

**TOWNSHIP OF WYCKOFF
TOWNSHIP COMMITTEE REGULAR BUSINESS MEETING
SECOND FLOOR MUNICIPAL COURT ROOM
TUESDAY, NOVEMBER 20, 2018**

**TOWNSHIP OF WYCKOFF
TOWNSHIP COMMITTEE WORK SESSION MEETING
MUNICIPAL COURT ROOM
TUESDAY, NOVEMBER 20, 2018 - 7:00 P.M.**

1. 7:00 pm Work Session Meeting called to order by Mayor Brian D. Scanlan
2. Roll call of Township Committee
3. Reading of "Open Work Session" statement by Mrs. Santimauro
4. Confirm Finance Committee has reviewed and signed vouchers and that Mayor and Municipal Clerk have signed any necessary documents
5. Ten Minute public comment period, two (2) minutes per speaker for public comment on any governmental issue that a member of the public feels may be of concern to the residents of the Township of Wyckoff.
6. Presentation- Police Chief David V. Murphy will present the American Automobile Association of North Jersey Award of Excellence for Community Traffic Safety to the Township Committee.
7. Review of 8:00 p.m. Business Meeting Agenda – Administrator
8. Review of Policy Action Items – Administrator
9.
 - a. Report of Township Committee
 - b. Report of Administrator
 - c. Report of Attorney
10. Recess Work Session Meeting to conduct 8:00 pm Business Meeting
11. Reconvene Work Session Meeting
12. Adjourn

**PAYMENT OF CLAIMS MAY BE PAID AT ALL WORK SESSION MEETINGS
AND ALL TOWNSHIP COMMITTEE BUSINESS MEETINGS**

FORMAL ACTION MAY BE TAKEN AT THIS WORK SESSION

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TOWNSHIP COMMITTEE BUSINESS MEETING
MUNICIPAL COURT ROOM
TUESDAY, NOVEMBER 20, 2018 - 8:00 PM

- 1. Regular Meeting of the Wyckoff Township Committee called to order by Mayor Brian D. Scanlan
- 2. Flag Salute
- 3. Invocation given by Father Stephen Fichter from St. Elizabeth’s Church
- 4. Reading of the “Open Public Meetings Act” statement by Mrs. Santimauro
- 5. Roll call of the Township Committee
- 6. Public Comment period, five (5) minutes per speaker for public comment on any governmental issue that a member of the public feels may be of concern to the residents of the Township of Wyckoff.
- 7. Approval of the November 5, 2018 Township Committee Work Session and Regular Business meeting minutes:

MOTION: _____ BOONSTRA _____ SECOND _____ SHANLEY _____
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

- 8. Presentation of Special Innovative Public Information Contest Award from Rutgers University to the Township Committee
- 9. **Consent Agenda:** All matters listed below are considered by the Township Committee to be routine in nature. There will be no separate discussion of these items. If any discussion is desired by the Township Committee, that item will be removed from the Consent Agenda and considered separately:

I **Resolutions (Adoption of the following):**

- #18-303 Authorize Change Order #1 for Road Paving
- #18-304 National Recycling Awareness Day
- #18-305 Pancreatic Cancer Awareness Month
- #18-306 Payment of Bills
- #18-307 Authorize Redemption of Tax Sale Certificate
#18-00001 – 239 Morse Avenue
- #18-308 Cancel and Close Reserve for Accounts Payable
- #18-309 Endorsement of Bergen County Community
Development Grant Application for Eastern
Christian Children’s Retreat
Security and Access Control System
- #18-310 Endorsement of Bergen County Community
Development Grant Application for Eastern
Christian Children’s Retreat
HVAC Replacement Project

II **Motions**

- a. Authorize the request from the Zabriskie House Trustees for their Holiday Open House and ten (10) day temporary signs advertising the event.

Following is the vote on the Consent Agenda:

MOTION: _____ BOONSTRA _____ SECOND _____ SHANLEY _____
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

#1865 – AN ORDINANCE REPEALING ALL OF SECTIONS 186-51 THROUGH 186-59 OF CHAPTER 186, ZONING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AMENDING PORTIONS OF SECTIONS 186-48 AND 186-49, AND DELETING ALL OF SECTION 186-60.1, CURRENTLY ENTITLED PRODUCTION OF AFFORDABLE HOUSING AS SHARE OF ALL NEW RESIDENTIAL DEVELOPMENT, AND REPLACING IT IN ITS ENTIRETY WITH A NEW SECTION 186-60.1, TO BE ENTITLED MANDATORY AFFORDABLE HOUSING SET-ASIDE REQUIREMENTS

#1866 - AN ORDINANCE AMENDING CHAPTER 113, FEES, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AT ARTICLE II, DEVELOPMENT FEES, TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT AND TO REFLECT THE JURISDICTION OF THE NEW JERSEY SUPERIOR COURT, BERGEN COUNTY

#1867 - AN ORDINANCE REPEALING EXISTING CHAPTER 77, AFFORDABLE HOUSING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 77, AFFORDABLE HOUSING, PROVIDING COMPREHENSIVE REGULATIONS FOR THE ADMINISTRATION OF AFFORDABLE HOUSING AND ADDRESSING THE CURRENT REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING WYCKOFF TOWNSHIP'S AFFORDABLE HOUSING FAIR SHARE OBLIGATIONS

IV Adjourn

**PAYMENT OF CLAIMS MAY BE PAID AT ALL TOWNSHIP COMMITTEE
WORK SESSION MEETINGS AND ALL TOWNSHIP COMMITTEE REGULAR
MEETINGS
FORMAL ACTION MAY BE TAKEN DURING THIS MEETING**

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Meeting Called To Order

Mayor Brian D. Scanlan called the regular meeting of the Wyckoff Township Committee in the Municipal Court Room to order at 8:10 pm.

Flag Salute

The Township Committee proceeded with the Pledge of Allegiance led by Owen Rice and Jason Chin from Boy Scout Troop 89.

Invocation

The Invocation was given by Father Stephen Fichter from St. Elizabeth’s Church.

Attendance

Township Committee Present: Mayor Brian D. Scanlan; Committee Present: Rudolf E. Boonstra, Thomas J. Madigan, Melissa D. Rubenstein and Timothy E. Shanley

Staff Present: Township Administrator Robert J. Shannon, Joyce C. Santimauro, Municipal Clerk, Township Attorney Robert Landel and Thomas Garlick, Esq.

Open Public Meeting Act Statement

Municipal Clerk Santimauro read the “Open Public Meeting Act” Statement: “This regular meeting of the Township Committee of the Township of Wyckoff is now in session. In accordance with the provisions of Section 8 of the Open Public Meetings Act, I wish to advise that notice of this meeting has been posted in the lower level of the Memorial Town Hall and that a copy of the schedule of meetings has also been filed with the Township Clerk, and copies of this agenda and the annual notice of meetings, of which this is a part, have been heretofore sent to the Ridgewood News, The Record, and The North Jersey Herald and News all papers with general circulation throughout the Township of Wyckoff. At least 48 hours prior to this meeting the Agenda thereof was similarly posted, filed and mailed to said newspapers.”

Meeting Open for Public Comment

Committeeman Shanley made a motion to open the meeting for public Comment; Seconded by Committeewoman Rubenstein. All voted in favor.

No one came forward to speak.

Committeeman Shanley made a motion to close the public comment time of the regular business meeting; Seconded Committeewoman Rubenstein by with an affirmative vote.

Approval of the November 5, 2018 Township Committee Work Session and Regular Business meeting minutes:

MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

Presentation of Special Innovative Public Information Contest Award from Rutgers University to the Township Committee

Consent Agenda: All matters listed below are considered by the Township Committee to be routine in nature. There will be no separate discussion of these items. If any discussion is desired by the Township Committee, that item will be removed from the Consent Agenda and considered separately:

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I Resolutions (Adoption of the following):

#18-303 Authorize Change Order #1 for Road Paving

WHEREAS, the Township Committee of the Township of Wyckoff has awarded a contract to the lowest bidder to D and L Paving Contractors, 675 Franklin Avenue, Nutley, NJ 07110 for the paving of various roads in the Township of Wyckoff via Resolution #18-184 dated June 4, 2018 for \$1,749,619.54; and,

WHEREAS, the Township Administrator has filed with the Township Committee, in accordance with a recommendation from the DPW Manager, a written request for a change order in accordance with NJAC 5:34-4.4 prior to the adoption of this resolution; and,

WHEREAS, a Certification of Funds is not required because this resolution increases the total price by \$102,620.04 or 5.87%; and,

WHEREAS, the Township Attorney has reviewed this information and NJAC 5:34-4 and recommends the Township Committee adopt this resolution as for form and procedure.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Wyckoff, County of Bergen, State of New Jersey that the Change Order is hereby authorized increasing the final cost by 5.87% or \$102,620.04 to \$1,852,239.58.

BE IT FURTHER RESOLVED that the attached amendatory contract be approved.

CERTIFICATE OF AVAILABLE FUNDS

I, DIANA MCLEOD, CHIEF FINANCIAL OFFICER OF THE TOWNSHIP OF WYCKOFF, CERTIFY THAT SUFFICIENT FUNDS HAVE BEEN APPROPRIATED IN ACCOUNTS#C-04-56-999-950 & #T-12-56-800-731 & #8-01-26-290-020 TO AUTHORIZE THIS CHANGE ORDER.

DIANA MC LEOD
CHIEF FINANCIAL OFFICER

#18-304 National Recycling Awareness Day

WHEREAS, the Township of Wyckoff recognizes the importance of protecting and preserving our natural resources and adopting conscientious habits that will improve our daily lives and bring about a cleaner, safer and more sustainable environment; and,

WHEREAS, although there has been a significant increase in the amount of recycling in the Township of Wyckoff to date, we must also focus on other initiatives such as waste reduction, composting, the reuse of products and materials and purchasing recycled products; and,

WHEREAS, by encouraging businesses, state agencies, non-profit organizations, schools and individuals to celebrate **AMERICA RECYCLES DAY**, we can further promote recycling as an environmentally efficient and economically smart habit; and,

WHEREAS, state and community leaders can help encourage recycling by informing citizens about local recycling options, they can also help foster greater

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awareness of the need to expand collections programs by promoting the benefits of recycling investments for businesses; and,

WHEREAS, AMERICA RECYCLES DAY is a nationally recognized day dedicated to promoting and celebrating recycling in the United States of America.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Wyckoff, County of Bergen, State of New Jersey that Thursday, November 15, 2018 be designated as **AMERICA RECYCLES DAY**, and the Township Committee encourages all residents to utilize the curbside dual stream recycling collection program in the Township of Wyckoff.

#18-305 Pancreatic Cancer Awareness Month

WHEREAS, pancreatic cancer is one of the deadliest cancers and is the third leading cause of cancer death in the United States surpassing breast cancer; and,

WHEREAS, pancreatic cancer is one of the few cancers for which survival has not improved substantially over nearly forty (40) years; and,

WHEREAS, in 2018 about 55,440 Americans will be diagnosed with pancreatic cancer in the United States and over 44,330 will die from pancreatic cancer; and,

WHEREAS, pancreatic cancer has the highest mortality rate of all major cancers where 74% of all patients die within the first year of diagnosis; and,

WHEREAS, the Township Committee would like to encourage people to learn the signs and symptoms of pancreatic cancer.

NOW, THEREFORE, BE IT PROCLAIMED, by the Township Committee of the Township of Wyckoff, County of Bergen, State of New Jersey that the month of November 2018 be designated as Pancreatic Cancer Awareness Month, and the Township Committee seeks to increase awareness of the signs and symptoms of pancreatic cancer, and encourages its residents and all citizens to seek medical treatment when symptoms indicative of pancreatic cancer present themselves.

#18-306 Payment of Bills

WHEREAS, the Township of Wyckoff is a municipality in the State of New Jersey operating under the authority from NJSA 40A:63-1 et seq; and,

WHEREAS, the Township of Wyckoff has received vouchers in claim for payment of materials supplied and/or services rendered; and,

WHEREAS, the said vouchers have been reviewed and the amount indicated on each voucher has been determined to be due and owing; and,

WHEREAS, the Township Committee has a practice of each Township Committee member participating in the reviewing and signing of vouchers; and,

WHEREAS, the vouchers which comprise this bill list have been reviewed and signed by two (2) Township Committee members and they have found them to in order; and,

WHEREAS, the Township Treasurer has certified that sufficient funds are available for payment of said vouchers.

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NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Wyckoff that the action of the said Finance Committee be approved; and, that the payments of these bills are hereby authorized and the Chief Financial Officer is directed to issue checks for their payments as listed on the bill list attached to this date's meeting minutes and covered by checks no. 17605 – 17634 Payroll A/C, Direct Deposit Vouchers no. 10248 - 10321, Library Payroll check nos. 1412 & 1413, Library Direct Deposit Vouchers no. 4207 – 4239 and Claims check no. 080102.

#18-307 Authorize Redemption of Tax Sale Certificate #18-00001 – 239 Morse Avenue

WHEREAS, the Tax Collector of the Township of Wyckoff has previously determined that there was due and owing to the Township of Wyckoff outstanding tax and interest for tax year 2017 on Block 238/Lot 4, aka 239 Morse Avenue, within the Township of Wyckoff, County of Bergen, State of New Jersey; in the amount of \$1,056.08 and;

WHEREAS, on the 25th day of October 2018, the Township of Wyckoff executed a "Certificate of Sale of Unpaid Municipal Liens" numbered 18-00001, hereinafter referred to as a Tax Sale Certificate on the above-described property in the amount above-recited; and,

WHEREAS, said Tax Sale Certificate was purchased by Clemente Enterprises, P.O. Box 141, Wyckoff, NJ 07481; and,

WHEREAS, subsequent to the execution and filing of said Tax Sale Certificate and prior to the commencement of foreclosure proceedings against the property owner's right to redemption of said Tax Sale Certificate, the mortgagor has paid to the Tax Collector of the Township of Wyckoff any and all charges deemed due and owing on the above-described property and the property owner is therefore entitled to a redemption of said Tax Sale Certificate pursuant to N.J.S.A. 54:5-55.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Wyckoff, that the Tax Collector be, and the same is hereby authorized and directed to cancel and endorse Tax Sale Certificate 18-00001 for redemption and make refund in the amount of \$1,056.08 being lien amount of \$555.55, subsequent taxes, and interest in the amount of \$488.53 recording fees in the amount of \$12.00 and a premium of \$0 to Clemente Enterprises, and deliver said Tax Sale Certificate to the mortgagor for cancellation with the County Clerk in accordance with N.J.S.A. 54:5-55.

#18-308 Cancel and Close Reserve for Accounts Payable

WHEREAS, there is an open balance in Reserve Accounts Payable in the amount of \$60,000 from 2016; and,

WHEREAS, as CFO and the Township Auditor have reviewed and determined that all 2016 accounts payable have been paid; and,

WHEREAS, it is necessary close the remaining balances in the Reserve for Accounts Payable.

NOW THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Wyckoff, County of Bergen, State of New Jersey that the Chief Financial Officer is instructed to cancel the Reserve for Accounts Payable balance of \$60,000 to fund balance.

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#18-309 Endorsement of Bergen County Community Development Grant Application for Eastern Christian Children's Retreat Security and Access Control System

WHEREAS, a Bergen County Community Development Grant of \$91,337.74 has been proposed by the Eastern Christian Children's Retreat for a Security and Access Control System, in the Township of Wyckoff; and,

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the Governing Body; and,

WHEREAS, the aforesaid project is in the best interest of the people of Wyckoff; and,

WHEREAS, this resolution does not obligate the financial resources of the Township and is intended solely to expedite the expenditures of the aforesaid Community Development funds.

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Wyckoff, County of Bergen, State of New Jersey do hereby confirm endorsement of the aforesaid project.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

#18-310 Endorsement of Bergen County Community Development Grant Application for Eastern Christian Children's Retreat HVAC Replacement Project.

WHEREAS, a Bergen County Community Development Grant of \$255,500 has been proposed by the Eastern Christian Children's Retreat for a HVAC Replacement Project, in the Township of Wyckoff; and,

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the Governing Body; and,

WHEREAS, the aforesaid project is in the best interest of the people of Wyckoff; and,

WHEREAS, this resolution does not obligate the financial resources of the Township and is intended solely to expedite the expenditures of the aforesaid CD funds.

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Wyckoff, County of Bergen, State of New Jersey do hereby confirm endorsement of the aforesaid project.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

II Motions

- a. Authorize the request from the Zabriskie House Trustees for their Holiday Open House and ten (10) day temporary signs advertising the event.

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Following is the vote on the Consent Agenda:

MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

III Ordinances – Public Hearings/Further Consideration

#1865 – AN ORDINANCE REPEALING ALL OF SECTIONS 186-51 THROUGH 186-59 OF CHAPTER 186, ZONING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AMENDING PORTIONS OF SECTIONS 186-48 AND 186-49, AND DELETING ALL OF SECTION 186-60.1, CURRENTLY ENTITLED PRODUCTION OF AFFORDABLE HOUSING AS SHARE OF ALL NEW RESIDENTIAL DEVELOPMENT, AND REPLACING IT IN ITS ENTIRETY WITH A NEW SECTION 186-60.1, TO BE ENTITLED MANDATORY AFFORDABLE HOUSING SET-ASIDE REQUIREMENTS

ORDINANCE

FINAL PASSAGE

MUNICIPAL CLERK: Mr. Chairman, I have Ordinance No. 1865, entitled:

AN ORDINANCE REPEALING ALL OF SECTIONS 186-51 THROUGH 186-59 OF CHAPTER 186, ZONING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AMENDING PORTIONS OF SECTIONS 186-48 AND 186-49, AND DELETING ALL OF SECTION 186-60.1, CURRENTLY ENTITLED PRODUCTION OF AFFORDABLE HOUSING AS SHARE OF ALL NEW RESIDENTIAL DEVELOPMENT, AND REPLACING IT IN ITS ENTIRETY WITH A NEW SECTION 186-60.1, TO BE ENTITLED MANDATORY AFFORDABLE HOUSING SET-ASIDE REQUIREMENTS

for second reading, by title only, and a copy of this Ordinance has been posted on the bulletin board in Town Hall where public notices are customarily posted, and copies have been made available to members of the general public of the Township who have requested the same.

COMMITTEEMAN BOONSTRA: I move the Ordinance on second reading by Title only.

COMMITTEEMAN SHANLEY: Seconded.

MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

CHAIRMAN: This is the time and place for the Public Hearing on Ordinance No. 1865, and all persons who wish to be heard, please state your name and address before making your statement.

COMMITTEEMAN BOONSTRA: I move that the Public Hearing on the Ordinance be closed.

COMMITTEEMAN SHANLEY: Seconded.

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MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

MUNICIPAL CLERK: BE IT RESOLVED, by the Township Committee of the Township of Wyckoff that Ordinance No. 1865 be, and the same is hereby adopted, and the Municipal Clerk is hereby authorized and directed to publish the Notice of Final Passage of said Ordinance in the official newspaper for the Township as provided by law.

COMMITTEEMAN BOONSTRA: I move the resolution.

COMMITTEEMAN SHANLEY: Seconded.

MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

**Ordinance No. 1865
Repealer and Mandatory Set-Aside Ordinance
Township of Wyckoff, Bergen County**

AN ORDINANCE REPEALING ALL OF SECTIONS 186-51 THROUGH 186-59 OF CHAPTER 186, ZONING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AMENDING PORTIONS OF SECTIONS 186-48 AND 186-49, AND DELETING ALL OF SECTION 186-60.1, CURRENTLY ENTITLED PRODUCTION OF AFFORDABLE HOUSING AS SHARE OF ALL NEW RESIDENTIAL DEVELOPMENT, AND REPLACING IT IN ITS ENTIRETY WITH A NEW SECTION 186-60.1, TO BE ENTITLED MANDATORY AFFORDABLE HOUSING SET-ASIDE REQUIREMENTS

BE IT ORDAINED by the Township Committee of the Township of Wyckoff, Bergen County, New Jersey, that the Code of the Township of Wyckoff is hereby amended to repeal Chapter 186, Sections 186-51, 186-52, 186-53, 186-54, 186-55, 180-56, 186-57, 186-58 and 186-59 in their entirety, as they are inconsistent with and superseded by current law and Chapters 77 and 113, Article II, as amended and supplemented; to amend portions of Sections 186-48 and 186-49 regulating affordable housing development to be consistent with applicable law; and to replace existing Section 186-60.1, currently containing growth share requirements, with new requirements for a mandatory set-aside of affordable housing under specific circumstances.

Section 1.

The following Sections of Chapter 186, Zoning, are hereby deleted as to their content and henceforth to be marked "(Reserved)" for future use for other purposes:

186-51. Rental units.

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186-52. Regional contribution agreement (RCA) criteria.

186-53. Affordable housing requirements.

186-44. Housing administration.

186-55. Affordable housing trust fund.

186-56. Affirmative marketing.

186-57. Processing, exemption from fees.

186-58. Compliance.

**186-59. Violation of rules
Section 2.**

Chapter 186, Zoning, Section 186-48, is hereby amended in its entirety to read as follows:

186-48. Purpose.

It is the intent of this Article X to provide zoning regulations that create a realistic opportunity for the construction of housing affordable to very low, low and moderate income households in the context of inclusionary residential developments that are zoned, consistent with an adopted Housing Element and Fair Share Plan, to allow a higher density of multi-family residential development than otherwise permitted in Wyckoff sufficient to subsidize the construction of such very low, low and moderate income housing; to provide reasonable, non-cost generating bulk standards for such development, consistent with the Residential Site Improvement Standards (N.J.A.C. 5:21); to provide overlay zoning to certain sites and areas of the Township that may someday redevelop so as to ensure that such sites will be redeveloped as inclusionary residential developments that will provide the opportunity for very low, low and moderate income housing to be constructed in the future; and to require all multi-family residential developments, including apartments, townhouses, condominiums and any other non-single family detached residential developments, that are approved in the future to be constructed at a certain minimum density, but that are not currently anticipated as part of an adopted Housing Element and Fair Share Plan, to provide a set-aside of very low, low and moderate income housing. All developments constructed pursuant to this Article shall also be subject to the requirements of Chapter 77, Affordable Housing, which requirements shall accompany, and, where there is a conflict, supersede the requirements of this Article X. Any other provision of any ordinance of the Township of Wyckoff

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that is in conflict with this Article X or impose higher standards not directly related to health and safety shall be inapplicable. The definitions set forth in Chapter 77 shall apply to this Article X.

Section 3.

Chapter 186, Zoning, Section 186-49, is hereby amended as follows:

A. Amend Section 186-49.A. (introductory paragraph) to delete references to the MF-AH3 and MF-AH4 Zones.

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B. Amend Section 186-49.A.(4) (b) to delete references to the MF-AH3 and MF-AH4 zones and the densities assigned to them.

C. Amend Section 186-49.A.(4) (j) to rewrite the introductory paragraph to read as follows:

(j) Off-street parking requirement. Off-street parking shall be provided in accordance with the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21 and the following requirements: Then delete the requirements at (j)[1], [2], and [3] and renumber (j)[4], [5], and [6] as (j)[1], [2], and [3].

D. Amend Section 186-49.A.(6) to delete (b) in its entirety.

E. Amend Section 186-49.A.(8) in its entirety as follows:

(8) Access.

(a) All sites shall be developed with access as required by the RSIS. If a secondary means of access is required by the RSIS and is provided as an emergency access only, it shall be a minimum of 16 feet wide and be suitably improved to provide access in all weather conditions. Applicants proposing emergency access over privately owned land shall include documentation acceptable to the Planning Board Attorney that such access will remain available in perpetuity, will be adequately marked and protected from encroachment and shall be promptly cleared of snow.

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- (b) The design of all streets shall be as provided by the RSIS.

F. Amend Section 186-49.B.(k) to rewrite the introductory paragraph to read as follows:

- (k) Off-street parking requirement. Off-street parking shall be provided in accordance with the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21 and the following requirements:

Then delete the requirements at (k)[1] and [2], and renumber (k)[3], [4], and [5] as (k)[1], [2], and [3].

G. Amend Section 186-49.B.(6) in its entirety as follows:

- (6) Access. All sites shall be developed with access as required by the RSIS. If a secondary means of access is required by the RSIS and is provided as an emergency access only, it shall be a minimum of 16 feet wide and be suitably improved to provide access in all weather conditions. Applicants proposing emergency access over privately owned land shall include documentation acceptable to the Planning Board Attorney that such access will remain available in perpetuity, will be adequately marked and protected from encroachment and shall be promptly cleared of snow.

Section 4.

Section 186-60.1 is hereby deleted in its entirety and renamed **Mandatory Affordable Housing Set-Aside Requirements**, as follows:

186-60.1. Mandatory Affordable Housing Set Aside Requirements.

A mandatory set-aside requirement of 20% (if the affordable units will be for sale) and 15% (if the affordable units will be for rent) shall be imposed on any multi-family residential development created through any Township or Board action involving a rezoning, use variance, density variance, redevelopment plan or rehabilitation plan permitting redevelopment that provides an incentive in the form of an increase in the density on a site, which density is at or above six (6) units per acre and results in the

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construction or creation of five or more new dwelling units over the number of units previously allowed. This requirement does not affect the requirements for production of affordable housing on sites that are zoned for inclusionary development as a result of an adopted Housing Element and Fair Share Plan, which sites shall be developed as provided under the zoning or overlay zoning enacted for those sites. **This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Wyckoff Township to grant such rezoning, variance or other relief, nor does it suggest that a density of six (6) units per acre provides a sufficient financial incentive for inclusionary residential development in all cases.** A property shall not be permitted to be subdivided so as to avoid meeting this requirement. All affordable units created by this mechanism shall be family affordable housing units (i.e., non-age-restricted).

REPEALER

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

SEVERABILITY

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

EFFECTIVE DATE

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

#1866 - AN ORDINANCE AMENDING CHAPTER 113, FEES, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AT ARTICLE II, DEVELOPMENT FEES, TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT AND TO REFLECT THE JURISDICTION OF THE NEW JERSEY SUPERIOR COURT, BERGEN COUNTY

ORDINANCE

FINAL PASSAGE

MUNICIPAL CLERK: Mr. Chairman, I have Ordinance No. 1866 , entitled:

**TOWNSHIP OF WYCKOFF
TOWNSHIP COMMITTEE REGULAR BUSINESS MEETING
SECOND FLOOR MUNICIPAL COURT ROOM
TUESDAY, NOVEMBER 20, 2018**

AN ORDINANCE AMENDING CHAPTER 113, FEES, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AT ARTICLE II, DEVELOPMENT FEES, TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT AND TO REFLECT THE JURISDICTION OF THE NEW JERSEY SUPERIOR COURT, BERGEN COUNTY

for second reading, by title only, and a copy of this Ordinance has been posted on the bulletin board in Town Hall where public notices are customarily posted, and copies have been made available to members of the general public of the Township who have requested the same.

COMMITTEEMAN SHANLEY: I move the Ordinance on second reading by Title only.

COMMITTEEWOMAN RUBENSTEIN: Seconded.

MOTION: SHANLEY SECOND RUBENSTEIN
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

CHAIRMAN: This is the time and place for the Public Hearing on Ordinance No. 1866 , and all persons who wish to be heard, please state your name and address before making your statement.

COMMITTEEMAN SHANLEY: I move that the Public Hearing on the Ordinance be closed.

COMMITTEEWOMAN RUBENSTEIN: Seconded.

MOTION: SHANLEY SECOND RUBENSTEIN
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

MUNICIPAL CLERK: BE IT RESOLVED, by the Township Committee of the Township of Wyckoff that Ordinance No. 1866 be, and the same is hereby adopted, and the Municipal Clerk is hereby authorized and directed to publish the Notice of Final Passage of said Ordinance in the official newspaper for the Township as provided by law.

COMMITTEEMAN SHANLEY: I move the resolution.

COMMITTEEWOMAN RUBENSTEIN: Seconded.

MOTION: SHANLEY SECOND RUBENSTEIN
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

**Ordinance No. 1866
Development Fee Ordinance
Township of Wyckoff, Bergen County**

AN ORDINANCE AMENDING CHAPTER 113, FEES, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, AT ARTICLE II, DEVELOPMENT

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FEES, TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT AND TO REFLECT THE JURISDICTION OF THE NEW JERSEY SUPERIOR COURT, BERGEN COUNTY

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

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

BE IT ORDAINED by the Township Committee of the Township of Wyckoff, Bergen County, New Jersey, that Chapter 113, Fees, of the Code of the Township of Wyckoff is hereby amended to repeal existing Chapter 113, Article II, Development Fees, in its entirety and to replace it with a new Chapter 113, Article II, that includes the following provisions regulating the collection and disposition of mandatory development fees to be used in connection with the Township's affordable housing programs, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

113.5. Purpose

This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1

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through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low, low- and moderate-income housing

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in accordance with a Court-approved Spending Plan.

113.6. Basic Requirements

- A. This Ordinance shall not be effective until approved by the Court.
- B. The Township of Wyckoff shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

113.7. Definitions

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

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan or developed in accordance with the Mandatory Set-Aside Regulations in the Affordable Housing Ordinance, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

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

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

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

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

"Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the

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health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing

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infrastructure and community services.

113.8. Residential Development Fees

A. Imposition of Fees

(1) Within the Township of Wyckoff, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development except where an increased residential density is permitted (see Section 113.8.A.(2) below). Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure (but no increase in the permitted density is involved); in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

(2) When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of six percent (6%) percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

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

(2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees under this

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Ordinance (but shall nevertheless be subject to the payment of development fees in accordance with the

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Development Fee Ordinance applicable at the time of such approval), unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.

(3) Development fees shall be imposed and collected whenever an existing structure undergoes a change to a more intense use, is demolished and replaced (except as provided at B.(4) below) 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 or replacement structure as compared to the previous structure.

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

113.9. Non-Residential Development Fees

A. Imposition of Fees

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

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

(3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-

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existing land and improvements and the equalized

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assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

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

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

(2) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

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

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

(5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property

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shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Wyckoff as a lien against the real property of the owner.

113.10. Collection Procedures

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

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

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

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

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

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

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

H. Except as provided in Section 113-9.A.(3) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy. I. Appeal of Development Fees

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

(2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Wyckoff. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

113-11. Affordable Housing Trust Fund

A. The Township of Wyckoff has established a separate, interest-bearing Affordable Housing Trust Fund that is maintained by the Chief Financial Officer

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of the Township of Wyckoff for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

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

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

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

(3) Rental income from municipally operated units, if applicable;

(4) Repayments from affordable housing program loans, if applicable;

(5) Recapture funds, if applicable;

(6) Proceeds from the sale of affordable units, if applicable; and

(7) Any other funds collected in connection with Wyckoff's affordable housing program.

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

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Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a

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reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

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

113.12. Use of Funds

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

B. Funds shall not be expended to reimburse the Township of Wyckoff for past housing activities.

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development

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fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of the median income for Housing Region 3, in which Wyckoff is located.

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

(2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.

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

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

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

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

(2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related

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to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

113.13. Monitoring

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

113.14. Ongoing Collection of Fees

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

B. If the Township of Wyckoff fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds

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remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

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

REPEALER

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

SEVERABILITY

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

EFFECTIVE DATE

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

#1867 - AN ORDINANCE REPEALING EXISTING CHAPTER 77, AFFORDABLE HOUSING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 77, AFFORDABLE HOUSING, PROVIDING COMPREHENSIVE REGULATIONS FOR THE ADMINISTRATION OF AFFORDABLE HOUSING AND ADDRESSING THE CURRENT REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING WYCKOFF TOWNSHIP'S AFFORDABLE HOUSING FAIR SHARE OBLIGATIONS

ORDINANCE

FINAL PASSAGE

MUNICIPAL CLERK: Mr. Chairman, I have Ordinance No. 1867 , entitled:

AN ORDINANCE REPEALING EXISTING CHAPTER 77, AFFORDABLE HOUSING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 77, AFFORDABLE HOUSING, PROVIDING COMPREHENSIVE REGULATIONS FOR THE ADMINISTRATION OF AFFORDABLE

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**HOUSING AND ADDRESSING THE CURRENT REQUIREMENTS OF THE
FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY
CONTROLS (UHAC) REGARDING WYCKOFF TOWNSHIP'S
AFFORDABLE HOUSING FAIR SHARE OBLIGATIONS**

for second reading, by title only, and a copy of this Ordinance has been posted on the bulletin board in Town Hall where public notices are customarily posted, and copies have been made available to members of the general public of the Township who have requested the same.

COMMITTEEMAN BOONSTRA: I move the Ordinance on second reading by Title only.

COMMITTEEMAN SHANLEY: Seconded.

MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

CHAIRMAN: This is the time and place for the Public Hearing on Ordinance No. 1867 , and all persons who wish to be heard, please state your name and address before making your statement.

COMMITTEEMAN BOONSTRA: I move that the Public Hearing on the Ordinance be closed.

COMMITTEEMAN SHANLEY: Seconded.

MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

MUNICIPAL CLERK: BE IT RESOLVED, by the Township Committee of the Township of Wyckoff that Ordinance No. 1867 be, and the same is hereby adopted, and the Municipal Clerk is hereby authorized and directed to publish the Notice of Final Passage of said Ordinance in the official newspaper for the Township as provided by law.

COMMITTEEMAN BOONSTRA: I move the resolution.

COMMITTEEMAN SHANLEY: Seconded.

MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

Ordinance No. 1867

**Affordable Housing Ordinance
Township of Wyckoff, Bergen County**

**AN ORDINANCE REPEALING EXISTING CHAPTER 77, AFFORDABLE
HOUSING, OF THE CODE OF THE TOWNSHIP OF WYCKOFF, IN
ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 77,
AFFORDABLE HOUSING, PROVIDING COMPREHENSIVE
REGULATIONS FOR THE ADMINISTRATION OF AFFORDABLE
HOUSING AND ADDRESSING THE CURRENT REQUIREMENTS OF THE
FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY
CONTROLS (UHAC) REGARDING WYCKOFF TOWNSHIP'S
AFFORDABLE HOUSING FAIR SHARE OBLIGATIONS**

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BE IT ORDAINED by the Township Committee of the Township of Wyckoff, Bergen County, New Jersey, that the Code of the Township of Wyckoff is hereby amended to repeal existing Chapter 77, Affordable Housing, of the Code of the Township of Wyckoff in its entirety and to replace it with a new Chapter 77, Affordable Housing, to include the following provisions addressing Wyckoff's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended and supplemented. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Wyckoff Township Planning Board has adopted a 2018 Third Round Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. This Ordinance implements and incorporates the adopted 2018 Third Round Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended and supplemented, and also implements the terms of Wyckoff's June 12, 2018, Settlement Agreement with Fair Share Housing Center in In the Matter of the Township of Wyckoff, County of Bergen, Docket No.: BER-L-6224-15.

77.1. Monitoring and Reporting Requirements

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

- A. Beginning on or before June 30, 2019, and on every anniversary of that date through June 30, 2025, the Township agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council

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on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

- B. Beginning on or before June 30, 2019, and on every anniversary of that date through June 30, 2025, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- C. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
- D. By June 30, 2021, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

77.2. Definitions

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

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

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

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

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

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

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

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

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

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

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

"Age-restricted unit" means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by

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one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b) (2) of the Fair Housing Act, 42 U.S.C. § 3607.

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

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

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

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

"DCA" means the State of New Jersey Department of Community Affairs.

"Deficient housing unit" means a housing unit with health and safety code violations that requires the repair or replacement of

a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

"Developer" means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other

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person having an enforceable proprietary interest in such land.

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

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

"Low-income household" means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

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

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

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

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

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

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

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

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

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits recalculated annually by the Township's Administrative Agent following the procedures set forth in this Ordinance.

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

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

"Restricted unit" means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls

of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHOP or MONI.

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

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

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

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

77.3. Applicability

A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Wyckoff pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.

B. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units and including any developments of low and moderate income housing constructed with Low Income Housing Tax Credit Financing, which development shall comply with the bedroom and income distributions required by this Ordinance.

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

77.4. Alternative Living Arrangements

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

(1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms shall be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;

(2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living

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arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

77.5. Phasing Schedule for Inclusionary Zoning

In inclusionary developments the following schedule shall be followed:

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

77.6. New Construction

A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

(1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development.

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

(3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

(a) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;

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

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c) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

(d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

(4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility Requirements:

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

(2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

(a) An adaptable toilet and bathing facility on the first floor; and

(b) An adaptable kitchen on the first floor; and

(c) An interior accessible route of travel on the first floor; and

(d) 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

(e) If not all of the foregoing requirements in (b)[1] through (b)[4] can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (b)[1] through (b)[4] above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

(f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Wyckoff has collected funds from the

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developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

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

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

[3] The funds deposited under paragraph 6)b) above shall be used by the Township of Wyckoff for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

[4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Wyckoff for the conversion of adaptable to accessible entrances.

[5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

C. Design:

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

(2) In inclusionary developments, low- and moderate-income units shall have access to all of the

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same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices:

(1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and using the following calculation procedures approved by the Court.

(2) Income limits for all units that are part of the Township's Housing Element and Fair Share Plan and for which income limits are not already established through a federal program exempted from the UHAC pursuant to N.J.A.C. 5:80-26.1, shall be updated by the

Township annually within 30 days of the publication of determinations of median income by the Department of Housing and Urban Development ("HUD") as follows:

(a) Regional income limits shall be established for the region in which the Township is located based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

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(b) The income limits are the result of applying the percentages set forth in paragraph 1) above to HUD's determination of median income for the fiscal year 2018, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

(c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3) shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) 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.

(3) In establishing sale prices and rents of affordable housing units, the Township's Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established pursuant to the process defined above.

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

(5) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

(6) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

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(7) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

(a) A studio shall be affordable to a one-person household;

(b) A one-bedroom unit shall be affordable to a one and one-half person household;

(c) A two-bedroom unit shall be affordable to a three-person household;

(d) A three-bedroom unit shall be affordable to a four and one-half person household; and

(e) A four-bedroom unit shall be affordable to a six-person household.

(8) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

(a) A studio shall be affordable to a one-person household;

(b) A one-bedroom unit shall be affordable to a one and one-half person household; and

(c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

(9) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

(10) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C.

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5:80-26.4, as may be amended and supplemented;
provided, however, that the rent shall be subject to
the affordability average requirement of N.J.A.C.
5:80-26.3, as may be amended and supplemented.

(11) The resale prices of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to the above methodology. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

(12) The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area,

upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

77.7. Utilities

A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD each year for the Section 8 program.

77.8. Occupancy Standards

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

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

77.9. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

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A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of not less than thirty (30) years, and thereafter until Wyckoff takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the

Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

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

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

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

A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 77.13.

77.11. Buyer Income Eligibility

A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Committee, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership

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unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

77.12. Limitations on Indebtedness Secured by Ownership Unit; Subordination

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Subsection, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

77.13. Capital Improvements To Ownership Units

A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

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77.14. Control Periods for Restricted Rental Units

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of not less than thirty (30) years, and thereafter until Wyckoff takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. 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 Bergen. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

(1) Sublease or assignment of the lease of the unit;

(2) Sale or other voluntary transfer of the ownership of the unit; or

(3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

77.15. Rent Restrictions for Rental Units; Leases

A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

C. Application fees (including the charge for any

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credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units

in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

77.16. Tenant Income Eligibility

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

(1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.

(2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.

(3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

(1) The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

(2) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

(3) The household is currently in substandard or overcrowded living conditions;

(4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or

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(5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

77.17. Municipal Housing Liaison

A. The Township of Wyckoff shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Township's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Township's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Wyckoff shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Wyckoff, including the following responsibilities which may not be contracted out to the Administrative Agent:

(1) Serving as Wyckoff's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

(2) Monitoring the status of all restricted units in Wyckoff's Fair Share Plan;

(3) Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;

(4) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

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

C. Subject to the approval of the Court, the Township of Wyckoff shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed

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in the Township in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be

adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

77.18. Administrative Agent

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

A. Affirmative Marketing:

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

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

B. Household Certification:

(1) Soliciting, scheduling, conducting and following up on interviews with interested households;

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

(3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

(4) Requiring that all certified applicants for

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restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

(5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;

(6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Wyckoff when referring households for certification to affordable units; and

(7) Directly notifying the following entities by regular mail or e-mail of the availability of affordable housing units in the Township of Wyckoff (accompanied by copies of or links to application forms): Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Bergen County NAACP, the Bergen County Urban League, the Bergen County Housing Coalition, and the Supportive Housing Association.

C. Affordability Controls:

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

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

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

(4) Communicating with lenders regarding foreclosures; and

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

D. Resales and Re-rentals:

(1) Instituting and maintaining an effective means of communicating information between owners and

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the Administrative Agent regarding the availability of restricted units for resale or re-rental; and

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

E. Processing Requests from Unit Owners:

(1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

(2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, with such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

(3) Notifying the municipality of an owner's intent to sell a restricted unit; and

(4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

(1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

(2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

(3) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

(4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-

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26.18 (d) 4;

(5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

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

G. Additional Responsibilities:

(1) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

(2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

(3) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

77.19. Affirmative Marketing Requirements

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

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 1 and is required to be followed throughout the period of restriction.

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C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Bergen, Passaic, Hudson and Sussex Counties.

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

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

F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

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

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

I. In addition to other affirmative marketing strategies, the Administrative Agent shall provide direct notice of the availability of affordable housing units in Wyckoff, and copies of application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Bergen County NAACP, the Bergen County Urban League, the Bergen County Housing Coalition, and the Supportive Housing Association.

J. The costs of advertising and affirmative marketing of the affordable units shall be the

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responsibility of the developer, sponsor or owner.

77-20. Enforcement of Affordable Housing Regulations

A. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

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

(1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

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

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

(c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

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(2) The municipality may file a court action in

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the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

(a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

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

(c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit.

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Title shall be conveyed to the purchaser

at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

(d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

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

(f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

77.21. Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Superior Court of New Jersey, Bergen County Vicinage.

REPEALER

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

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SEVERABILITY

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

EFFECTIVE DATE

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

MOTION: BOONSTRA SECOND SHANLEY
BOONSTRA YES MADIGAN YES RUBENSTEIN YES SHANLEY YES
SCANLAN YES

IV Meeting Adjourned 8:30 pm.

Brian D. Scanlan
Mayor

Joyce C. Santimauro
Municipal Clerk