in accordance with N.J.A.C. 5:50-14, a Certificate of Availability of Funds has been provided and the account to be charged is 8-19-56-853-299 (Affordable Housing Trust Fund); and

WHEREAS, Windsor Guild Building, LLC has performed satisfactorily;

WHEREAS, the owner of 53 Quince Court has been deemed eligible to participate in the rehabilitation program;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey, that pursuant to the recommendations of the Municipal Manager, the Mayor and the Municipal Clerk hereby authorize the acceptance of the bid and the execution of a contract with Windsor Guild Building, LLC, 17 School Drive, Windsor NJ 08561 in the amount of \$22,750.00 for the purpose of rehabilitating 53 Quince Court;

BE IT FURTHER RESOLVED that the Municipal Manager is hereby authorized to draft the necessary agreement, subject to the approval of the Municipal Attorney as to form and content thereof.

Same was carried on the following roll call vote:

Ayes: Councilmembers Kownacki, Lewis, Powers and Mayor Bobbitt.  
Absent: Councilman Maffei.



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Mayor Bobbitt asked for comments from the public. There being none, Mayor Bobbitt asked for comments from Council.

On a motion by Ms. Lewis, seconded by Mr. Powers, Resolution (9-C), Authorizing Awarding Bid for Bid for 54 Carter Road, was presented for adoption.

Resolution No. 283-18

WHEREAS, on Thursday, June 7, 2018, bids were received and publically opened for the rehabilitation of 54 Carter Road; and

WHEREAS, one (1) bid was received and reviewed by the appropriate Township Officials; and

WHEREAS, the lowest responsible bidder was Windsor Guild Building, LLC that submitted a bid in the amount of \$18,255.00 to perform the tasks required in the rehabilitation; and

WHEREAS, in accordance with N.J.A.C. 5:50-14, a Certificate of Availability of Funds has been provided and the account to be charged is 8-19-56-853-299 (Affordable Housing Trust Fund); and

WHEREAS, Windsor Guild Building, LLC has performed satisfactorily;

WHEREAS, the owner of 54 Carter Road has been deemed eligible to participate in the rehabilitation program;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey, that pursuant to the recommendations of the Municipal Manager, the Mayor and the Municipal Clerk hereby authorize the acceptance of the bid and the execution of a contract with Windsor Guild Building, LLC, 17 School Drive, Windsor NJ 08561 in the amount of \$18,255.00 for the purpose of rehabilitating 54 Carter Road;

BE IT FURTHER RESOLVED that the Municipal Manager is hereby authorized to draft the necessary agreement, subject to the approval of the Municipal Attorney as to form and content thereof.

Same was carried on the following roll call vote:

Ayes: Councilmembers Kownacki, Lewis, Powers and Mayor Bobbitt.  
Absent: Councilman Maffei.

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Mayor Bobbitt asked for comments from the public. There being none, Mayor Bobbitt asked for comments from Council.

On a motion by Ms. Lewis, seconded by Mr. Powers, Resolution (9-D), Authorizing Awarding Bid for Dix Lane and Other Streets Replacement Planting-Phase 2, was presented for adoption.

Resolution No. 285-18

WHEREAS, on Thursday, August 9, 2018 bids were received and publicly opened for the project known as **Dix Lane Replacement Planting & Other Streets – Phase 2**; and

WHEREAS, three (3) bids were received and reviewed by the appropriate Township Officials; and

WHEREAS, the lowest responsible bidder was Sunset Creations, Inc. who submitted a bid in the amount of \$27,202.00, and

WHEREAS, in accordance with N.J.A.C. 5:50-14, a Certificate of Availability of Funds has been provided and the accounts to be charged are:

| Acct.           | Ordinance | Name                       | Amount      |
|-----------------|-----------|----------------------------|-------------|
| 8-01-20-190-299 | ----      | Ash Tree Hazard Mitigation | \$27,202.00 |

; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey, that pursuant to the recommendations of the Municipal Engineer, the Mayor and Municipal Clerk are hereby authorized to execute a contract with Sunset Creations, Inc., 355 Route 601, Belle Mead NJ 08502 in the amount of \$27,202.00; and

BE IT FURTHER RESOLVED that the Municipal Manager is hereby authorized to draft the necessary agreement, subject to the approval of the Municipal Attorney as to form and content thereof.

Same was carried on the following roll call vote:

Ayes: Councilmembers Kownacki, Lewis, Powers and Mayor Bobbitt.  
 Absent: Councilman Maffei.

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Mayor Bobbitt asked for comments from the public. There being none, Mayor Bobbitt asked for comments from Council.

On a motion by Ms. Lewis, seconded by Mr. Powers, Resolution (9-E), Authorizing Awarding Bid for Bid for 2018 Tree Removal, was presented for adoption.

Resolution No. 286-18

WHEREAS, on Thursday, August 9, 2018 bids were received and publicly opened for the project known as **2018 Tree Removal Re-Bid No. 1**; and

WHEREAS, three (3) bids were received and reviewed by the appropriate Township Officials; and

WHEREAS, the lowest responsible bidder was Rich Tree Service, Inc. who submitted a bid in the amount of \$70,065.00, including Alternate No. 1 and Alternate No. 2, and

WHEREAS, in accordance with N.J.A.C. 5:50-14, a Certificate of Availability of Funds has been provided and the accounts to be charged are:

Acct.	Ord. No.	Name	Amount
8-01-26-290-255	----	Streets	\$35,000.00
8-01-26-310-255	----	Buildings and Grounds	\$25,000.00
8-01-28-375-255	----	Parks	\$10,065.00

; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Lawrence, County of Mercer, State of New Jersey, that pursuant to the recommendations of the Municipal Engineer, the Mayor and Municipal Clerk are hereby authorized to execute a contract with Rich Tree Service, Inc., 325 Bergen Street, South Plainfield NJ 07080 in the amount of \$70,065.00, including Alternate No. 1 and Alternate No. 2; and

BE IT FURTHER RESOLVED that the Municipal Manager is hereby authorized to draft the necessary agreement, subject to the approval of the Municipal Attorney as to form and content thereof.

Same was carried on the following roll call vote:

Ayes: Councilmembers Kownacki, Lewis, Powers and Mayor Bobbitt.  
Absent: Councilman Maffei.

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### Introduction of Ordinances

Mayor Bobbitt read by title, an ordinance entitled, "AN ORDINANCE REPEALING AND REPLACING CHAPTER 10, "GARBAGE AND REFUSE" OF THE LAWRENCE TOWNSHIP MUNICIPAL CODE"

Mr. Nerwinski stated the Mr. Whitehead came before Council two meetings ago to discuss the problems with brush pick related to what the employees were experiencing, enforcement and problems with abuse and upon review of the ordinances they decided to scrap the ordinance and put a new one in place. So, this ordinance repeals and replaces Chapter 10 – Garbage and Refuse of the Lawrence Township Municipal Code. The ordinance will make modifications to the regulations as it pertains to the brush pickup and will assist the Public Works Department in enforcing the Brush Pick-up Policy and proceeded to highlight some of relevant material and benefits of the new ordinance. Section 10-7 that sets the dimension and size of vegetative materials for curbside collection which the prior ordinance did not set; Section 10-14 that sets forth the penalties for violations relative to the terms of the ordinance and Section 10-15 that provides for the registration of commercial landscapers doing work within the Township which allows them to know the origin of where the brush is coming from and that they will have a dedicated civilian employee working out of the Police Department to take over the program and educate the citizens of Lawrence on a new policy.

Mr. Roskos noted that it was a pleasure to work with Greg Whitehead, Director of Public Works, and the rest of the staff to get the ordinance revised and that Mr. Whitehead explained how his manpower has been reduced over the years in an effort to stay within the CAP while continuing to provide the best services possible to the residents of Lawrence. And, he thinks with the collaborative efforts they have a pretty good product addressing the issue and he also thinks they owe it to the public to describe the ordinance in some detail and suggested it be place on the Township's website describing the new changes.

Councilwoman Lewis suggested that the Public Works Department do a demonstration of how the piles should be constructed at Community Day and expressed her concern on two pieces of the business registration requirements in the ordinance as it relates to the registration process and how it will be administered and perceived by the business community and proceeded to discuss Lawrence in the past having a reputation of being business unfriendly and her being concerned if the ordinance is not done right than they will have residents complaining that they cannot get landscaping services for their lawn because the Township is requiring a license that does not make any sense and indicated she will vote to introduce it tonight but she wants to work on those pieces that she is wary about and possibly talk with the Growth & Redevelopment Committee.

Mr. Nerwinski noted education is the key and they will use every outlet to get the word out to the public – social media, website, etc. Further, they did not go high with the registration fee to freeze people out so if the rollout of the ordinance is deficient in any way it can be amended.

Councilman Powers posed a question to Mr. Roskos as to whether the \$150.00 fee still applied to businesses distributing fliers to residences and suggested some language be incorporated in the ordinance to prevent abuse.

Mr. Roskos advised that section of the ordinance was not changed. Ms. Norcia further advised that the distribution of fliers without a permit is prohibited; because if a business does not obtain a permit (with restrictions) they are not allowed to distribute fliers. So, if a resident has a problem they can contact the Clerk’s Office and a Cease and Desist Notice will be sent to the violator.

The Ordinance was introduced and approved on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Kownacki	X						
Ms. Lewis	X					X	
Dr. Maffei				X			
Mr. Powers	X						X
Mayor Bobbitt	X						

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Mayor Bobbitt read by title, an ordinance entitled, AN ORDINANCE AMENDING CHAPTER 13 OF THE LAWRENCE TOWNSHIP ADMINISTRATIVE CODE ENTITLED “MOTOR VEHICLES AND TRAFFIC” AS IT PERTAINS TO GORDON AVENUE”

Mr. Nerwinski advised that the Ordinance amends the Administrative Code to provide for the installation of stop signs for both Bergen Street and Gordon Avenue to create a four-way stop. Residents have expressed their concerns with regards to safety at that intersection and as a response he asked the Municipal Engineer and their Lieutenant in the Traffic Bureau to assess that intersection for safety purposes and come up with some possibilities on how to make it safer whether it be a traffic light, a roundabout or doing nothing and after careful consideration the four-way stop option seemed more natural based on the feeling of the road. In addition, they will have the police monitor the usage of that intersection to see if it is working as intended and voiced his opinion as to idea being the best way at the present time to address that concern.

The Ordinance was introduced and approved on the following roll call vote:

| COUNCIL       | AYE | NAY | PRESENT | ABSENT | ABSTAIN | MOVE | SECOND |
|---------------|-----|-----|---------|--------|---------|------|--------|
| Mr. Kownacki  | X   |     |         |        |         |      |        |
| Ms. Lewis     | X   |     |         |        |         | X    |        |
| Dr. Maffei    |     |     |         | X      |         |      |        |
| Mr. Powers    | X   |     |         |        |         |      | X      |
| Mayor Bobbitt | X   |     |         |        |         |      |        |

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Mayor Bobbitt read by title, an ordinance entitled, "AN ORDINANCE AMENDING CHAPTER 13 OF THE LAWRENCE TOWNSHIP ADMINSTRATIVE CODE ENTITLED "MOTOR VEHICLES AND TRAFFIC" AS IT PERTAINS TO LAWRENCEVILLE-PENNINGTON ROAD

Mr. Nerwinski advised that this Ordinance amends the Administrative Code to allow on-street parking along Lawrenceville-Pennington Road and the matter was brought to his attention by the Municipal Engineer who received word from the Police Department that the road is owned and maintained by the County and does not provide for no parking; however, the Township does have an ordinance on record that provides for no parking the entire length of the road and the signs are only situated and placed in front of Amalfi's. So, both the Engineering and Police Departments are in agreement that it is safe to allow parking along that length of the road for safety purposes with an understanding that the road is County-owned and parking regulations can be change at any given time. Additional discussion took place relative to a bike path and the removal of the signs in front of Amalfi's to allow for overflow parking.

The Ordinance was introduced and approved on the following roll call vote:

| COUNCIL       | AYE | NAY | PRESENT | ABSENT | ABSTAIN | MOVE | SECOND |
|---------------|-----|-----|---------|--------|---------|------|--------|
| Mr. Kownacki  | X   |     |         |        |         |      |        |
| Ms. Lewis     | X   |     |         |        |         | X    |        |
| Dr. Maffei    |     |     |         | X      |         |      |        |
| Mr. Powers    | X   |     |         |        |         |      | X      |
| Mayor Bobbitt | X   |     |         |        |         |      |        |

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Mayor Bobbitt read by title, an ordinance entitled, "ORDINANCE AMENDING ORDINANCE NO. 2297-18 BY THE TOWNSHIP OF LAWRENCE, COUNTY OF MERCER, STATE OF NEW JERSEY, IN ORDER TO REVISE THE DESCRIPTION OF THE IMPROVEMENT HEREIN"

Mr. Nerwinski advised that the Ordinance amends Bond Ordinance 2297-18 to allow for the acquisition of various computer and office equipment. The amendment authorizes the equipment description to be changed from "police copier" to "police copier and printer" which by law they are required to identify accurately.

The Ordinance was introduced and approved on the following roll call vote:

| COUNCIL       | AYE | NAY | PRESENT | ABSENT | ABSTAIN | MOVE | SECOND |
|---------------|-----|-----|---------|--------|---------|------|--------|
| Mr. Kownacki  | X   |     |         |        |         |      |        |
| Ms. Lewis     | X   |     |         |        |         | X    |        |
| Dr. Maffei    |     |     |         | X      |         |      |        |
| Mr. Powers    | X   |     |         |        |         |      | X      |
| Mayor Bobbitt | X   |     |         |        |         |      |        |

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Adoption of Ordinances

Mayor Bobbitt read by title, an ordinance entitled, "ORDINANCE OF THE TOWNSHIP OF LAWRENCE, MERCER COUNTY, TO REPEAL AND RELACE SECTION 901, ENTITLED "AFFORDABLE HOUSING CONTRIBUTION", OF THE TOWNSHIP LAND USE ORDINANCE IN ACCORDANCE WITH THE CONDITIONS AND REQUIREMENTS OF THE SUPERIOR COURT OF NEW JERSEY"

Ordinance No. 2302-18

ORDINANCE OF THE TOWNSHIP OF LAWRENCE, MERCER COUNTY TO REPEAL AND REPLACE SECTION 901, ENTITLED "AFFORDABLE HOUSING CONTRIBUTION", OF THE TOWNSHIP LAND USE ORDINANCE IN ACCORDANCE WITH THE CONDITIONS AND REQUIREMENTS OF THE SUPERIOR COURT OF NEW JERSEY

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Lawrence, Mercer County, New Jersey, as follows:

**Section 1.**

**§901 AFFORDABLE HOUSING CONTRIBUTION**

**A. Purpose**

1. In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 ("the Act"), N.J.S.A. 52:27d-301, et seq., and the State Constitution, subject to the Council on Affordable Housing's ("COAH") adoption of rules for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and spending plans.
2. According to P.L. 2008, c. 46 section 8 (N.J.S.A. 52:27D-329.2), and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), municipalities under the jurisdiction of COAH or a court of

competent jurisdiction that had an approved spending plan were permitted to retain fees collected from non-residential development.

3. In In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025 are under the Court's jurisdiction and are subject to approval by the Court.
4. This Section establishes standards for the collection, maintenance, and expenditure of development fees consistent with COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low- and moderate- income housing. This Ordinance shall be interpreted within the framework of applicable COAH rules on development fees.

#### **B. Basic requirements**

1. This Ordinance shall not become effective until the Court approves the Township's amended development fee ordinance and shall remain effective pursuant to the Superior Court's jurisdiction through July 1, 2025.
2. COAH approved the Township's initial Spending Plan on or about October 19, 1987, and subsequently approved a Third Round Spending Plan on or about April 2, 2009. Upon the Court's approval of Lawrence Township's 2018 Spending Plan, Lawrence Township may continue to spend development fees consistent with the approved Spending Plan.

#### **C. Definitions**

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

1. **"Affordable housing development"** means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
2. **"COAH"** or the **"Council"** means the New Jersey Council on Affordable Housing established under the Act.



3. “**Developer**” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
4. “**Development fee**” means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.
5. “**Equalized assessed value**” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).
6. “**Green building strategies**” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

**D. Residential Development fees**

1. Imposed fees
  - a) Within the all district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development, provided no increased density is permitted.
  - b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two- year period preceding the filing of the variance application.
2. Eligible exactions, ineligible exactions and exemptions for residential development

- a) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the Township, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- b) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- c) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- d) Developers of one or two-owner occupied dwelling units, residential structures demolished and replaced as a result of a natural disaster, green buildings, etc., shall be exempt from paying a development fee.

## **E. Non-residential Development fees**

### **3. Imposed fees**

- a) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- b) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

- c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, *i.e.*, land and improvements, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
2. Eligible exactions, ineligible exactions and exemptions for non-residential development.
- a) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half percent (2.5%) development fee, unless otherwise exempted below.
  - b) The two and a half percent (2.5%) fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
  - c) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
  - d) A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
  - e) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township as a lien against the real property of the owner.

**E. Collection procedures**

1. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
2. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
3. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
4. Within ninety (90) days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
6. Within ten (10) business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should Lawrence Township fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).

8. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
9. Appeal of development fees
  - a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  - b) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**F. Affordable Housing trust fund**

1. The Township has created a separate, interest-bearing affordable housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - a) Payments in lieu of on-site construction of affordable units;
  - b) Developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached

- development accessible;
  - c) Rental income from municipally operated units;
  - d) Repayments from affordable housing program loans;
  - e) Recapture funds;
  - f) Proceeds from the sale of affordable units; and
  - g) Any other funds collected in connection with the Township's affordable housing program.
3. The Township had previously provided COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8. The Superior Court shall now have the jurisdiction to direct the disbursement of the Township's trust funds as originally provided to COAH.

All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

**G. Use of funds**

1. The expenditure of all funds shall conform to a spending plan approved by the Superior Court. Funds deposited in the housing trust fund may be used for any activity approved by the Superior Court to address the Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan.
2. Funds shall not be expended to reimburse the Township for past housing activities.

3. At least thirty percent (30%) of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty percent (30%) or less of median income by region.
  - a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
  - b) Affordability assistance to households earning thirty percent (30%) or less of median income may include buying down the cost or subsidizing the construction of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
  - c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

The Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance.

No more than twenty percent (20%) of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty percent (20%) of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements set forth in the Court-approved April 28, 2017 executed Settlement Agreement with Fair Share Housing Center. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Court's rulings are not eligible uses of the affordable housing trust fund.

**I. Monitoring**

1. On or about June 30 of each year through 2025, the Township shall provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs (“DCA”), COAH, or Local Government Services (“LGS”), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and Intervenors and posted on the municipal website, using forms developed for this purpose by DCA, COAH, or LGS. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township’s housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Superior Court.

**J. Ongoing collection of fees**

1. The ability for the Township to impose, collect and expend development fees shall expire with its Court-issued Judgment of Compliance and Repose unless the Township of Lawrence has first filed an adopted Housing Element and Fair Share Plan with the Superior Court or other appropriate jurisdiction, has filed a petition for certification or a Declaratory Judgment Action, and has received approval of its development fee ordinance from the appropriate jurisdiction.
2. If the Township fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (N.J.S.A. 52:27D-320).
3. The Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall the Township retroactively impose a development fee on such a development. The Township shall not expend development fees after the expiration of its Judgment of Compliance and Repose unless the Township has first sought and obtained approval to do so from the entity that will be reviewing and approving its 2025 Housing Element and Fair Share Plan.



**Section 2.** Continuation. In all other respects, the Land Use Ordinance of the Township of Lawrence shall remain unchanged.

**Section 3.** Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Land Use Ordinance as a whole, or any other part thereof.

**Section 4.** Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

**Section 5.** Enactment. This Ordinance shall take effect upon the filing thereof with the Mercer County Planning Board after final passage, adoption, and publication by the Township Clerk of the Township of Lawrence in the manner prescribed by law.

Ordinance No. 2302-18 was introduced and approved on the following roll call vote:

| COUNCIL       | AYE | NAY | PRESENT | ABSENT | ABSTAIN | MOVE | SECOND |
|---------------|-----|-----|---------|--------|---------|------|--------|
| Mr. Kownacki  | X   |     |         |        |         |      |        |
| Ms. Lewis     | X   |     |         |        |         | X    |        |
| Dr. Maffei    |     |     |         | X      |         |      |        |
| Mr. Powers    | X   |     |         |        |         |      | X      |
| Mayor Bobbitt | X   |     |         |        |         |      |        |

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Mayor Bobbitt read by title, an ordinance entitled, "ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWNSHIP OF LAWRENCE TO REVISE ARTICLE X, AFFORDABLE HOUSING PROCEDURAL AND ELIGIBILITY REQUIREMENTS, TO IMPLEMENT THE THIRD ROUND OF AFFORDABLE HOUSING IN ACCORDANCE WITH THE FAIR HOUSING ACT OF 1985"

Ordinance No. 2303-18

ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWNSHIP OF LAWRENCE TO REVISE ARTICLE X, AFFORDABLE HOUSING PROCEDURAL AND ELIGIBILITY REQUIREMENTS, TO IMPLEMENT THE THIRD ROUND OF AFFORDABLE HOUSING IN ACCORDANCE WITH THE FAIR HOUSING ACT OF 1985

**WHEREAS**, the New Jersey Supreme Court and New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) ("Mount Laurel II") and the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA") that every municipality in New Jersey has an affirmative obligation to facilitate the provision of low and moderate income housing; and

**WHEREAS**, the Mayor and Township Council of the Township of Lawrence are desirous of ensuring the proper implementation of the Fair Housing Act and associated rules through the adoption of a Housing Element of the Master Plan by the Planning Board and Fair Share Plan and land use regulations by the governing body; and

**WHEREAS**, the Township of Lawrence desires to implement policies established by the New Jersey Supreme Court in In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) to foster affordable housing opportunities for the production of dwellings and their occupancy by low and moderate income households.

**WHEREAS**, the Mayor and Township Council of the Township of Lawrence recognize the need to amend Article X, Affordable Housing Procedural and Eligibility Requirements, of the Land Use Ordinance of the Township of Lawrence to implement the Housing Element and Fair Share Plan; and

**WHEREAS**, the Planning Board of the Township of Lawrence has adopted the Housing Element and Fair Share Plan, and reviewed and recommended the adoption of this and other implementing ordinances.

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Lawrence, Mercer County, New Jersey, as follows:

**Section 1.** Article II, §201, entitled, Definitions, of the Land Use Ordinance of the Township of Lawrence, shall be amended by revising certain definitions to read as follows:

**AFFORDABLE DWELLING UNIT:** A very low, low or moderate income dwelling unit.

**AFFORDABLE RENTAL CHARGES:** A monthly rent including utilities charged to an eligible very low, low or moderate income family which shall not exceed 30% of their monthly gross income as calculated by *N.J.A.C. 5:93-7.4(f)*.

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

**DEVELOPMENT FEE:** means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:93-8*.

**HOUSEHOLD:** Persons, whether related or unrelated, living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.

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

**QUALIFIED PURCHASER OR RENTER:** A person who:

- A. Submits an application for certification as a qualified purchaser or renter to the management of the unit;
- B. Whose gross aggregate family income at the time of the proposed purchase or rental of an affordable unit is within very low, low or moderate income levels, as defined herein; and
- C. Who obtains certification as a qualified purchaser or renter of an affordable unit from the Lawrence Township Office of Housing and Redevelopment as set forth in this section.

**Section 2.** Article II, §201, entitled, Definitions, of the Land Use Ordinance of the Township of Lawrence, shall be amended by adding the following definitions:

**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. 5:94*~~, *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 very low, 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 income 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:** Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

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

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

**CERTIFIED HOUSEHOLD -** A household that has been certified by an Administrative Agent as a very low-income, low-income household or moderate-income household.

**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.

**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.A.C. 5:93-5*.

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

**LOW-INCOME HOUSEHOLD:** A household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

**LOW-INCOME UNIT:** 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 housing region, as updated annually according to a formula approved by the Court.

**MODERATE-INCOME HOUSEHOLD:** A household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

**MODERATE-INCOME UNIT:** 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).

**REFERRAL LIST, AFFORDABLE HOUSING:** A register of eligible very low, low and moderate income households for which suitable units are not yet available.

**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 adopted/approved Regional Income Limits.

**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 the Urban Homeownership Recovery Program (UHORP) or Market Oriented Neighborhood Investment (MONI) program.

**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 by household size.

**VERY LOW-INCOME UNIT:** A restricted unit that is affordable to a very low-income household.

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

**Section 3.** Article II, §201, entitled, Definitions, of the Land Use Ordinance of the Township of Lawrence, shall be amended by deleting the definitions for ELIGIBLE LOW OR MODERATE INCOME FAMILY and MEMBER OF THE IMMEDIATE FAMILY.

**Section 4.** Article X of the Land Use Ordinance of the Township of Lawrence, entitled, Affordable Housing Procedural and Eligibility Requirements, shall be amended in its entirety as follows:

ARTICLE X  
AFFORDABLE HOUSING PROCEDURAL  
AND ELIGIBILITY REQUIREMENTS

§ 1000 Purpose and General Provisions.

- A. The purpose of this Article is to implement the Uniform Housing Affordability Controls (“UHAC”, *N.J.A.C. 5:80-26.1 et seq.*, as they may be amended or superseded), the New Jersey Fair Housing Act (*N.J.S.A.52:27D-301, et seq.*), extant rules of the NJ Council on Affordable Housing, and the Housing Element and Fair Share Plan of Lawrence Township. This Article is designed to ensure that affordable housing created under the Fair Housing Act is occupied by low-

and moderate-income households for the appropriate period of time. The words, phrases, and terms herein shall be interpreted to have the same meanings and usages as in the Fair Housing Act and related regulations. It is the further purpose of this Article to regulate the development and management of low- and moderate-income housing units constructed in compliance with these regulations.

- B. All units, including those funded with Low Income Housing Tax Credits or other subsidy programs, shall include the required bedroom distribution and income distribution, shall be subject to affordability controls, and shall be affirmatively marketed in accordance with UHAC, with the exception that instead of 10% of all rental affordable units being affordable to households earning 35% of less of the regional median household income by household size, 13% of all rental affordable units shall be affordable to households earning 30% or less of the regional median household income by household size, and all other applicable law.
- C. All new construction units shall be adaptable in conformance with *N.J.S.A. 52:27D-311a* and *-311b* and all other applicable law.
- D. The Affordable Housing Board created pursuant to §607 of this Ordinance shall administer the provisions of this Article in conjunction with the staff of the Lawrence Township Department of Planning and Redevelopment, Municipal Housing Liaison and Municipal Administrative Agent, as the case may be.
- E. Definitions pertaining to affordable housing are incorporated into Article II.

[Ed. Note: Existing definitions pertaining to affordable housing are included at the end of this ordinance for ease of use, but are not intended to be adopted with the passage of this ordinance. Those struck through are intended to be replaced with those in this ordinance.]

**§ 1001                      Affordable Housing Required.**

- A. Any residential development approved after January 28, 1998, including those developments consisting in whole or in part of beds counted as a residential dwelling, shall set aside dwelling units for persons of low and moderate income as defined in this Article. Unless otherwise stated or as may be required within specific zoning districts, the minimum set aside shall be 15% of the total number of units if the affordable units will be for rent and 20% of the total number of units if the affordable units will be for sale. In assisted living residence developments, the set-aside shall be a minimum of 10% of the total number of units. At least half of all affordable units shall be affordable to low or very low income households. Except when part of a larger development of a tract zoned or otherwise permitted to be developed at a residential density of 6 units per acre or more, developments of single-family detached and/or duplex or two-family dwellings shall be exempt from the inclusionary development requirements of this

section, but shall pay an affordable housing fee pursuant to Article IX. Properties shall not be permitted to be subdivided to avoid compliance with the inclusionary development requirements of this section.

- B. All developers with sites identified for affordable housing pursuant to the most recent Housing Element and Fair Share Plan adopted by the Planning Board and Township Council of Lawrence, according to their respective duties, shall provide affordable housing units in accordance with the plan. All development that falls within the time period of the present round of affordable housing obligation shall construct units or pay a development fee in accordance with this Article and Article IX.
- A. § 1002 Affordable Housing Administrator and Administrative Agent The Township Council shall yearly appoint an Affordable Housing Administrator (the Administrator) to monitor sales and resales of affordable housing units. The Administrator shall be the Municipal Housing Liaison and may, but is not required to be, the Administrative Agent of the municipality pursuant to *N.J.A.C. 5:80-26.14*.
- B. The Administrator shall monitor the designated Administrative Agent of the developer in the initial sales and rental transactions for low- and moderate-income dwellings in accordance with *N.J.A.C. 5:80-26.14*, as it may be amended or superseded. The developer's administrative agent shall have all of responsibilities as put forth in this rule. After the initial sales and rental transactions, the Administrator shall monitor, if such person is not the municipality's Administrative Agent, the activities of the Administrative Agent for any re-sales or re-rentals. If the Administrator is the Administrative Agent for the municipality, then he or she shall assume all of the duties and responsibilities set forth in *N.J.A.C. 5:80-26.14* following the initial renting, sales and occupancy of low- and moderate-income dwellings. The affordability controls set forth in this chapter shall be administered and enforced by the Administrative Agent regardless of association. The primary responsibility of the Administrative Agent shall be to ensure that the restricted units are sold or rented, as applicable, only to low- and moderate-income households in accordance with the Fair Housing Act.
- C. The Township Council may establish a reasonable fee to program participants for the administration of the affordability controls program.
- D. The Administrative Agent, whether the Administrator, developer's agent, or a delegated agent, shall have the responsibility to income qualify low and moderate-income households, to place income eligible households in low- and moderate-income units upon initial occupancy, to provide for the initial occupancy of low- and moderate-income units with income qualified households, to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls, to assist with advertising and outreach to low- and moderate-income households, and to enforce the terms of the deed restriction



and mortgage loan. The Administrative Agent shall provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements and landlord/tenant law.

- E. The Administrator shall coordinate his or her activities with any outside Administrative Agent to ensure the accurate tracking of the progress of affordable housing in the municipality, answer inquiries regarding affordable housing from the public or direct same to the appropriate official or agency, and comply with the affordable housing monitoring and reporting requirements of the state.
- F. In order to ensure an orderly transfer of control responsibility from a municipality to an administrative agent, from one administrative agent to another administrative agent, or other transfer, the requirements as set forth in *N.J.A.C. 5:80-26.17* shall apply as are necessary before or during the transition. The Administrative Agent's enforcement responsibility for implementing such practices and procedures shall not be delegated or otherwise transferred to any other party, except to a successor administrative agent.
- G. By accepting state funds for affordable housing purposes, or by submitting to the jurisdiction of the NJ Department of Community Affairs or its successor agency, the Township of Lawrence shall be deemed to have delegated to the Administrative Agent the day-to-day responsibility for implementing practices and procedures designated to ensure effective compliance with the controls set forth in this Article. The governing body of the municipality, however, shall retain the ultimate responsibility for ensuring effective compliance with the requirements as set forth in UHAC and any settlement agreements pertaining to affordable housing matters, including the settlement agreement with Fair Share Housing Center in In the Matter of the Application of the Township of Lawrence, Docket No. MER-L-1538-15.
- H. The Township shall file monitoring and status reports with Fair Share Housing Center ("FSHC") and place the reports on its municipal website. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring evaluation report prepared by the Special Master in accordance with *N.J.A.C. 5:91* shall be available to the public at the Lawrence Township Municipal Building, 2207 Lawrence Road, Lawrence Township, New Jersey 08648.
  - 1. On or about April 28 of each year through the end of the period of Third Round Judgment of Repose, the Township will provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to all parties to the Township's Court-approved Settlement Agreements, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

2. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in the Township's Court-approved agreement with FSHC. The Township agrees to comply with those provisions as follows:
  - i. By July 1, 2020, the Township must prepare a midpoint realistic opportunity review, as required pursuant to N.J.S.A. 52:27D-313, which the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues. In the event the Court determines that a site or mechanism no longer presents a realistic opportunity and should be replaced or supplemented, then the municipality shall have the opportunity to supplement or revise its plan to correct any deficiency.
  - ii. Within 30 days of April 28, 2020 and April 28, 2023 the Township shall prepare a review of compliance with the very-low income housing requirements required by N.J.S.A. 52:27D-329.1 and its Court-approved Settlement Agreement with FSHC. The Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very-low income requirements, including the family very-low income requirements referenced herein and in the Township's Settlement Agreement with FSHC. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very-low income housing obligation.
- I. The Administrator shall keep records of the affirmative marketing activities undertaken in accordance with the affirmative marketing plan established by any developer's administrative agent. The records shall include, but not be limited to, the following:
  1. Electronic reporting of affordable housing activity; any required paper forms;
  2. Copies of any press releases, brochures, flyers, print advertisements and application forms used in the affirmative marketing program.
  3. The income and demographic characteristics of each household applying for and occupying income-restricted housing.

4. An evaluation of any necessary adjustments required to the affirmative marketing program as communicated by the Administrative Agent.

**§ 1003                      Submission of Affordable Housing Plan.**

- A. The developer of low and moderate income housing units shall submit to the Affordable Housing Board a description of the means to be used to insure that the required low and moderate income units are sold or rented only to low and moderate income households for a period of not less than 30 years, that such units meet bedroom distribution and phasing requirements, and comports with the requirements of this Chapter pertaining to the provisions, leasing, selling and transferring units among eligible low and moderate income households. The Affordable Housing Board may delegate such plan review to the Administrator.
- B. The Affordable Housing Plan shall indicate how the developer will comply with the procedures of this Article for selecting occupants of low and moderate income housing and the required affirmative marketing requirements. The requirements for affirmative marketing are found in §1015. Whenever a developer proposes a third party operator or manager of affordable housing units, the Affordable Housing Board shall specifically approve such operator and manager.
- C. The following information shall promptly be provided to the Administrator and/or Administrative Agent by the developer or sponsor of any project containing any affordable units subject to the requirements of this Article, upon the later of either final municipal land use approval or issuance of a grant contract by a governmental authority:
  1. The total number of units in the project, and number of restricted units, broken down by bedroom size, identifying which are low and which are moderate income dwellings, and including street addresses of restricted dwellings;
  2. Floor plans of all affordable dwellings, including complete and accurate identification of uses and dimensions of all rooms;
  3. A project map identifying the locations of low and moderate income and market dwellings;
  4. A list of project principals or partners, together with a list of all other affordable projects in which they have been involved over the previous five years;
  5. Projected construction schedule;
  6. Proposed pricing for all units, including any purchaser options and add-on items;
  7. A list of all public funding sources and copies of grant or loan agreements for those sources;

8. Condominium fees or homeowner association and any other maintenance or other fees;
  9. Estimated real property taxes for sale units;
  10. Sewer, trash disposal and any other utility assessments;
  11. Flood insurance requirement, if applicable;
  12. A description of all HVAC systems;
  13. Location of any common areas and elevators;
  14. Proposed form of lease for any rental units;
  15. The name of the person who will be responsible for official contact with the Township Administrator for the duration of the project;
  16. The name and qualifications of the developer's administrative agent, if applicable; and
  17. The State-approved Planned Real Estate Development public offering statement and/or master deed where available or applicable.
- D. The developer shall submit the marketing plan to the Affordable Housing Board at least 45 days prior to the advertising of the availability of the units. The Affordable Housing Board will approve or modify the plan within 30 working days of receipt of the plan or within such time as additionally granted by the developer.

**§ 1004 Household Income Limitations.**

- A. The incomes of low and moderate-income households occupying affordable housing shall not exceed the income limits as of January 1 of the current year.
- B. Median Income Determination. Income limits for all units for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to *N.J.A.C. 5:80-26.1* shall be updated by the Township annually within 30 days of the publication of determinations of median income by the U.S. Department of Housing and Urban Development (HUD) as follows:
  1. Regional income limits shall be established for the Region 1 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Region 4. This quotient represents the regional weighted average of median income for a

household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

2. The income limits calculated each year shall be the result of applying the percentages set forth in subparagraph -1 above to HUD's determination of median income for the relevant fiscal year, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
3. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to *N.J.A.C. 5:80-26.16(b)3* shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to subparagraph -1 above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

C. **Affordable Housing Purchase or Rent.** Very low income housing units shall be reserved for households with a gross household income less than or equal to 30% of the median regional income. Very low income households shall be considered a subset of low income units. Of the number of very low income households, at least 50% shall be for family households. Low income housing units shall be reserved for households with a gross household income less than or equal to 50% of the median regional income. Moderate income units shall be reserved for households with a gross household income more than 50% but equal to or less than 80% of the median income.

D. **Assisted Living Facilities.** Income determination and eligibility for assisted living facilities shall also comply with the New Jersey Housing and Mortgage Finance Agency's Assisted Living Underwriting Guidelines and Financing Policy, dated May 28, 1996, as it may be amended or superseded. The monthly fee for rent, meals, and basic services for the affordable units in the assisted living facility shall not exceed 80% of household income. For the purposes of this section, 62.5% of the fee shall be assumed to be for meals and basic services and 37.5% of the fee for rent.

## § 1005 Household Income Verification.

- A. The Administrative Agent shall secure all information from applicant households necessary and appropriate to determine that restricted dwellings are occupied by

properly sized households with appropriate very low, low or moderate income levels. No household may be referred to a restricted dwelling, or may receive a commitment with respect to a restricted dwelling, unless that household has received a signed and dated certification, as set forth in this section, and has executed the certificate in the form provided.

- B. The Administrative Agent shall use a random selection process to select occupants of very low, low and moderate- income housing.
- C. The Administrative Agent shall prepare a standard form of certification and shall sign and date one for each household when certified. This certification shall be known as a Certificate of Eligibility and shall be a prerequisite for the purchase or rental of an income-restricted dwelling. An initial certification shall be valid for no more than 180 days unless a valid contract for sale or lease has been executed within that time period. In this event, certifications shall be valid until such time as the contract for sale or lease is ruled invalid and no occupancy has occurred. Certifications may be renewed in writing at the request of a certified household for an additional period of 180 days at the discretion of the Administrator or Administrative Agent.
- D. When reviewing an applicant household's income to determine eligibility, the Administrator or Administrative Agent shall compare the applicant household's total gross annual income to the regional very low, low and moderate income limits then in effect, as approved by the court of competent jurisdiction. For the purposes of this subchapter, income includes, but is not limited to, wages, salaries, tips, commissions, alimony, regularly scheduled overtime, pensions, social security, unemployment compensation, Temporary Assistance for Needy Families (TANF), verified regular child support, disability, net income from business or real estate, and income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds and imputed income from non-income producing assets, such as equity in real estate.
- E. Except as otherwise specifically stated in this subchapter, the sources of income considered by the Administrator or Administrative Agent shall be the types of regular income reported to the Internal Revenue Service and which is eligible to be used for mortgage loan approval. Household annual gross income shall be calculated by projecting current gross income over a 12-month period.
- F. Assets not earning a verifiable income shall have an annual imputed interest income using a current average annual savings interest rate. Assets not earning income include, but are not limited to, present real estate equity. Applicants owning real estate shall produce documentation of a market value appraisal and outstanding mortgage debt. The difference shall be treated as the monetary value of the asset and the imputed interest added to income. If the applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit, a Certificate of Eligibility shall be denied by the Administrator or Administrative Agent, unless the applicant's existing monthly housing costs (including principal, interest, taxes, homeowner and private

mortgage insurance, and condominium and homeowner association fees as applicable) exceed 33% of the household's eligible monthly income.

- G. Rent from real estate shall be considered income, after deduction of any mortgage payments, real estate taxes, property owner's insurance and reasonable property management expenses as reported to the Internal Revenue Service. Other expenses are not deductible. If actual rent is less than fair market rent, the Administrator or Administrative Agent shall impute a fair market rent.
- H. Income does not include benefits, payments, rebates or credits received under any of the following:
  - 1. Federal or State low income energy assistance programs;
  - 2. Food stamps, payments received for foster care, relocation assistance benefits;
  - 3. Income of live-in attendants, scholarships, student loans, and personal property, including but not limited to, automobiles; and
  - 4. Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements, and part-time income of persons enrolled as full-time students.
  - 5. Income, however, does include interest and other earnings from the investment of any of the foregoing benefits, payments, rebates, or credits.
- I. The Administrative Agent shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify the member's income, including income received by adults on behalf of minor children for their benefit. Household members 18 years of age or older who do not receive income must produce documentation of current status. Income verification documentation may include, but is not limited to, the following for each and every member of a household who is 18 years of age or older:
  - 1. Four consecutive pay stubs, not more than 120 days old, including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure;
  - 2. Copies of Federal and State income tax returns for each of the preceding three tax years;
  - 3. A letter or appropriate reporting form verifying monthly benefits such as Social Security, unemployment, TANF, disability or pension income (monthly or annually);
  - 4. A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support;
  - 5. Income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds; and

6. Evidence or reports of income from directly held assets such as real estate or businesses.
  7. Court ordered payments for alimony or child support to another household, whether or not it is being paid regularly, shall be excluded from income for purposes of determining income eligibility.
- J. At the discretion of the Administrator or Administrative Agent, households may also be required to produce documentation of household composition for determining the correct dwelling size and applicable median income guide.
- K. Tenant Income Eligibility. In addition to the foregoing requirements, tenant income eligibility shall be in accordance with *N.J.A.C. 5:80-26.13* and the following determinations:
1. Median Income Limits:
    - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median household income by household size.
    - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median household income by household size.
    - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median household income by household size.
  2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to *N.J.A.C. 5:80-26.16*, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
    - a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
    - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
    - c. The household is currently in substandard or overcrowded living conditions;



- d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - e. The household documents 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.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in -2.a through -2.e above with the Administrative Agent, who shall counsel the household on budgeting.

**§ 1006 Certificate of Eligibility, Waiting List and Selection**

- A. If the household is found to be eligible for low and moderate income housing, they shall be issued a Certificate of Eligibility and placed on the affordable housing waiting list, except in the event that such a certificate is withheld or removed in accordance with this section. Eligible persons that live or work within the East Central Housing Region (Region 4) shall have preference over those that live or work in another housing region.
- B. Applicants shall be selected in the order in which their applications are certified and in accordance with the provisions of this section.
- C. Households remaining on a waiting list shall update its application no later than April 30 each year, including the most recent federal income tax return of each member of the proposed household and such other updated income and other information requested on the application.
- D. Households on the waiting list who have not submitted the required information by May 15 each year shall be notified by certified mail, mailed to the address on file that they have until June 30 of that year to provide the information or they shall be removed from the waiting list.
- E. Any household whose income or priority category has changed such that the household has become eligible for a different category of housing or priority list shall be placed on the appropriate list without penalty or favor as of the date of the original application.
- F. Any household whose income has increased to the degree that it is no longer eligible for low or moderate income housing shall be removed from the waiting list.
- G. If the Administrator or Administrative Agent has reason to believe that the information on file is erroneous or incomplete, he or she shall have the right to conduct an investigation and request any additional information deemed necessary to obtain accurate household information. If an applicant does not cooperate in such investigation or refuses to reply with the requested additional information within 30 days of said request, the applicant shall be removed from the list.

- H. All applications shall be notarized and certified complete and accurate. Anyone knowingly submitting incomplete, inaccurate, incorrect or false information may be removed from eligibility for very low, low and moderate income dwellings. All information submitted to the Administrator or Administrative Agent for the purposes of determining applicant eligibility shall be strictly confidential and not considered a public record.
- I. Prior to the time of availability of a very low, low and moderate income dwelling, the Administrator or Administrative Agent shall notify by certified mail the top three households on the waiting list for the type of dwelling available, its location and the estimated date it will be available. If a purchaser or tenant cannot be found from the top three households on the waiting list, notice shall be sent to the fourth, fifth, etc., household until a purchaser or tenant is found. The household shall, within 14 days of mailing, notify the Administrator or Administrative Agent, in writing, of its intent to occupy the dwelling and, if selected, its intent to comply with the requirements of paragraph –I, below, within 15 days. Any household which fails to respond to the notice or chooses to reject a specific dwelling by informing the Administrative Agent in writing, shall retain its priority and shall be notified of available dwellings in the future, except that if a household chooses to reject a dwelling or fails to respond three times, it shall be removed from the list and must reapply and re-qualify if it wishes to be placed on the list at a new qualified priority.
- J. At the time of notice to a household of the availability of an appropriate type of dwelling and if the household notifies the Administrative Agent of its intent to occupy the dwelling and that household is selected for occupancy, each household member shall update the records on file and recertify the accuracy of the information as required herein. Information shall be reviewed and the eligibility status reconfirmed. The household selected shall only at that point proceed to make the legal and financial arrangements to acquire or lease the dwelling.
- K. If a household selected for occupancy is unable to obtain financing, it shall lose its eligibility for that dwelling, after notice, but shall retain its priority status for a similar appropriate dwelling as other dwellings become available and as long as the household remains eligible. When notified of the availability of another dwelling, updating and recertifying data as outlined in Subsection –H above is required.
- L. A certificate of eligibility may be withheld by the Administrator or Administrative Agent as a result of an applicant's inability to demonstrate sufficient present assets for down payment or security deposit purposes.
- M. A certificate of eligibility may be withheld by the Administrator or Administrative Agent as a result of an applicant's inability to verify funds claimed as assets, household composition or other facts represented.
- N. A certificate of eligibility shall be denied by the Administrator or Administrative Agent as a result of any willful and material misstatement of fact made by the applicant in seeking eligibility.

**§ 1007 Unit Standards and Requirements.**

- A. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units and the remainder may be moderate income units.
- B. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - 1. The combined number of efficiency and one-bedroom units is no greater than 20 percent of the total low- and moderate-income units;
  - 2. At least 30 percent of all low- and moderate-income units are two bedroom units;
  - 3. At least 20 percent of all low- and moderate-income units are three bedroom units; and
  - 4. The remainder, if any, may be allocated at the discretion of the developer.
- C. Age-restricted low- and moderate-income units may utilize a modified bedroom distribution. At a minimum, the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the affordable development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.
- D. In determining the initial rents and initial sales prices for compliance with the affordable average requirements for restricted units other than assisted living facilities, the following standards shall be used:
  - 1. An efficiency shall be affordable to a one-person household;
  - 2. A one-bedroom dwelling shall be affordable to a one and one-half person household;
  - 3. A two-bedroom dwelling shall be affordable to a three-person household;
  - 4. A three-bedroom dwelling shall be affordable to a four and one-half person household;
  - 5. A four-bedroom dwelling shall be affordable to a six-person household.
  - 6. In referring certified households to specific income-restricted units, to the extent feasible and without causing an undue delay in occupying the dwelling, the Administrator shall strive to:
    - a. Provide an occupant for each unit's bedroom;
    - b. Provide children of different sex with separate bedrooms; and
    - c. Prevent more than two persons from occupying a single bedroom.

- E. **Size of Units.** The minimum size of affordable housing units, which is necessary to ensure the public health safety and welfare of its occupants, shall be as indicated in Table 10.1.

**Table 10.1 Minimum Size of Affordable Housing Units.**

Type of Unit	Minimum Size (gross square feet)
Efficiency	500
One-bedroom	600
Two-bedroom	750
Three-bedroom	900

- F. **Certificates of Occupancy.** The following additional requirements for the issuance of certificates of occupancy shall apply to inclusionary developments:
  1. The initial issuance of certificates of occupancy for market units shall be linked to the issuance of certificates of occupancy for affordable units. Prior to the issuance of the certificates of occupancy for market units, certificates of occupancy for affordable units shall be required in the following minimum ratios:

**Table 10.2 Required Percentage of Affordable to Market Units**

Percentage of Affordable Housing Units Completed	Percentage of Market Housing Units Completed
0%	25%
10%	25% + 1
50%	50%
75%	75%
100%	90%

2. Each unit of affordable housing shall require a certificate of occupancy, which shall become void upon a change of owner or tenant.
  3. No certificate of occupancy shall be issued for a low and moderate income unit unless the provisions of *N.J.A.C. 5:93-9.3*, or superseding administrative code, are met.
- G. Unit Type and Household Size. The following housing type shall be used in determining affordability as it relates to household size:

**Table 10.3 Unit Type and Household Size.**

<b>Unit Size</b>	<b>Household Size (persons)</b>
Efficiency	1
One-bedroom	1.5
Two-bedroom	3
Three-bedroom	4.5
Four-bedroom	6

- H. Distribution of Low and Moderate Income Units. At least 50% of all units within each inclusionary development shall be affordable to low income households. At least 50% of all rental units shall be affordable to low income households. Of the total number of affordable housing units, 13% of the total shall be earmarked as very low income units and shall be counted towards the minimum low income requirement.
- I. Utilities and Heating Source. 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 the NJ Department of Community Affairs for its Section 8 program. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- J. Appearance and Location. The facade of an affordable housing dwelling shall be indistinguishable from those of market units in terms of the use of exterior materials, windows, doors, reveal, roof pitch, color, or other material. Affordable housing units shall be fully integrated with market rate housing to the greatest extent feasible and shall have access to open space and site amenities comparable to that of market rate units.
- K. Tenure. For inclusionary developments with a single housing type, the affordable housing units shall have the same tenure as the market housing units.

**§ 1008 Initial Selling and Renting Determinations**

- A. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures as set forth in the Uniform Housing Affordability Controls.
- B. Required pricing stratification.
  - 1. The maximum rent for affordable units within each affordable development shall be affordable to households earning no more than 60% of median income and the average rent for low and moderate income units shall be affordable to households earning no more than 52% of median income. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low income and moderate income units, provided that at least 13% of all low and moderate

income units shall be affordable to households earning no more than 30% of median income.

2. 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. Each affordable development shall achieve an affordability average of 55% for restricted ownership units. In achieving this affordability average, moderate income ownership units shall be available for at least three different prices for each bedroom type, and low income ownership units shall be available for at least two different prices for each bedroom type.

C. Initial Pricing and Annual Increases of Affordable Dwellings.

1. Owner-occupied dwellings initial pricing. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the dwelling, 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*; provided, however, that the price shall be subject to the affordability average requirement as noted above.
2. Rental dwellings initial pricing. The initial rent for a restricted rental dwelling 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.
3. Owner-occupied dwellings annual increase. 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.
4. Rental dwellings annual increase. The rent of low and moderate income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.
5. Utilities. 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 the NJ Department of Community Affairs for its Section 8 program.

- D. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.
1. The initial purchase price for a restricted ownership dwelling shall be approved by the Administrator.
  2. The Administrator shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
  3. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low and moderate income homeowners and the market homeowners.
- E. The owners of restricted ownership units may apply to the Administrator to increase the maximum sales price for the dwelling on the basis of eligible capital improvements. Eligible capital improvements shall be those that render the dwelling suitable for a larger household or the addition of a bathroom.

**§ 1009                      Affordability Controls for Ownership Units.**

- A. The affordability control period for a restricted ownership dwelling shall commence on the date the initial certified household takes title to the dwelling.
- B. Each restricted ownership dwelling shall remain subject to the requirements of UHAC until the Township of Lawrence elects to release the dwelling from such requirements pursuant to action taken in compliance with *N.J.A.C. 5:80-26.5(g)*. Prior to such municipal election, a restricted ownership dwelling shall remain subject to the requirements of *N.J.A.C. 5-80-26.5*, for a period of at least 30 years, and for a period of at least 10 years or the sale and repayment of any loan proceeds for owner-occupied units that were rehabilitated. Where a dwelling unit is entered into an extension of expiring controls program, the time period for the ownership restriction shall be at least 30 years from the date that the existing or prior restriction would have expired.
- C. The affordability control period for a restricted ownership dwelling shall commence on the date the initial certified household takes title to the dwelling.
- D. Each restricted ownership dwelling shall remain in compliance with and subject to the requirements of *N.J.A.C. 5:80-26.5* for control periods, *N.J.A.C. 5:80-26.6* for price restrictions, *N.J.A.C. 5:80-26.7* for buyer income eligibility, *N.J.A.C. 5:80-26.8* for limitations on indebtedness and subordination, *N.J.A.C. 5:80-26.9* for capital improvements, and *N.J.A.C. 5:80-26.10* for maintenance.
- E. Limitations on Indebtedness Secured by Ownership Dwelling; Subordination.
1. Prior to incurring any indebtedness to be secured by a restricted ownership dwelling, the Administrator shall determine in writing that the proposed indebtedness complies with the provisions of this section.

2. 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 dwelling to exceed 95% of the maximum allowable resale price of that dwelling, as such price is determined by the Administrator in accordance with *N.J.A.C. 5:80-26.6(b)*.

F. Capital Improvements to Ownership Units.

1. The owners of restricted ownership units may apply to the Administrator to increase the maximum sales price for the dwelling on the basis of capital improvements made since the purchase of the dwelling. Eligible capital improvements shall be those that render the dwelling suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing dwelling exceed the limits of affordability for the larger household.
2. Upon the resale of a restricted ownership dwelling, all items of property that are permanently affixed to the dwelling or were included when the dwelling 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 Administrator 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 dwelling and not included in the base price may be made a condition of the dwelling resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrator. Unless otherwise approved by the Administrator, the purchase of any property other than central air conditioning shall not be made a condition of the dwelling 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.

G. Notice of Resale, Recapture Covenant and 95/5 Purchase Options.

1. The owner of the property is required to notify the Administrator by certified mail of any intent to sell the property 90 days prior to entering into an agreement for the first non-exempt sale of the Property after the conclusion of the period of affordability controls on restricted units in effect at the time the Property was first restricted as part of the Affordable Housing Program.
2. The municipal housing inspector shall inspect the available affordable resale unit for construction and property maintenance code violation(s). The housing inspector shall submit in writing to the owner and the Administrator a listing of the violation(s). The estimated cost of the repairs not completed by the owner prior to resale shall be deducted from the resale price. The cost of repairs not undertaken by the owner will be



determined by estimator(s) and/or contractor(s) supplied by the Administrator and charged back to the seller.

3. Upon the first such non-exempt sale of the Property, 95% of the difference between, (i), the actual sale price; and (ii), the regulated maximum sales price that would be applicable were the period of affordability controls on restricted units still in effect, shall be paid at closing to the Township of Lawrence; or, to the NJ Department of Community Affairs or NJ Housing and Mortgage Finance Agency, when acting as receiving agent for the municipality. Exempt sales shall be as listed in §1012.
4. Such non-exempt sale is subject to the options provided for in *N.J.A.C. 5:80-26.20* (Option to buy 95/5 units), *N.J.A.C. 5:80-26.21* (Municipal Option on 95/5 units), *N.J.A.C. 5:80-26.22* (State Option on 95/5 Units), *N.J.A.C. 5:80-26.23* (Non-Profit Option on 95/5 Units), *N.J.A.C. 5:80-26.24* (Seller Option on 95/5 Units), *N.J.A.C. 5:80-26.25* (Municipal Rejection of Repayment Option on 95/5 Units) and *N.J.A.C. 5:80-26.26* (Continued Application of Options to Create, Rehabilitate or Maintain 95/5 Units) of UHAC.

**§ 1010                      Affordability Controls on Rental Dwellings.**

- A. Each restricted rental dwelling shall remain subject to the requirements of UHAC until the Township of Lawrence elects to release the dwelling from such requirement pursuant to action taken in compliance with *N.J.A.C. 5:80-26.11(e)*. Prior to such a municipal election, a restricted rental dwelling shall remain subject to the requirements of *N.J.A.C. 5:80-26.11*, for a minimum of 30 years, and for a period of at least 10 years or the sale and repayment of any loan proceeds for renter-occupied units that were rehabilitated.
- B. Each restricted rental dwelling shall remain in compliance with and subject to the requirements of *N.J.A.C. 5:80-26.11* for control periods, *N.J.A.C. 5:80-26.12* for restrictions on rents, and *N.J.A.C. 5:80-26.13* for tenant income eligibility.
- 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 Mercer. A copy of the filed document shall be provided to the Administrator within 30 days of the receipt of a Certificate of Occupancy.
- D. A restricted rental dwelling shall remain subject to the affordability controls of this Article, despite the occurrence of any of the following events:
  1. Sublease or assignment of the lease of the dwelling;
  2. Sale or other voluntary transfer of the ownership of the dwelling; or
  3. The entry and enforcement of any judgment of foreclosure.

- E. Rent Restrictions for Rental Units; Leases.
1. A written lease shall be required for all restricted rental units, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental dwelling shall be provided to the Administrator.
  2. No additional fees or charges shall be added to the approved rent without the express written approval of the Administrator.
  3. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted dwelling and shall be payable to the Administrator to be applied to the costs of administering the controls applicable to the dwelling as set forth in this Article.

**§ 1011 Accessibility Requirements.**

The following barrier free accessibility and adaptability requirements shall apply to all new construction:

- A. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Sub-code, *N.J.A.C. 5:23-7*.
- B. All restricted townhouse dwellings and all restricted units in other multistory buildings in which a restricted dwelling is attached to at least one other dwelling shall have the following features:
1. An adaptable toilet and bathing facility on the first floor;
  2. An adaptable kitchen on the first floor;
  3. An interior accessible route of travel on the first floor;
  4. An interior accessible route of travel shall not be required between stories within an individual dwelling;
  5. 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
  6. An accessible entranceway in accordance with *N.J.S.A. 52:27D-311a, et seq.* and the Barrier Free Sub-code, *N.J.A.C. 5:23-7*, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
    - a. Where a dwelling has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling, an accessible entrance shall be installed.

- b. To this end, the developer of restricted units shall deposit funds within the affordable housing trust fund of the Township of Lawrence sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
  - c. The funds deposited under sub-paragraph –(b) above shall be used by the Township for the sole purpose of making the adaptable entrance of any affordable dwelling accessible when requested to do so by a person with a disability who occupies or intends to occupy the dwelling and requires an accessible entrance.
7. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from an adaptable to an accessible entrance to the Construction Code Official.
  8. Once the Construction Code 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 into the municipality's affordable housing trust fund by the Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that physical or environmental conditions of the site render it impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, *N.J.A.C. 5:23-7*.

**§ 1012 Exempt Transactions.**

- A. The following transactions shall be deemed "non-sales" for purposes of these regulations and the owner receiving title by virtue of any of the following transactions shall be entitled to a statement of exemption to the owner receiving title by virtue of any of the following transactions:
  1. Transfer of ownership of an affordable sales unit between husband and wife;
  2. Transfer of ownership of an affordable sales unit between former spouses ordered as a result of a judicial decree of divorce (and not including sales to third parties);
  3. Transfer of ownership of an affordable unit between family members as a result of inheritance;
  4. Transfer of ownership of an affordable unit through an executor's deed to a Class A beneficiary;

5. Transfer of ownership of an affordable unit through an order of the Superior Court or other court, in a foreclosure proceeding or transfer in lieu of foreclosure after a foreclosure proceeding has commenced.
- B. Except for the income level of the family acquiring title by an exempt transaction, the exempt transfer will not eliminate any restrictions set forth herein including, but not limited to, the unit remaining the prime resident and the requirement for resale to low and moderate income families as applicable and all such restrictions shall remain in effect following the exempt transfer except as stated in subsection -A.5.
- C. Should a mortgagee acquire title pursuant to subsection -A.5 it may re-sell the unit to any family, regardless of income, with the municipality having the right of first refusal. The sales price to the municipality is the amount necessary to cure the foreclosure. This includes all principal and interest due to the mortgagee and other lien holders, repayment of equity to the owner prior to foreclosure and the costs of foreclosure. If the municipality does not purchase the unit, the mortgagee may sell the unit without any of the restrictions set forth in this section. The amount of the sale above that which is necessary to cure the foreclosure will be turned over to the municipality to be used for low and moderate income housing.

**§ 1013 Leasing Restriction.**

Initial and subsequent owners of affordable housing units shall occupy the dwelling as their principal residence. RENTAL OR SUBLEASING OF THE AFFORDABLE HOUSING UNIT IS EXPRESSLY FORBIDDEN.

**§ 1014 Effect on Landlord and Tenant Relationship.**

- A. Nothing in these rules should be construed to limit the rights and duties of the owner and tenant to maintain the dwelling in accordance with all appropriate New Jersey State or municipal construction and property maintenance codes.
- B. Notwithstanding anything to the contrary in this Article, any member of a household occupying a dwelling under this Article and subject to the regulations of the Township of Lawrence is subject to eviction for any reasons allowed under applicable New Jersey law. The provisions of this Article are not intended to confer any additional rights or obligations on property owners or tenants other than those mandated by statute or required by the courts of the State of New Jersey or the duly adopted regulations of any of its agencies.

**§ 1015 Affirmative Marketing for Affordable Housing**

- A. Purpose. The purpose of this Section is to establish administrative procedures to ensure a wide dissemination of knowledge of affordable housing units as they

become available to the low and moderate income population, and that the selection of tenants or homeowners, as the case may be, meets the requirements of UHAC.

- B. An Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital, or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. An Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region.
- C. Affirmative Marketing Requirements. Within the overall framework of the municipality's affirmative marketing program, all affordable housing units in Lawrence Township shall be marketed in accordance with the provisions in this Section unless otherwise provided for in *N.J.A.C. 5:80-26-1*. An Affirmative Marketing Plan shall be created for each development that contains or will contain low and moderate income units, including those that are part of the Township's prior round Housing Element and its current Housing Element and those that may be constructed in future developments not yet anticipated. This Affirmative Marketing Plan shall also apply to any rehabilitated units that are vacated and re-rented during the applicable period of controls for rehabilitated rental units when Lawrence is allocated a rehabilitation component.
- D. Plan Preparation. The Administrator or Administrative Agent shall prepare an Affirmative Marketing Plan for each affordable housing program, as applicable, comporting with *N.J.A.C. 5:80-26.15*, for review and approval by the Affordable Housing Board. The Administrator of the Township shall oversee the work of a developer's Administrative Agent provided that the person has been approved by the Affordable Housing Board. Regardless of the drafting agent, the Affirmative Marketing Plan is intended to be used by developers of affordable housing restricted to low and moderate income households located within the municipality. The Administrative Agent responsible for specific affordable housing programs or developments shall ensure that the affirmative marketing of all affordable units is consistent with these provisions.
- E. Affirmative Marketing Implementation. The Affirmative Marketing Plan includes regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance to *N.J.A.C. 5:80-26*. All newly created affordable units will comply with the thirty-year affordability control required by UHAC, *N.J.A.C. 5:80-26-5* and *5:80-26-11*. This plan will be adhered to by all private, non-profit or municipal developers of affordable housing units and will cover the period of deed restriction or affordability controls on each affordable unit. The Affirmative Marketing Plan for each affordable housing development shall meet the following minimum requirements:

1. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.
2. Although the Township has the ultimate responsibility for implementing all aspects of Lawrence's affordable housing program, the Administrative Agent designated by the Affordable Housing Board shall assure that the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
3. 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.
4. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all of the affordable units have been leased or sold.
5. 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 Lawrence.
6. 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.
7. 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 Lawrence; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
8. The Administrator shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in the Region 4 Housing Area for the use of the Township and other Administrative Agents. In addition, the list shall also include Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Trenton, Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch Branches of the NAACP, Shiloh Baptist Church, and the Supportive Housing Association, which entities shall receive specific notice of all available affordable housing units along with copies of application forms. This list shall be updated periodically. The list shall contain organizations that will aid in the affirmative marketing program with particular emphasis on contacts with outreach to groups and

individuals that are least likely to apply for affordable housing within the region. A representative sample of the organizations on the list not otherwise requiring specific notice herein shall be contacted as part of the affirmative marketing effort as approved by the Administrator.

9. The Affirmative Marketing Plan shall be approved by the Affordable Housing Board pursuant to §1003 prior to implementation.

## **§ 1016 Violations of Article X Regulations.**

- A. Upon the occurrence of a breach of any of the regulations governing the affordable dwelling 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 dwelling 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 \$1,000.00 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 dwelling in violation of the regulations governing affordable housing units, payment into the Township of Lawrence's 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 dwelling, 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.

3. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the County 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.
- C. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien upon the dwelling and any prior liens on the dwelling. The excess, if any, shall be applied to reimburse the Township 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 Township in full as aforesaid, the violating owner shall be personally responsible for the deficiency, in addition to any and all costs incurred by the Township in connection with collecting said deficiency. The remainder, if any, up to a maximum of the amount the owner would be entitled to if he or she were to sell the dwelling as permitted by *N.J.S.A. 5:80-26.1 et seq.*, shall be placed in escrow by the Township for the owner and shall be held in such escrow for a period of two years or until such time as the owner shall make a claim with the Township for the same. Failure of the owner to claim said sum within the two-year period shall automatically result in a forfeiture of said remainder to the municipality and paid into the Affordable Housing Trust Fund. Any interest accrued or earned on the remainder while being held in escrow shall belong to and shall be paid to the Lawrence Township Affordable Housing Fund whether the remainder is paid to the owner or forfeited to the Township. Any excess funds derived over and above the sum due the owner shall be paid over to the Township's Affordable Housing Trust Fund.
- D. 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 dwelling. 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.
- E. 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.

- F. Failure of the very low, low and moderate income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low and moderate income unit as permitted by the regulations governing affordable housing units.
- G. 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.
- H. Right to Cure. The Township may, at its option, advance and pay all sums necessary to protect, preserve and retain the dwelling as an affordable dwelling, subject to the terms of this Article. All sums so advanced and paid by the Township shall become a lien against said dwelling and shall have a higher priority than any lien except the first purchase money mortgage lien and liens by duly authorized government agencies. Such sums may include but are not limited to insurance premiums, taxes, assessments (public or private) and costs of repair necessary to bring the dwelling up to any and all applicable local, state or federal codes and liens which may be or become prior and senior to any first purchase money mortgage as a lien on the dwelling or any part thereof. If, in the event of a default or nonpayment by the owner of an affordable dwelling, any first mortgagee or other creditor of an owner of an affordable dwelling exercises its contractual or legal remedies available, the owner shall notify the Administrative Agent and the Township Solicitor of the Township, in writing, within 10 days of notification by the first mortgagee or creditor and no later than 10 days after service of any summons and complaint, and the Township shall have the option to purchase, redeem or cure any default upon such terms and conditions as may be agreeable to all parties in interest and/or to acquire the first purchase money mortgage to the dwelling, thereby replacing the first mortgagee as the first mortgagee of the dwelling. The Township shall have the same priority of lien as was held by the first mortgagee at the time the Township acquires such first purchase money mortgage and shall have the right of subrogation with respect to any other claim or lien it satisfies or acquires.
- I. Provisions for First Purchase Money Mortgagees.

1. The terms and restrictions of this section shall be subordinate only to a first purchase money mortgage lien on any affordable dwelling and in no way shall impair the first mortgagee's ability to exercise the contract remedies available to it in the event of default as set forth in the first purchase money mortgage. The first mortgagee and/or mortgage servicer shall serve written notice upon the Township within 10 days after the first purchase money mortgage is two months in arrears and again within 10 calendar days of the filing of a complaint seeking foreclosure of the first purchase money mortgage held on an affordable dwelling. However, a judgment of foreclosure upon the property shall in no instance terminate the conditions and requirements of this Article maintaining the dwelling as an affordable, income-restricted residence.
2. The obligation of the first mortgagee and servicer to notify the Township shall cease automatically and immediately upon the sale of the first purchase money mortgage to the Federal National Mortgage Association or in the secondary mortgage market, unless the rules and regulations or guidelines of the Federal National Mortgage Association are amended so as to not prohibit or exclude placing such obligation upon the holder of the mortgage or its service representative, in which case, an instrument duly evidencing the same shall be recorded with the Register of Deeds, Mercer County, New Jersey, before any such obligation shall exist. Provided that the first mortgagee is obligated to give the Township the above-mentioned notices, the first mortgagee shall also serve written notice of any proposed foreclosure sale upon the Township at least 30 days prior to the first scheduled date of such sale. The first mortgagee shall serve notice upon the Township within 30 days of the sale of the first purchase money mortgage to the Federal National Mortgage Association or in the secondary mortgage market.
3. The Township of Lawrence or any instrumentality designated by the Township shall have the right to purchase any mortgage which is in default at any time prior to the entry of a foreclosure judgment or within the redemption period thereafter. Notification of a default and of the institution of a foreclosure action and of a sheriff's sale shall be served, in writing, upon the Township Clerk and Municipal Attorney. The Township of Lawrence shall at all times be considered a party in interest and shall have the right to be joined as a party defendant and/or shall have the right to intervene in any foreclosure action seeking foreclosure of a first mortgage and/or shall have the right to redeem and acquire the owner's equity of redemption or to acquire the dwelling from the owner upon such terms and conditions as may be determined by the Township.
4. Surplus funds. In the event of a foreclosure sale by the holder of the first purchase money mortgage, the owner shall be personally obligated to pay to the Township any excess funds, but only to the extent that such excess funds exceed the difference between what the owner could have resold

his dwelling for under this Article at the time of the foreclosure sale and the amount necessary to redeem and satisfy the first purchase money mortgage debt, including costs of foreclosure and costs of repairs necessary to bring the dwelling up to any and all applicable local, state or federal codes. For the purposes of this subsection, excess funds shall be the total paid to the sheriff in excess of the amount required to pay and satisfy the first purchase money mortgage, including the costs of foreclosure, even if junior creditors actually receive payment from said surplus funds to the exclusion of the owner. The Township is hereby given a first priority lien, second only to the first mortgagee for any taxes or public assessments by a duly authorized governmental body up to the full amount of excess funds. This obligation of the owner to pay this full amount to the Township shall be deemed to be a personal obligation of the owner of record at the time of the foreclosure sale, and the Township is hereby empowered to enforce this obligation in any appropriate court of law or equity as though the same were a personal contractual obligation of the owner. Neither the first mortgagee nor the purchaser at the foreclosure sale shall be responsible or liable to the Township for any portion of this excess. The Township shall deposit any funds received in the Affordable Housing Trust Fund and use it for the purposes as set forth in the Housing Element and Fair Share Plan.

**Section 5.** Continuation. In all other respects, the Land Use Ordinance of the Township of Lawrence shall remain unchanged.

**Section 6.** Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Land Use Ordinance as a whole, or any other part thereof.

**Section 7.** Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

**Section 8.** Enactment. This Ordinance shall take effect upon the filing thereof with the Mercer County Planning Board after final passage, adoption, and publication by the Township Clerk of the Township of Lawrence in the manner prescribed by law.

Ordinance No. 2303-18 was introduced and approved on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Kownacki	X						
Ms. Lewis	X					X	
Dr. Maffei				X			
Mr. Powers	X						X
Mayor Bobbitt	X						

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Mayor Bobbitt read by title, an ordinance entitled, "ORDINANCE AMENDING CHAPTER 9, "FEES, GUARANTEES, INSPECTIONS AND OFF-TRACT IMPROVEMENTS", OF THE LAND USE CODE OF THE TOWNSHIP OF LAWRENCE SO AS TO CONFORM TO AMENDMENTS TO THE MUNICIPAL LAND USE LAW"

Ordinance No. 2304-18

ORDINANCE AMENDING CHAPTER 9, "FEES, GUARANTEES, INSPECTIONS AND OFF-TRACT IMPROVEMENTS," OF THE LAND USE CODE OF THE TOWNSHIP OF LAWRENCE SO AS TO CONFORM TO AMENDMENTS TO THE MUNICIPAL LAND USE LAW

**WHEREAS**, P.L. 2017, c. 312 was recently signed into law, amending N.J.S.A. 40:55D-53 of the Municipal Land Use Law with regard to performance, maintenance and other guarantee requirements; and

**WHEREAS**, the Township of Lawrence wishes to modify the Land Use Code to conform with the above-referenced legislation.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Township of Lawrence, County of Mercer, in the State of New Jersey that Chapter 9, "Fees, Guarantees, Inspections and Off-tract Improvements," hereby is amended as follows (additions are underlined and deletions are [bracketed]):

**Section 1. Subsection 902, "Guarantees required for On- and Off-tract Improvements," of the Land Use Code Amended.**

§ 902 Guarantees required for On- and Off-tract Improvements

A. Guarantee Required. Before recording final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to *N.J.S.A. 40:55D-65d*, the Township or approving Board, for the purposes of assuring the installation and maintenance of on- and off-tract (pursuant to *N.J.S.A. 40:55D-42*) improvements, shall require and accept in accordance with the standards adopted by this Ordinance, the following:

1. The furnishing of a performance guaranteed in favor of the Township of Lawrence in an amount not to exceed 120% of the cost of [installation, which cost shall be determined by the Municipal Engineer according to the method of calculation set forth in § 903.B for improvements which the Board may deem necessary or appropriate, including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final subdivision plat and required by the Map Filing Law (*N.J.S.A. 46:23-9.9 et seq.*), culverts, storm sewers, drainage structures, public improvements and landscaping. A separate estimate shall be prepared for soil erosion and sedimentation control devices.] only those

improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the developer and approved by the Municipal Engineer, according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, as shown on the final map and required by the Map Filing Law (N.J.S.A. 46:23-9.9 et seq.), water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements. The performance guarantee may also be required to include, at the discretion of the Township or approving Board, a guarantee for the installation of privately-owned perimeter buffer landscaping. At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping. The developer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee for review and approval by the Municipal Engineer, which improvements shall be appended to each performance guarantee posted by the obligor.

2. [Provision of a maintenance guarantee to be posted with the Township Council for an period not to exceed two years after final acceptance of the improvement, in an amount not to exceed 15% of the cost of the improvement, which cost shall be determined by the Municipal Engineer according to the method of calculation set forth in § 903.B. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the municipality for such utilities or improvements.] The developer shall post with the Township, prior to the release of the performance guarantee, a maintenance guarantee in an amount equal to 15% of the cost of the installation of the improvements covered under the performance guarantee, along with the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which itemized cost shall be determined by the developer and approved by the municipal engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4. The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.

3. [The Municipal Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the developer.] The furnishing of a "safety and stabilization guarantee" in favor of the Township of Lawrence to ensure that the Township has an adequate guarantee to return the property that has been disturbed to a safe and stable condition or otherwise implement measures to protect the public from access to an unsafe or unstable condition. The Township shall be permitted to access the guarantee when (i) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60

consecutive days following such commencement for reasons other than force majeure; and (ii) work has not recommenced within 30 days following the provision of written notice by the municipality to the developer of the municipality's intent to claim payment under the guarantee. At the developer's option, the "safety and stabilization guarantee" may be included as a line item for safety and stabilization in the performance guarantee rather than in the form of a separate guarantee. The amount of the safety and stabilization guarantee shall be calculated pursuant to N.J.S.A. 40:55D-53.4 as follows:

- a. \$5,000 for the first \$100,000 of bonded improvement costs,  
plus  
b. Two and a half percent (2.5%) of bonded improvement costs  
in excess of \$100,000 up to \$1,000,000; plus  
c. One percent (1%) of bonded improvement costs in excess of  
\$1,000,000.

B. Time Period for Installation. All public improvements shall be completed within six (6) months of issuance of the last Certificate of Occupancy or five (5) years of issuance of a Soil Disturbance Permit whichever comes first. The time allowed for installation of the bonded improvements for which the performance guarantee has been provided may be extended by the Township Council by resolution. As a condition or part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, [which cost shall be determined by the Municipal Engineer according to the method of calculation set forth in § 903.B] as determined by the developer and approved by the municipal engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.

C. Developer Liability. If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the developer and surety, if any, shall be liable thereon to the Township for the reasonable cost of the improvements not completed or corrected, and the Township may either prior to or after the receipt of the proceed thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law (N.J.S.A. 40A-11-1 et seq.).

**Section 2. Paragraphs B and C of Subsection 903, "Certification or Guarantee required; Estimate of Guarantee," of the Land Use Code Repealed in their Entirety.**

Paragraph B, "Determination of Performance Guarantee Estimate," and Paragraph C, "Determination of Maintenance Guarantee Estimate," of Subsection 903 are hereby repealed in their entirety.

**Section 3. Subsection 907, "Reduction of Guarantee," of the Land Use Code Amended.**

§ 907 Reduction of Guarantee.

A. Upon substantial completion of all required street improvements (except for top course) and appurtenant utility improvements, and the connection of same to the public system, the developer may request of the Township Council in writing, by certified mail address in care of the Township Clerk, that the Municipal Engineer shall prepare, in accordance with the itemized cost estimate [prepared by the Municipal Engineer and appended to the performance guarantee pursuant to] provided to the Municipal Engineer in accordance with § 902.A, a list of all uncompleted or unsatisfactory completed bonded improvements. If such a request is made, the developer shall send a copy of the request to the Municipal Engineer. As-built plans, pursuant to § 910.B, shall be submitted prior to the request for a reduction in the guarantee. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the developer. Thereupon the Municipal Engineer shall inspect all bonded improvements covered by the developer's request and shall file a detailed list and report, in writing, with the Township Council, and shall simultaneously send a copy thereof to the developer not later than 45 days after receipt of the developer's request.

B. The list prepared by the Municipal Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extended of the incompleteness of each incomplete bonded improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed bonded improvement determined to be unsatisfactory. The report prepared by the Municipal Engineer shall identify each bonded improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory bonded improvement, in accordance with the itemized cost estimate [prepared by the Municipal Engineer and appended to the performance guarantee pursuant to] provided to the Municipal Engineer in accordance with § 902.A.

C. The Township Council, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Municipal Engineer, or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate [prepared by the Municipal Engineer and appended to the performance guarantee pursuant to] provided to the Municipal Engineer in accordance with § 902.A. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Municipal Engineer. Upon adoption of the resolution by the Township Council, the developer shall be released from all liability pursuant to its performance guarantee, with respect to those approved bonded improvements, except for that portion adequately sufficient to secure

completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee and “safety and stabilization guarantee” posted may be retained to ensure completion and acceptability of all bonded improvements. The “safety and stabilization guarantee” shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction.

For the purpose of releasing the developer from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved bonded improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate which formed the basis of the performance guaranty and appended to the performance guarantee pursuant to § 902.A, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70% of the total amount of the performance guarantee, then the municipality may retain 30% of the amount of the total performance guarantee and “safety and stabilization guarantee” to ensure completion and acceptability of bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a “temporary certificate of occupancy guarantee” has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the municipality below 30%.

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I. The developer shall reimburse the municipality for all reasonable inspection fees paid to the Municipal Engineer for the foregoing inspection of improvements]; provided that the Township of Lawrence may require of the developer a deposit for a portion of the reasonably anticipated fees to be paid for such inspection. The initial deposit made by the developer shall not exceed 25% of the reasonably anticipates inspection fees unless the developer offers to pay an additional deposit. The developer shall be required to maintain the deposit at not less than 10% of the balance of the anticipated inspection fees as that balance is adjusted from time to time by the amount paid to the Township Engineer for inspection. For those developments for which the reasonably anticipated fees are less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by a developer shall be 50% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall deposit the remaining 50% of the anticipated inspection fees. For those developments for which the reasonably anticipated inspection fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by the developer shall be 25% of the reasonably anticipated fees. When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of 25% of the reasonably anticipated fees. The Township Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.] which fees



shall not exceed the sum of the amount set forth in N.J.S.A. 40:55D-53. The municipality may require the developer to post the inspection fees in escrow in an amount calculated as follows: (a) except for extraordinary circumstances, the greater of \$500 or 5% of the cost of the improvement subject to a performance guarantee; plus (b) an amount not to exceed 5% of the cost of the private site improvements not subject to a performance guarantee, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4.

If the Township determines that the amount in escrow for the payment of inspection fees, as calculated herein, is insufficient to cover the cost of additional required inspections, the Township may require the developer to deposit additional funds in escrow provided that the Township delivers to the developer a written inspection escrow deposit request which informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.

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K. In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a “temporary certificate of occupancy guarantee” in favor of the Township of Lawrence in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a “temporary certificate of occupancy guarantee,” all sums remaining under a performance guarantee, required pursuant to this Chapter, that relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released.

The scope and amount of the “temporary certificate of occupancy guarantee” shall be determined by the Municipal Engineer, and shall include any incomplete improvements as required by the approval of the Board of jurisdiction. The “temporary certificate of occupancy guarantee” shall be released by the Municipal Engineer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

L. If the property or any part of same is sold, or otherwise conveyed to a successor developer prior to the completion and acceptance of all improvements, an Assignment of Developer’s Agreement, and new performance, maintenance or other guarantees shall be required from the new owner or successor developer. Upon the transfer of ownership of property that is the subject of a construction permit, and prior to beginning or continuing work authorized by the construction permit, the new owner or

successor developer shall file with the building department an application for a permit update to notify the building department of the name and address of the new owner or successor developer and of all other changes to information previously submitted to the building department. The building department shall not approve the application for a permit update until it receives notification from the governing body or its designee that the new owner or successor developer has furnished adequate replacement performance, maintenance or other guarantees and Assignment of Developer's Agreement.

**Section 4. Severability**

If any section, paragraph, subdivision, clause or provision of the Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**Section 5. Effective Date**

This ordinance shall take effect twenty (20) days after adoption and posting of proper signage in accordance with law.

Ordinance No. 2304-18 was introduced and approved on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Kownacki	X						
Ms. Lewis	X					X	
Dr. Maffei				X			
Mr. Powers	X						X
Mayor Bobbitt	X						

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Mayor Bobbitt read by title, an ordinance entitled, "ORDINANCE AMENDING ORDINANCE NO. 2295-15 SALARY ORDINANCE OF THE TOWNSHIP OF LAWRENCE-UNCLASSIFIED AND/OR EXEMPT, SEASONAL EMERGENCY (NON-UNION) EMPLOYEES FOR 2018-2019"

Ordinance No. 2305-18

AN ORDINANCE AMENDING ORDINANCE NO. 2295-18  
SALARY ORDINANCE OF THE TOWNSHIP OF LAWRENCE – UNCLASSIFIED AND/OR  
EXEMPT, SEASONAL, EMERGENCY (NON-UNION) EMPLOYEES FOR 2018-2019

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

Section I. Short Title

This ordinance shall be known and may be recited as “The Salary Ordinance of the Township of Lawrence – Unclassified and/or Exempt, Seasonal, Emergency (non-union) Employees for 2018-2019.”

Section II. Salaried Employees

The attached list of salaried positions and job titles, Schedule A and Schedule B, are hereby authorized and assigned the appropriate salary ranges for 2018-2019 and are determined by date of hire as an employee of Lawrence Township.

This ordinance will continue the Township’s consistent policy of providing comparable fringe benefits to exempt employees during their active service as that provided to Supervisors, CWA Local 1032, through their collective bargaining agreement. The Township will still maintain the flexibility of granting retiree benefits to exempt employees hired after January 1, 2011. Accordingly, employees covered by this ordinance that are eligible for health and/or prescription benefits shall contribute to the cost of the said health benefit premium for medical and prescription coverage as required by law, specifically Chapter 78, P.L. 2011. All employees hired on or after January 1, 2014 shall contribute based upon the year four rates specified by said law and to be made an Appendix to a successor Agreement.

Section III. Part-Time or Seasonal Employees

The following part-time or seasonal positions and job titles are hereby authorized and assigned the following pay maximums commencing January 1, 2018 and January 1, 2019:

| Position of Job Title                | Basis      | 2018                               | 2019                               |
|--------------------------------------|------------|------------------------------------|------------------------------------|
| Armed Court Attendant                | Hourly     | \$25.04                            | \$25.54                            |
| Emergency Medical Technician         | Hourly     | \$22.16                            | \$22.60                            |
| Firefighter                          | Hourly     | \$18.16                            | \$18.52                            |
| Laborer (Seasonal)                   | Hourly     | \$11.39                            | \$11.62                            |
| Life Guard                           | Hourly     | Federal Minimum Wage up to \$15.56 | Federal Minimum Wage up to \$15.87 |
| Recreation Aid                       | Hourly     | Federal Minimum Wage up to \$36.45 | Federal Minimum Wage up to \$37.18 |
| Position of Job Title                | Basis      | 2018                               | 2019                               |
| Recycling Coordinator                | Per Annum  | \$8,243                            | \$8,408                            |
| Municipal Alliance Grant Coordinator | Per Annum  | \$2,500                            | \$2,500                            |
| Fire Crew Coordinator                | Per Annum  | \$4,243                            | \$4,328                            |
| School Traffic Guard                 | Hourly     | \$17.40                            | \$17.75                            |
| Secretary/Board & Committee          | Per Annum* | \$1,800.00                         | \$1,800.00                         |
| Tax Search Officer                   | Per Annum  | \$11,557                           | \$11,788                           |
| Zoning Officer                       | Per Annum  | \$5,376                            | \$5,484                            |
| Municipal Court Attendee             | Hourly     | \$22.46                            | \$22.91                            |
| SLEO Class III                       | Hourly     | \$26.00                            | \$26.52                            |

|                |        |                                                                |                                                                |
|----------------|--------|----------------------------------------------------------------|----------------------------------------------------------------|
| Park Attendant | Hourly | \$15.56                                                        | \$15.87                                                        |
| All Others     | Hourly | Federal Minimum<br>Wage up to Step1 In<br>Applicable Job Title | Federal Minimum<br>Wage up to Step1 In<br>Applicable Job Title |

\* Denotes title paid monthly. All other titles bi-weekly.

Section IV. Eligibility

The ranges in Section II of this ordinance shall pertain to individuals employed by the Township of Lawrence on or after the effective date of this ordinance.

Section V. Longevity

- A. Each employee hired before January 1, 2013 and covered by this agreement shall in addition to his/her regular wages and benefits, be paid longevity based upon years of service as of December 31, 2013 with the Township in accordance with the following amounts. Said amounts to be paid to an employee shall not be adjusted beyond the longevity amount being received by an eligible employee as of December 31, 2013. Longevity shall be pensionable and included as part of the employee’s regular pay. Any employee hired on or after January 1, 2014 shall not be eligible to receive longevity pay at any time in the future.

Length of Service

|                                                     |         |
|-----------------------------------------------------|---------|
| Beginning in year 8 through year 11                 | \$ 800  |
| Beginning the 12 <sup>th</sup> year through year 15 | \$1,100 |
| Beginning the 16 <sup>th</sup> year through year 19 | \$1,400 |
| Beginning the 20 <sup>th</sup> year through year 23 | \$1,700 |
| Beginning the 24 <sup>th</sup> year through year 27 | \$2,000 |
| Beginning the 28 <sup>th</sup> year and beyond      | \$2,300 |

Section VI. Other Personnel and Working Conditions

All other functions, responsibilities and rights not specifically enumerated in prior sections of this ordinance shall be judged to be within the province of management, subject only to the laws, rules and regulations of the New Jersey Department of Personnel, the provisions contained in applicable agreements (if any) or policy manuals, and by the issuance of Administrative Directives by the Municipal Manager.

Section VII. Repealer

All other ordinances or parts of ordinances adopted prior to the date of this ordinance that are inconsistent with the provisions of this ordinance, are hereby repealed insofar as they relate to or concern the job classifications, salaries and benefits listed in this ordinance.

Section VIII. Severability

If any section, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason, the remaining portions of said ordinance shall not be affected thereby and shall remain in full force and effect.

Section IX. Effective Date

- A. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption.
- B. All salary or compensation provided for and by this ordinance shall be effective the first day of January.

Additions are underlined \_\_\_\_\_

Ordinance No. 2305-18 was introduced and approved on the following roll call vote:

| COUNCIL       | AYE | NAY | PRESENT | ABSENT | ABSTAIN | MOVE | SECOND |
|---------------|-----|-----|---------|--------|---------|------|--------|
| Mr. Kownacki  | X   |     |         |        |         |      |        |
| Ms. Lewis     | X   |     |         |        |         | X    |        |
| Dr. Maffei    |     |     |         | X      |         |      |        |
| Mr. Powers    | X   |     |         |        |         |      | X      |
| Mayor Bobbitt | X   |     |         |        |         |      |        |

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Mayor Bobbitt read by title, an ordinance entitled, "ORDINANCE AMENDING AND SUPPLEMENTING THE ADMINISTRATIVE CODE OF THE TOWNSHIP OF LAWRENCE CLARIFYING POLITICAL CAMPAIGN CONTRIBUTIONS LIMITS FOR THE AWARD OF PUBLIC CONTRACTS"

Ordinance No. 2306-18

ORDINANCE AMENDING AND SUPPLEMENTING THE ADMINISTRATIVE CODE OF THE TOWNSHIP OF LAWRENCE CLARIFYING POLITICAL CAMPAIGN CONTRIBUTIONS LIMITS FOR THE AWARD OF PUBLIC CONTRACTS

WHEREAS, professional business entities are exempt from public bidding requirements, and

WHEREAS, it has become common for professional business entities to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts or other contracts or agreements which are not subject to public bidding; and

WHEREAS, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received; and

WHEREAS, pursuant to N.J.S.A. 40A: 11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities,

**NOW, THEREFORE, BE IT ORDAINED** that the policy of the Township of Lawrence will be to set maximum amounts professional business entities may contribute politically beyond which they become ineligible to receive a public professional service contract from the Township of Lawrence.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Township of Lawrence, County of Mercer, in the State of New Jersey that Ordinance No. 1817-04 concerning the prohibition on awarding public contracts to certain political campaign contributors is hereby amended and supplemented as follows (additions are underlined and deletions are [bracketed]).

Section 1. Prohibition on Awarding Public Contracts to Certain Contributors

- (a) Any other provision of law to the contrary notwithstanding, the municipality or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other no-bid consulting services, from any professional business entity, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to a campaign committee of any Lawrence Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Lawrence Township or Mercer County party committee, or to any political action committee that is organized for the primary purpose of promoting or supporting Lawrence Township municipal candidates or municipal officeholders (PAC) in excess of the thresholds specified in subsection (c) within one calendar year immediately preceding the date of the contract or agreement.
- (b) No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof or of its independent authorities for rendition of professional, banking or insurance coverage services or any other no-bid consulting services shall knowingly solicit or make any reportable contribution of money, or pledge of a reportable contribution, including in-kind contributions, to any Lawrence Township candidate or holder of public office having ultimate responsibility for the award of the contract, or to any Lawrence Township or Mercer County party committee, or to any

PAC that is organized for the primary purpose of promoting or supporting Lawrence Township municipal candidates or municipal officeholders between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement. For the purposes of this subsection, reportable contribution shall mean a campaign contribution or pledge of contribution in excess of the thresholds specified in subsection (c) below within one calendar year immediately preceding the later of the date of negotiations concluded or the date of the contract or agreement.

- (c) (i) Subject to the limitations in (ii), any entity meeting the definition of 'professional business entity' under this section may annually contribute a maximum of [~~\$400~~] \$300 for any purpose to each candidate, for mayor or council, and [~~\$500~~] \$300 to each Lawrence Township or Mercer County party committees, or to any PAC referenced in this ordinance, without violating [subsection (a)] subsections (a) and (b) of this section. However, (ii) any entity meeting the definition of 'professional business entity' under this section, including such principals, partners, and officers of the entity in the aggregate, may not annual contribute for any purpose in excess of a total of \$2,500 to: all Lawrence Township candidates and officeholders with ultimate responsibility for an award of the contract and all Lawrence Township or Mercer County political parties and PACs referenced in this ordinance combined, without violating [subsection (a)] subsections (a) and (b) of this section.
- (d) For purposes of this ordinance, a 'professional business entity' is any entity seeking or performing a public contract for professional, banking or insurance coverage services or any other no-bid consulting services and which may be an individual including the individual's spouse, if any, and any child living at home; a person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.
- (e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be the Township of Lawrence Council, if the contract requires approval or appropriation from the Council or a public officer who is responsible for the award of a contract if that public officer is appointed by the Township of Lawrence Council.

Section II. Contributions Made Prior to the Effective Date

No Contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or municipal or county party committee or PAC referenced in this ordinance shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this section.

Section III. Contribution Statement by Professional Business Entity

- (a) Prior to awarding any contract or agreement to procure professional services, or banking or insurance coverage services or any other no-bid consulting services, with any professional business entity, the Township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or officer has not made a contribution in violation of Section I of this ordinance;
- (b) The professional business entity shall have a continuing duty to report any violations of this ordinance that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township and shall be in addition to any other certifications that may be required by any other provision of law.

Section IV. Return of Excess Contributions

A professional business entity or Township candidate or officeholder or municipal or county party committee or PAC referenced in this ordinance may cure a violation of Section I of this ordinance, if, within 30 days after the general election, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the Township candidate or municipal or county political party or PAC referenced in this ordinance.

Section V. Penalty

- (a) All Lawrence Township agreements with professional business entities shall provide that it shall be a material breach of the terms of the government contract for a professional business entity as defined in Section 1 (d) to violate, or to aide or abet a violation, of Section I (b) or (c) or to knowingly conceal or misrepresent contributions given or received, or to make or solicit



contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

- (b) Any professional business entity as defined in section I (c) who knowingly fails to reveal a contribution made in violation of this ordinance, or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Lawrence Township contracts for a period of four calendar years from the date of the violation.

**Section VI.** Severability and Repealer

- (a) If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance. The drafters of this ordinance and the voters signing the initiative petition supporting the passage of this ordinance hereby declare that they would have signed the initiative petition supporting the passage of this ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases may be declared unconstitutional, invalid, or unenforceable.
- (b) Ordinance No. 1778-04 is hereby repealed. And any ordinance inconsistent with the terms of this ordinance is hereby repealed to the extent of such inconsistency.

**Section VII.** Effective Date

This ordinance shall become effective twenty (20) days following the earlier of (a) final adoption thereof by the Municipal Council of Lawrence Township or (b) the date on which the passage of this ordinance as a public question is certified pursuant to N.J.S.A. 19:20-3 or other applicable law, and shall be published as required by law.

Ordinance No. 2306-18 was introduced and approved on the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Kownacki	X						
Ms. Lewis	X					X	
Dr. Maffei				X			
Mr. Powers	X						X
Mayor Bobbitt	X						

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**Manager's Report –**

Mr. Nerwinski submitted invoice listings for the month of August 2018 in the amount of \$951,716.16.

Mr. Nerwinski reported that Chief Mark Ubry announced his retirement effective September 1, 2018 and he will be vacating his office on August 24<sup>th</sup>. They have designated Brian Caloiaro as the Acting Chief and the promotion will go through the Civil Service process and will take about two months. And, it is his intention to name Lieutenant Caloiaro as the Chief of Police and he will be sworn in at the next Council meeting where another chapter will begin. He then publicly thanked Chief Ubry on behalf of the community for his 38 years of dedicated service to Lawrence Township.

Mr. Nerwinski advised that he is in receipt of a letter that was sent to Mayor Bobbitt from the City of Trenton, Mayor Gusciora, with regards to Trenton Water Works wanting to do an outreach program with each town they serve to have a meeting to inform people what their intentions are going forward with regards to past water issues and answer any questions they might have relative to that matter; but, he just wanted to make sure that the Council is on board with the proposal and indicated he has not received telephone calls recently with the regards to the water problems at Trenton Water Works but over the last year he has received many, many, calls from concerned residents regarding TWW. So, this meeting is a good opportunity to have the new mayor and new individuals taking charge to come in and meet with Lawrence residents and hear their concerns and set forth a path that everyone can have confidence in. A brief discussion took place relative to possible times, dates and places for the meeting to be held.

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**Attorney's Report –**

Mr. Roskos advised that their final hearing with Judge Jacobson is September 5<sup>th</sup> regarding the affordable housing matter and he will report back to Mr. Nerwinski; hopefully, with a happy outcome.

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**Clerk's Report –**

Ms. Norcia reported that it is that time of year again to make appointments to the Boards and Committees and advised on the Cable Telecommunications Advisory Committee they have one member whose term is up this year and the remaining positions are vacant, and the Rent Stabilization Board has one member whose term is past due and the rest of the spots are also vacant. And, if members of Council plan to keep those Boards they are going to need enough members for a quorum or they have

the option to bring forth an ordinance removing both of the Boards from the roster. And, she will be sending out notices shortly asking members if they would like to re-up or know of anyone who would be interesting in serving. A general discussion ensued relative to the need for each of the Boards and various options, after which Mr. Roskos suggested that the Council hold off on making a decision until he speaks with the Municipal Manager regarding the matter.

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**Unfinished Business –**

There was no unfinished business.

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**New Business –**

There was no new business.

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**Public Participation (3-minute limitation per speaker) –**

Prior to public participation, Mr. Nerwinski invited Marie Tagliaferri up to the podium and advised that members of the Lawrence Township First Aid Squad are present this evening and that they donated land owned by the Squad on Pilla Avenue to Lawrence Township for the sole purpose of erecting a 9/11 Memorial; a gazebo with a portion of a steel beam from one of the buildings. The service will take place on September 11<sup>th</sup> at 9:00 a.m. across from the First Aid Squad.

Mr. Nerwinski further advised that it was a pleasure working with Ms. Tagliaferri and the other members of the Lawrence Township First Aid Squad who have served the community for 60 years and encouraged all to attend the Dedication which is a tremendous way to honor First Responders and a great parting gift to the Township which they are proud to have. He then turned the floor over to Ms. Tagliaferri.

Ms. Tagliaferri stated part of the plan for the 9/11 Memorial is to set up a virtual tour for people who come to visit and to do so they will need approval from the Township Council to hook into the Township's website and if the Council has any questions Dean can explain the idea better as he is more knowledgeable on the subject.

Dean stated as previously explained they built the Memorial to honor all the First Responders from Lawrence Township who gave of themselves during the event of 9/11 and they do not want it to be an object that just sits across from the First Aid Squad and once a year they go there and remember what happen on 9/11. They really want the 9/11 Memorial to be a community outreach; a vibrant living memorial that provides

information on a great number of subjects. One of which will be the events of 9/11 itself and they created a placard that will be somewhat educational on the spot. In addition, they would like to include things like the history of all First Responders in the Township – police, fire and the EMS - and the mechanism in which they would like to do that would be to affix a QR code on those placards that people can come and scan which would take them to a website where there would be a myriad of information regarding the history of the Lawrence Township police force, the history of the three fire companies and the history of the Lawrence Township First Aid Squad and how it transferred into the EMS they currently have today.

He further explained that they do not have the wherewithal to mount this web presently so they were hoping that the Township would see it as an opportunity to expand their web presence, not by directly putting it right on the town's webpage but by using web space that the Township already has for a separate web presence that would be all about historic events as it relates to Lawrence Township whether it be about the First Responders, 9/11 or other things that grow out of it. Also, they see this as an opportunity for educational investigations by the Township's schools where that monument could be a field trip where the students could take a cell phone or an iPad and access those QR codes and take some of that information back to school as well as formulate reports. Lastly, they see the Monument as a locus where anytime they have someone in the Township, rather it is a police officer or firefighter who has had some kind of milestone, the Memorial would be a place where a ceremony could take place in honor of those kinds of things and be added to the website.

Dean stated instead of the Memorial being a static object sitting there the scope could be broadened to provide educational opportunities and opportunities for the site to be more engaging for people who visit it. And, one of the things they would need besides the ability to put information on the Township's website is a separate location that would not be directly assessable when people visit the Lawrence Township website; but, it would still be hosted by whoever the Township's provider is. Additionally, a Wi-Fi signal will be needed and they feel the police station which is the current headquarters of the EMS that has Wi-Fi is close enough that they can have a guest network for the purpose of educational outreach and those are the kind of ideas they have been mulling around with regards to making the Memorial something more than a place where people go to gather once a year and remember the horrendous acts of 9/11. He then opened the floor for comments and questions.

Mayor Bobbitt thanked him for what they are doing with the 9/11 Memorial and for making it more than just a static monument and for tying it in with the Township's First Responders and their history and inquired if he had spoken with the Township Historian about any linkage. Dean replied "no", but his wife's uncle was the former historian, Bob Immordino, and he has access to all of his files so he was going to start there. A brief discussion took place relative to the request to hook into the Township's website and him reaching out to the current Township Historian and the Board of Education to help with the educational aspect as it relates to Lawrence history being the project is geared towards education.

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## Resolutions

Councilman Powers asked that Resolution (18-H.9), Authorizing the Continuation of Lawrence Township's Commitment to Equal, Respectful and Dignified Treatment of All, be pulled so that they will have an opportunity to recognize everybody who played a part including the members in the audience to get the Resolution before the Council for passage and proceeded with a detailed background history as to what ignited conversation and how the Human Relations Committee played a role in getting the Resolution where it is today. He then thanked everyone involved in helping to create the Welcoming Resolution on the tonight's agenda and extended a special thank you to Teresita Bastides-Heron, co-chair of the Human Relations Committee, Inderjit Sidhu, Immigration Lawyer and a member of the Human Relations Committee, Chief Ubry and the Lawrence Township Police Department, Reverend Reeder, Lawrence Road Presbyterian Church, principals from Lawrence Township Public Schools and the Human Relations Committee for all their hard work in bringing the matter to fruition. He further thanked the Township Attorney, Township Manager and members of Council for their feedback in helping to craft a great compromise document that everybody can be comfortable with and indicated he will proudly move the following resolution.

Prior to seconding the motion, Councilwoman Lewis pointed out that Councilman Powers did a good job in talking about the road and efforts of residents it took to get to this point today. And, one of things that was discussed throughout the conversations was Lawrence Township and its employees already espousing the things that are written in the Welcoming Resolution with regards to everyone being treated with dignity and the human respect they deserve and the proposed Resolution being for people who are scared to be in contact with the police or township personnel because of other bad experiences they have had at other places. So, this Resolution gives them the confidence to know that Lawrence Township respects everyone that walks through its doors and that they are providing a safe community and that safety is not contingent upon whether or not the individual is a citizen.

Councilman Kownacki stated initially he was against the Welcoming Resolution because Lawrence Township as a whole has always been a welcoming community dating way back and for them to have to state that in writing he was against as this is a common practice already done by the Township and its employees. But, after reviewing the revisions to the Resolution from Mr. Nerwinski, Township Attorney and the Township Council he will support it.

Mayor Bobbitt stated that he is proud of how the process played out as this was one of the things he was interested in as Mayor giving a voice to the Township Committees so that residents could interact with them and the committees could then report to the Council and the Council could then work with the staff and the Township Attorney to reflex the values of their communities in a way that makes sense and them getting to a good spot they can agree on which is what democracy is about.

Resolution No. 270-18 (18-H.9) was approved by the following roll call vote:

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Kownacki	X						
Ms. Lewis	X						X
Dr. Maffei				X			
Mr. Powers	X					X	
Mayor Bobbitt	X						

Cited Resolutions are spread in their entirety in the Resolution Books of the Township of Lawrence.

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Resolution Nos. 261-18 (18-A.1) through 306-18 (18-I.1) with the exception of 270-18 were approved by the following roll call vote:

| COUNCIL       | AYE | NAY | PRESENT | ABSENT | ABSTAIN | MOVE | SECOND |
|---------------|-----|-----|---------|--------|---------|------|--------|
| Mr. Kownacki  | X   |     |         |        |         |      |        |
| Ms. Lewis     | X   |     |         |        |         | X    |        |
| Dr. Maffei    |     |     |         | X      |         |      |        |
| Mr. Powers    | X   |     |         |        |         |      | X      |
| Mayor Bobbitt | X   |     |         |        |         |      |        |

Cited Resolutions are spread in their entirety in the Resolution Books of the Township of Lawrence.

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**Council Initiatives/Liaison Reports –**

Mayor Bobbitt reported that the Growth and Redevelopment voted on the Award winners for their upcoming Growth and Redevelopment Awards ceremony which is scheduled to take place in October and he does not know if the Press Release has gone out...so stay tuned.

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**Written Communications –**

There was no written communications.

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There being no further business to come before this Council, the meeting adjourned at Council went into Closed Session.

7:39 p.m.

Respectfully submitted by,

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Kathleen S. Norcia, Municipal Clerk

Attest:

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Christopher Bobbitt, Mayor