

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

November 14, 2019

The Marlboro Township Council held its regularly scheduled meeting on November 14, 2019 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Metzger opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regularly scheduled meeting of the Township Council of the Township of Marlboro was sent to the Asbury Park Press, the Star Ledger, News Transcript and Board of Education Office on January 7, 2019; published in the Asbury Park Press on January 9, 2019; posted on the Bulletin Board of the Municipal Building; filed in the office of the Municipal Clerk and placed on the township website and Channel 77.

The Clerk called the Roll.

PRESENT: Councilman Cantor, Councilwoman Marder, Council Vice President Mazzola, Councilman Scalea and Council President Metzger.

Also present: Mayor Jonathan Hornik, Township Attorney Louis N. Rainone, Esq., Business Administrator Jonathan Capp, Municipal Clerk Alida Manco and Deputy Municipal Clerk Susan A. Branagan.

Council Vice President Mazzola moved that the minutes of October 17, 2019 be adopted, this was seconded by Councilman Scalea and as there was no objection, the Clerk was asked to cast one ballot.

At 7:30 p.m., Councilman Scalea moved that the meeting enter into executive session for discussion of Affordable Housing litigation. This was seconded by Council Vice President Mazzola and Resolution #2019-330 was passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2019-330

EXECUTIVE SESSION

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 14th day of November, 2019 to enter into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely Affordable Housing Litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 10 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 7:40 p.m., Councilman Scalea offered a motion to return to regular business, which was seconded by Council Vice President Mazzola and passed on a roll call vote of 5 - 0 in favor.

The following Resolution #2019-313/Ordinance #2019-12 (Repealing and Replacing Chapter 70, Article III and IV - Affordable Housing Development Fees to Address Requirements of Fair Housing Act and Uniform Housing Affordability Controls (UHAC) and to Comply with Township's Third Round Affordable Housing Obligations) was introduced by reference, offered by Council Vice President Mazzola, seconded by Council President Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2019-313

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2019-12

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 70, ARTICLE III AND ARTICLE IV, OF THE "CODE OF THE TOWNSHIP OF MARLBORO" REGARDING AFFORDABLE HOUSING DEVELOPMENT FEES, TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) AND TO COMPLY WITH THE

TOWNSHIP'S THIRD ROUND AFFORDABLE HOUSING  
OBLIGATIONS

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on December 12, 2019 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2019-12

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 70, ARTICLE III AND ARTICLE IV, OF THE "CODE OF THE TOWNSHIP OF MARLBORO" REGARDING AFFORDABLE HOUSING DEVELOPMENT FEES, TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) AND TO COMPLY WITH THE TOWNSHIP'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Marlboro Township Planning Board adopted a 2019 Housing Element and Fair Share Plan, which plan was subsequently endorsed by the Mayor and Council of the Township of Marlboro; and

WHEREAS, this ordinance is intended to implement and incorporate the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1 *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1 *et seq.* as amended and supplemented, and the New Jersey Fair Housing Act of 1985;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Marlboro, in Monmouth County, New Jersey, as follows:

Section 1. Chapter 70, Article III repealed and replaced.  
Chapter 70, "Affordable Housing" in the "Code of the Township of Marlboro" ("Code"), Article III (Development Fees), is hereby repealed and replaced in its entirety with the following new ordinance chapters:

Article II Development Fees

§70-27. Purpose.

- A. 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 Council on Affordable Housing's (COAH's) adoption of rules.
- B. Pursuant to P.L. 2008, c. 46, § 8 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), COAH is 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 are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
- C. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025 are under the Court's jurisdiction and are subject to approval by the Court.
- D. This article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, §§ 8 and 32 through 38. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. § 5:93-8.

#### §70-28. Basic requirements.

This section shall become effective at such time that the Superior Court approves the Township's development fee ordinance in accordance with N.J.A.C. 5:93-8.

#### §70-29. Definitions.

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

#### AFFORDABLE HOUSING DEVELOPMENT

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

#### COAH or THE COUNCIL

The New Jersey Council on Affordable Housing established under the Fair Housing Act which previously had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state. Pursuant to the opinion and order of the New Jersey Supreme Court dated March 10, 2015, in the matter of "In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing (M-392-14) 067126," any reference to COAH or the Council shall be understood to refer to the Superior Court of New Jersey, Law Division-Morris County.

#### DEVELOPMENT FEES

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

#### DEVELOPER

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

#### EQUALIZED ASSESSED VALUE

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 §§ 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

#### GREEN BUILDING STRATEGIES

Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§70-30. Residential development fees.

A. Imposed fees.

- 1) Within all zone districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- 2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70.d (5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
- 3) Within the Stream Corridor Preservation Residential Zone ("SCPR"), a density bonus is permitted for the cluster development option provided for in this zone. Residential developers within this zone shall pay a development fee of 6% of the equalized assessed value for each additional unit permitted as a result of the density bonus under the cluster development option. On the remaining units, the developer shall pay a development fee of 1.50% of equalized assessed value. Under the cluster development option in the SCPR Zone District, a maximum density of 0.8 lot per gross acre is permitted as a density bonus. In non-cluster developments, the maximum density in the SCPR Zone District is 0.43 lot per gross acre. (The density bonus equals a net of 0.37 lot per gross acre.) If a variance is granted permitting development in the SCPR Zone District pursuant to N.J.S.A. 40:55D-70d(5) (referred to as a "d" variance or density variance), then the developer shall be subject to a bonus development fee of 6% of the equalized assessed value per unit on each additional residential unit realized above that which is permitted by right under the existing zoning. On the remaining units, the developer shall be subject to a development fee of 1.50% of the equalized assessed value per unit. However, if the zoning on a site has changed during the two-year period preceding the filing of the "d" variance application, then the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two years preceding the filing of the "d" variance application.

- 4) Within the R-60/15 Residential District, a density bonus is permitted for the cluster development option provided for in this residential district. Residential developers within this residential district shall pay a development fee of 6% of the equalized assessed value for each additional unit permitted as a result of the density bonus under the cluster development option. On the remaining units, the developer shall pay a development fee of 1.50% of the equalized assessed value. Under the cluster development option in the R-60/15 Residential District, a maximum density of one lot per gross acre is permitted as a density bonus. In non-cluster developments, the maximum density in this residential district is 0.58 lot per gross acre. (The density bonus equals a net of 0.42 lot per gross acre.) If a variance is granted permitting development in the R-60/15 Zone District pursuant to N.J.S.A. 40:55D-70d(5) (referred to as a "d" variance or density variance), then the developer shall be subject to a bonus development fee of 6% of the equalized assessed value per unit on each additional residential unit realized above that which is permitted by right under the existing zoning. On the remaining units, the developer shall be subject to a development fee of 1.50% of the equalized assessed value per unit. However, if the zoning on a site has changed during the two-year period preceding the filing of the "d" variance application, then the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two years preceding the filing of the "d" variance application.
  
- 5) For residential developments in the R-40/30 Residential District which are located on properties that are not included within the consent order identified in § 220-50C of the Code of the Township of Marlboro, New Jersey, residential developers shall pay a development fee in the amount of 6% of the equalized assessed value for each additional unit permitted as a result of rezoning from the R-80 Residential District. On the remaining units, the developer shall pay a development fee of 1.50% of the equalized assessed value. Under the R-40/30 Residential District, a maximum density of 0.87 unit per acre is permitted. Under the previous R-80 Residential District, a maximum density of 0.43 unit per acre is permitted. If a variance is granted permitting development in the R-40/30 Zone District pursuant to N.J.S.A. 40:55D-70d(5) (referred to as a "d" variance or density variance), then the developer shall be subject to a bonus development fee of 6% of the equalized assessed value per unit on each

additional residential unit realized above that which is permitted by right under the existing zoning. On the remaining units, the developer shall be subject to a development fee of 1.50% of the equalized assessed value per unit. However, if the zoning on a site has changed during the two-year period preceding the filing of the "d" variance application, then the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two years preceding the filing of the "d" variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development.

- (1) Affordable housing developments shall be exempt from development fees. All other forms of new construction shall be subject to development fees unless exempted below.
- (2) Developers of low- and moderate-income units shall be exempt from paying development fees.
- (3) Developments that have received preliminary or final approval prior to the effective date of the Township's amended development fee ordinance shall be subject to the law in effect at the time of such approval, unless the developer seeks a substantial change in the approval.
- (4) All single-family residential additions, renovations and accessory structures shall be exempt; however, all new residential dwelling units shall be subject to a development fee.
- (5) All multi-family additions, renovations and accessory structures not requiring site plan approval shall be exempt; however, all new residential dwelling units shall be subject to a development fee.
- (6) Homes replaced as a result of a natural disaster (such as fire or flood) shall be exempt from the payment of a development fee.

§70-31. Nonresidential development fees.

A. Imposed fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to



2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.

- (2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.

- (1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.
- (2) The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (3) The 2.5% fee shall not apply to developers of any not-for-profit use; federal, state and municipal government uses; churches and other places of worship; and public schools.
- (4) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.
- (5) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L.

2008, c. 46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.

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

§70-32. Collection of fees.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.
- B. For nonresidential 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 nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential 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 building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

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

G. Should the Township 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 § 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).

H. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the building permit and that determined at 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. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 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 nonresidential 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 Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§70-33. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing affordable housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:
- (1) Payments in lieu of on-site construction of affordable units;
  - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - (3) Rental income from municipally operated units;
  - (4) Repayments from affordable housing program loans;
  - (5) Recapture funds;
  - (6) Proceeds from the sale of affordable units; and
  - (7) Any other funds collected in connection with the Township's affordable housing program.
- C. In the event of a failure by the Township of Marlboro 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 Marlboro, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

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

§70-34. Use of funds.

A. The expenditure of all funds shall conform to a spending plan approved by the court. Funds deposited in the housing trust fund may be used for any activity approved by the court to address the Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8 and specified in the approved spending plan.

B. Development fee revenues shall not be expended to reimburse the Township for past housing activities.

C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.

- (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.
- (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the third-round Municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The use of development fees in this manner shall entitle the Township to bonus credits pursuant to N.J.A.C. 5:94-4.22.
- (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:94-7.

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

#### §70-35. Monitoring.

On the first anniversary of the order of the Superior Court in the matter of in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15, and every anniversary thereafter through the end

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

§70-36. Ongoing collection of fees.

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

Section 2. Repealer. All ordinances or parts thereof inconsistent herewith are repealed as to such inconsistencies.

Section 3. 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.

Section 4. Effective Date. This ordinance shall take effect upon its passage, publication, filing with the County of Monmouth, and entry of final judgement of compliance and repose.

The following Resolution #2019-314/Ordinance #2019-13 (Repealing and Replacing Chapter 70, Article I, Article IA and Article II - to Address Requirements of Fair Housing Act and Uniform Housing Affordability Controls (UHAC) and to Comply with Township's Third Round Affordable Housing Obligations) was introduced by reference, offered by Councilman Scalea, seconded by Council President Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2019-314

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2019-13

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 70, ARTICLE I, ARTICLE IA, AND ARTICLE II OF THE "CODE OF THE TOWNSHIP OF MARLBORO" REGARDING AFFORDABLE HOUSING, TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) AND TO COMPLY WITH THE TOWNSHIP'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on December 12, 2019 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2019-13

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 70, ARTICLE I, ARTICLE IA, AND ARTICLE II OF THE "CODE OF THE TOWNSHIP OF MARLBORO" REGARDING AFFORDABLE HOUSING, TO



ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT  
AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS  
(UHAC) AND TO COMPLY WITH THE TOWNSHIP'S THIRD  
ROUND AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Marlboro Township Planning Board adopted a 2019 Housing Element and Fair Share Plan, which plan was subsequently endorsed by the Mayor and Council of the Township of Marlboro; and

WHEREAS, this ordinance is intended to implement and incorporate the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1 *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1 *et seq.* as amended and supplemented, and the New Jersey Fair Housing Act of 1985;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Marlboro, in Monmouth County, New Jersey, as follows:

Section 1. Chapter 70, Articles I, IA, and II repealed and replaced. Chapter 70, "Affordable Housing" in the "Code of the Township of Marlboro" ("Code"), Article I (General Provisions), Article IA (Municipal Housing Liaison), and Article II (Housing Trust Fund) are hereby repealed and replaced in their entirety with the following new ordinance chapters:

CHAPTER 70. AFFORDABLE HOUSING

Article I Affordable Housing

§70-1. Purpose and applicability.

The purpose of this chapter is to include provisions addressing the Township of Marlboro's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Supreme Court and consistent with N.J.A.C. 5:93-1 *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1 *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This chapter is intended to assure compliance with the regulations of the Council on Affordable Housing ("COAH") set forth at N.J.A.C. 5:93-1 *et seq.*, and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.*, including provisions for unit affordability controls as well as eligibility for low- and moderate-income households. This chapter shall apply except where inconsistent with applicable law.

§70-2. Intent.

It is the intent of this chapter to regulate the development and management of low- and moderate-income units constructed in compliance with the Housing Plan Element and Fair Share Plan of the Township of Marlboro.

#### §70-3 Affordable Housing Agency Established

A. Creation. There is hereby created an Affordable Housing Agency (the "Agency") of the Township of Marlboro.

#### B. Composition

- 1) The Agency shall consist of five members, and two alternate members, all of whom shall be appointed by the Mayor. No more than two of the membership of the Affordable Housing Agency shall be Township officials. All remaining members must be Township residents. However, one appointment shall be reserved for a tenant or owner/occupant of a very-low-, low- or moderate-income unit who is not a Township official.
- 2) Alternate members shall have all of the powers of regular members when sitting in place of a regular member. Until such time as a very-low-, low- or moderate-income owner/occupant or tenant appointment can be made, an alternate member shall function as a regular member.
- 3) The Mayor shall designate one regular member to serve as Chairperson and one member to serve as Vice Chairperson.
- 4) Attendance by three regular members or alternate members shall constitute a quorum. Passage of any motion requires an affirmative vote by a majority of the members present.
- 5) The initial term of office of the Affordable Housing Agency members shall be one, two or three years, to be designated by the Mayor in making the appointment. The terms of office shall thereafter be three years. The appointments shall be made in such a manner so that the terms of approximately 1/3 of the members shall expire each year.

C. Vacancies; removal for cause. The Mayor may remove any member of the Affordable Housing Agency for cause. Written charges served upon the member shall be followed by a hearing before the Marlboro Township Council thereon, at which time the member shall be entitled to be heard either in person or by counsel. A vacancy in the Affordable Housing Agency occurring other than by expiration of the term shall be filled for the unexpired term in the same manner as an original appointment.

D. Powers and duties. The powers and duties of the Affordable Housing Agency shall be as follows:

- 1) The owner of each potentially covered residential building in Marlboro Township shall be contacted by the Affordable Housing Agency and informed of the plan to compensate eligible households for rehabilitation of the buildings in which they live. All residential buildings deemed deficient shall be eligible for the rehabilitation subsidies, provided that additional documentation is given to the Affordable Housing Agency in order to certify eligibility in accordance with this Rehabilitation Article of this chapter.
- 2) The Agency shall take any such action as may be necessary and authorized under this chapter to implement the policies and goals of this chapter, along with any applicable provision(s) and/or requirements of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), any procedural or substantive rules promulgated by the New Jersey Council on Affordable Housing (N.J.A.C. 5:96 and 5:97 et seq.), or any provisions of the Uniform Housing Affordability Controls regulations (N.J.A.C. 5:80-26.1 et seq.), to ensure that housing units designated as very-low-, low- or moderate-income units, once constructed, shall remain affordable to and be occupied by very-low-, low- or moderate-income households.
- 3) To report semiannually to the Mayor and Township Council on the status of very-low-, low- and moderate-income units, including but not limited to such things as the Agency's enforcement actions in connection with any matters or units with the Agency's jurisdiction.

- 4) To take enforcement action, as authorized by § 70-21 of this chapter, against any person or entity for violation of this chapter, the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.); the Uniform Affordability Controls Act (N.J.A.C. 5:80-26.1 et seq.); and/or the substantive and procedural rules promulgated from time to time by the Council on Affordable Housing (N.J.A.C. 5:96 and 5:97 et seq.).
- 5) To ensure compliance and accountability of the administrative agent pursuant to N.J.A.C. 5:80-26.18(a).
- 6) To periodically review this chapter to ensure that it is not in conflict with the UHAC.
- 7) To provide all reasonable and necessary assistance in support of the administrative agent's efforts to ensure effective compliance with the controls set forth in the UHAC.
- 8) To ensure that by no later than June 30 of any given year that an annual mailing is made to all affordable units within the Township which shall request that the owner verify all the information required in the annual mailing set forth in the UHAC [N.J.A.C. 5:80-26.18(d)(4)] as well as Appendices J and K therein.
- 9) To implement and adjudicate the provisions of Chapter 235, entitled "Mobile Homes" of the Code of the Township of Marlboro.
- 10) To implement and enforce the provisions of § 220-68 entitled "MHD-II Mobile Home Park District" of the Code of the Township of Marlboro.

E. Appropriation and accountability. The Mayor may appoint special counsel, accountants, financial investigators and professional planners required so that the Affordable Housing Agency can carry out its duties and responsibilities.

#### §70-4. Reporting requirements.

A. Trust fund activity. On the first anniversary of the entry of the order granting Marlboro a final judgment

of compliance and repose in *In re Township of Marlboro Compliance with Mount Laurel Third Round Affordable Housing Obligation*, and every anniversary thereafter through the end of the repose period, the Township shall provide annual reporting of its affordable housing trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Division of 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 Division of Local Government Services. 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. Affordable housing activity. On the first anniversary of the entry of the order granting Marlboro a final judgment of compliance and repose in *In re Township of Marlboro Compliance with Mount Laurel Third Round Affordable Housing Obligation*, and every anniversary thereafter through the end of the repose period, the Township shall provide annual reporting of the status of all affordable housing activity within the Township through posting on the municipal website, with copies provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the court-appointed special master and Fair Share Housing Center. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township shall post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its affordable housing plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the Township, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the court regarding these issues.

C. Very low income housing. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the order granting Marlboro a final judgment of compliance and repose in *In re Township of Marlboro Compliance with Mount Laurel Third Round Affordable Housing Obligation*, and every third year thereafter, the Township will post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Township, with copies provided to Fair Share Housing Center, on the issue of whether the Township has complied with its very low-income housing obligation.

#### §70-5. Definitions.

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

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

#### ACT

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

#### ADAPTABLE

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

#### ADMINISTRATIVE AGENT

The entity designated by the Township to administer affordable units in accordance with this chapter, the regulations of the Council on Affordable Housing set forth at N.J.A.C. 5:93 *et seq.*, and the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26 *et seq.*

#### AFFIRMATIVE MARKETING

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

#### AFFORDABILITY AVERAGE

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

#### AFFORDABLE

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

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)

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

#### AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Fair Housing Act and approved for crediting by the court and/or funded through an affordable housing trust fund.

#### AGENCY

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

#### AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted

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

#### ALTERNATIVE LIVING ARRANGEMENTS

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

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.

#### TOWNSHIP

The Township of Marlboro, in Monmouth County, New Jersey.

#### CERTIFIED HOUSEHOLD

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

#### COAH

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



DCA

The State of New Jersey Department of Community Affairs.

#### DEFICIENT HOUSING UNIT

A housing unit with health and safety code violations that 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

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

#### DEVELOPMENT

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

#### FAIR SHARE PLAN

The plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

#### HOUSING ELEMENT

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

#### INCLUSIONARY DEVELOPMENT

A development containing both affordable units and market rate units. This term includes, but is not 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

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

#### LOW-INCOME UNIT

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

#### MAJOR SYSTEM

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

#### MARKET-RATE UNITS

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

#### MEDIAN INCOME

The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the court.

#### MODERATE-INCOME HOUSEHOLD

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

#### MODERATE-INCOME UNIT

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

#### MULTIFAMILY UNIT

A structure containing five or more dwelling units.

#### NON-EXEMPT SALE

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

#### RANDOM SELECTION PROCESS

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

#### REGIONAL ASSET LIMIT

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

#### REHABILITATION

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

#### RENT

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

#### RESTRICTED UNIT

A dwelling unit, whether a rental unit or 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

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26 *et seq.*

VERY LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

VERY LOW-INCOME UNIT

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

WEATHERIZATION

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

§70-6. Inclusionary zoning requirements.

To create realistic opportunities for the construction of affordable housing, the following properties shall be zoned to require inclusionary development or development of 100 percent affordable housing units:

- (1) Block 213.01, Lot 44 (Bathgate/MDG site)
- (2) Block 122, Lot 27.04 (M&M site)
- (3) Block 146, Lots 25 and 26 (Weitz/Pallu)
- (4) Block 119, Lot 16 (Weitz/Ashbel)
- (5) Block 415, Lot 22 (EL at Marlboro)
- (6) Block 149, Lot 16, Block 148, Lot 31 (Wildflower/The Place at Marlboro)
- (7) Block 270, Lot 14 (Marlboro Motor Lodge)
- (8) Block 355, Lots 6, 7, 8 & 11 (Buckdale)
- (9) The Scattered Sites Redevelopment Area (Inclusionary "zoning" enacted via 2019 Scattered Sites Redevelopment Plan):

- (a) Block 103, Lot 1
- (b) Block 111, Lots 10, 11, 12, and 13
- (c) Block 111, Lot 4 (3 Ronson).
- (d) Block 146, Lots 28, 30, 31, 32, 33, and 38
- (e) Block 147, Lot 34
- (f) Block 170, Lots 2 and 3
- (g) Block 172, Lot 13

Inclusionary developments shall adhere to the following project phasing schedule:

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

Design:

- (a) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (b) In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

§70-7. New construction

(1) Low/moderate split and bedroom distribution of affordable housing units:

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

part of the required number of low income units within the development.

- (c) At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families.
- (d) A maximum of 25 percent of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's Plan shall be available to families.
- (e) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units including that 13% shall be very-low income.
- (f) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - [1] The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
  - [2] At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
  - [3] At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
  - [4] The remaining units may be allocated among two and three-bedroom units at the discretion of the developer.
- (g) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

(2) Accessibility requirements:

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

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

[1] An adaptable toilet and bathing facility on the first floor; and

[2] An adaptable kitchen on the first floor; and

[3] An interior accessible route of travel on the first floor; and

[4] An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

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

[6] An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a *et seq.*) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

[a] Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing

or will reside in the dwelling unit, an accessible entrance shall be installed.

[b] To this end, the builder of restricted units shall deposit funds within the Township affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

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

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

[e] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's affordable housing trust fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

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

(3) Maximum rents and sales prices:



- (a) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.
- (b) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
- (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income, with such very low-income units counted toward the low-income housing requirement.
- (d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (e) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

[1] A studio unit shall be affordable to a one-person household;

[2] A one-bedroom unit shall be affordable to a one and one-half person household;

[3] A two-bedroom unit shall be affordable to a three-person household;

[4] A three-bedroom unit shall be affordable to a four and one-half person household; and

[5] A four-bedroom unit shall be affordable to a six-person household.

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

[1] A studio shall be affordable to a one-person household;

[2] A one-bedroom unit shall be affordable to a one and one-half person household; and

[3] A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

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

- (h) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (i) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (j) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Regional Income Limits chart. 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.

§70-8. 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 for its Section 8 program.

§70-9. Occupancy Standards.

- A. In referring certified households to specific restricted units, the administrative agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- (1) Provide an occupant for each bedroom;

- (2) Provide children of different sexes with separate bedrooms;
- (3) Provide separate bedrooms for parents and children; and
- (4) Prevent more than two persons from occupying a single bedroom.

B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§70-10. Control periods for restricted ownership units and enforcement mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this chapter for a period of at least thirty (30) years and thereafter until the Township takes action by ordinance to release the unit from such requirements; prior to such action, a restricted ownership unit shall 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 chapter, 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 chapter shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

(1) Provisions for first-purchase money mortgagees.

(a) The terms and restrictions of this chapter shall be subordinate only to the first-purchase money mortgage lien on any very-low-, low- and moderate-income unit and in no way shall impair the first-purchase money mortgagee's ability to exercise the contract remedies available to it in the event of default as such remedies are set forth in the first-purchase money mortgage documents for the unit.

(b) So long as the first-purchase money mortgage is not sold to the Federal National Mortgage Association or in the secondary mortgage market, the first-purchase money mortgagee and/or mortgage servicer shall serve written notice upon the Agency within 10 days after the first-purchase money mortgage is three months in arrears and within 10 calendar days of the filing of the complaint seeking foreclosure of the first-purchase money mortgage held on a very-low-, low- and moderate-income unit.

(c) The obligation of the first-purchase money mortgagee and/or servicer to notify the Affordable Housing Agency and/or the Administrative Agent shall cease automatically and immediately upon the sale of the first-purchase money mortgage to the Federal National Mortgage Association or in the secondary mortgage market, unless the rules and regulations are amended so as to not prohibit or exclude placing such obligation, in which case an instrument duly evidencing same must be recorded with the office of the Recorder, Monmouth County, New Jersey, and the Clerk of the Township of Marlboro before any such obligation shall exist.

(d) Provided that the first-purchase money mortgagee is obligated to give the Affordable Housing Agency the above-mentioned notices, the first-purchase money mortgage shall also serve written notice of any

proposed foreclosure sale upon the Affordable Housing Agency at least 30 days prior to the first scheduled date of such sale.

- (e) The first-purchase money mortgagee shall serve notice upon the Affordable Housing Agency within 30 days of the sale of the first-purchase money mortgage to the Federal National Mortgage Association or in the secondary mortgage market.
- (2) The Township of Marlboro and/or the Affordable Housing Agency or any instrumentality designated by the Township shall have the right to purchase any mortgage which is in default at any time prior to the entry of a foreclosure judgment or within the redemption period thereafter. Notification of a default and of the institution of a foreclosure action and of a Sheriff's sale shall be served in writing upon the Chairman of the Affordable Housing Agency as aforesaid. The Township of Marlboro shall at all times be considered a party defendant and/or shall have the right to intervene in any foreclosure action seeking foreclosure of a first mortgage and/or shall have the right to redeem and acquire the owner's equity of redemption or to acquire the unit from the owner upon such terms and conditions as may be determined by the Affordable Housing Agency.
- (3) In the event of foreclosure, the Affordable Housing Agency shall attempt to identify a qualified very-low-, low- and moderate-income purchaser(s) as the case may be and shall give notice to the foreclosing party, and effort shall be made within the confines of the applicable foreclosure laws to sell the housing unit to qualified very-low-, low- and moderate-income households. If such efforts are unsuccessful, the restrictive covenants shall remain in full force and effect. In any case, the Township shall not lose credit for the very-low-, low- and moderate-income unit relating to which the foreclosure proceeding took place.
- (4) Surplus funds. In the event of a foreclosure sale by the holder of the first-purchase money mortgage, the owner shall be personally obligated to pay to the Affordable Housing Agency any surplus funds, which shall be deposited in the Township's Affordable Housing Trust Fund. For purposes of this subsection, surplus funds shall be the total amount paid to the Sheriff in excess of the greater of the maximum resale price of the unit

and the amount required to pay and satisfy the first-purchase money mortgage, including the costs of foreclosure plus any second mortgages approved by the Affordable Housing Agency. Surplus funds shall also include all payments to any junior creditors out of such surplus funds, even if such were to the exclusion of the owner. The Affordable Housing Agency shall be given a first-priority lien, second only to the first-purchase money mortgagee of a unit and any taxes or public assessments by a duly authorized governmental body, equal to the full amount of such surplus funds. This obligation of the owner to pay this full amount of surplus funds to the Affordable Housing Agency shall be deemed to be a personal obligation of the owner of record at time of the foreclosure sale, and the Agency shall be empowered to enforce the obligation of the owner in any appropriate court of law or equity as though the same were a personal contractual obligation of the owner. Neither the first-purchase money mortgagee nor the purchaser at the foreclosure sale shall be responsible or liable to the Affordable Housing Agency for any portion of this excess. The Affordable Housing Agency may utilize up to 30% of the surplus funds realized in any one calendar year, but in no event to exceed \$10,000 per calendar year, for the purpose of funding operating expenses of the year, for the purpose of funding operating expenses of the Affordable Housing Agency. Other surplus funds shall be used for increasing the opportunities for affordable housing within the Township in accordance with the provisions of this chapter.

(5) Owner's equity.

- (a) Owner's equity shall be determined to be the difference between the maximum resale price of the unit and the total of the assessments, property taxes and other liens which may have been attached against the unit prior to the foreclosure, provided that such total is less than the maximum resale price.
- (b) If there are sums to which the owner is properly entitled, such sums shall be turned over to the owner or placed in an escrow by the Agency for the owner for a maximum period of two years. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Agency.

(c) This provision is subject, however, to applicable laws of the State of New Jersey governing the distribution and payment of proceeds of foreclosure sales.

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 Uniform Construction 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.

§70-11. Price restrictions for restricted ownership units, homeowner association fees and resale prices.

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

- (1) The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- (2) The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (3) The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- (4) The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§70-12. 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, however, the administrative agent may, upon approval by the Township Mayor and Council, and subject to the court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the administrative agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the administrative agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to 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.

§70-13. 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 Section, 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).

§70-14. 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 adds 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.

§70-15. Control periods for restricted rental units.

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this chapter for a period

of at least 30 years and thereafter until the Township takes action by ordinance to release the unit from such requirements. Prior to such action, a restricted rental unit shall 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 Monmouth. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. 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 chapter 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.

§70-16. Rent restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent.
  
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.

C. Application fees (including the charge for any credit check) shall not exceed 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 chapter.

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 percent of the total number of dwelling units are restricted rental units in compliance with this chapter.

§70-17. Tenant income eligibility.

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

- (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
- (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
- (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income 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
- (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 B1 through 5 above with the administrative agent, who shall counsel the household on budgeting.

§70-18. Municipal housing liaison.

- A. The Township shall appoint a specific municipal employee to serve as a municipal housing liaison responsible for administering the affordable housing program, including affordability controls, the affirmative marketing plan, monitoring and reporting, and, where applicable, supervising any contracted administrative agent. The Township shall adopt an ordinance creating the position of municipal housing liaison. The Township shall adopt a resolution appointing a 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 the Township, including the following responsibilities which may not be contracted out to the administrative agent:

- (1) Serving as the Township'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 the Township's Fair Share Plan;
- (3) Compiling, verifying and submitting annual monitoring reports as may be required by the court;
- (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 shall designate one or more administrative agent(s) to administer newly constructed affordable units in accordance with UHAC. 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 contracting administrative agent(s).

#### §70-19. Administrative agent.

The administrative agent shall be an independent entity serving under contract to and reporting to the Township. For new sale and rental developments, all of 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. For resales, single-family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the administrative agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the administrative agent. 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 include:

A. Affirmative marketing:

- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Township's affirmative marketing plan 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 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; and
- (6) Employing a random selection process as provided in the affirmative marketing plan of the Township when referring households for certification to affordable units.

- (7) Notifying the following entities of the availability of affordable housing units in the Township of Marlboro: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton branches of the NAACP, 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 Monmouth County Register of Deeds or 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 rentals:

- (1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
- (2) Instituting and maintaining an effective means of communicating information to 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 chapter;
- (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, 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 Township 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 Township 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, of 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. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the Township'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 Mayor and Council 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 any monitoring requirements and deadlines imposed by the court.
- (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.

§70-20. Affirmative marketing requirements.

- A. The Township 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. In addition, the affirmative marketing plan shall maintain certain notification requirements. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.

- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Monmouth, Mercer, and Ocean Counties.
- D. The Township has the ultimate responsibility for adopting the affirmative marketing plan and for the proper administration of the affirmative marketing program, including initial sales and rentals and resales and rerentals. The administrative agent designated by the Township 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 Township in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.

(1) In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Marlboro, and copies of the applications forms, to the following entities: Fair Share Housing Center, the new Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN Inc., the Supportive Housing Association, and the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton branches of the NAACP.

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

§70-21 Veterans and first responder preference established

A. As provided under law pursuant to N.J.S.A. 52:27D-311, a preference of up to fifty (50) percent of the affordable housing units in an inclusionary affordable housing development or a one hundred (100) percent affordable housing development in the Township of Marlboro shall be provided to low and moderate income veterans who served in time of war or other emergency, as defined in N.J.S.A. 54:4-8.10.

1) This preference shall be established in the applicant selection process for available affordable units so that applicants who are veterans who served in time of war or other emergency, as referenced in N.J.S.A. 52:27D-311, and who apply within 90 days of the initial marketing period shall receive preference for the rental of the agreed-upon percentage of affordable units. After the first 90 days of the initial 120-day marketing period, if any of those units subject to the preference remain available, then applicants from the general public shall be considered for occupancy. Following the initial 120-day marketing period, previously qualified applicants and future qualified applicants who are veterans who served in time of war or other emergency, as referenced in N.J.S.A. 52:27D-311, shall be placed on a special waiting list as well as the general waiting list. The veterans on the special waiting list shall be given preference for affordable units, as the units become available, whenever the percentage of preference-occupied units falls below the agreed

upon percentage. Any agreement to provide affordable housing preferences for veterans pursuant to N.J.S.A. 52:27D-311 shall not affect a municipality's ability to receive credit for the unit from the council, or its successor.

B. If legislation is passed allowing for a first responder preference, the Township reserves the right to allow such a preference consistent with allowable law. At the time of adoption of this ordinance, the Township recognizes that such a preference is not allowed under law. "First responder" shall be defined as a law enforcement officer; paid or volunteer firefighter; paid or volunteer member of a duly incorporated first aid, emergency, ambulance, or rescue squad association; or any other person who, in the course of the person's employment, is dispatched to the scene of a motor vehicle accident or other emergency situation for the purpose of providing medical care or other emergency assistance; and who, in the case of all the foregoing, has served in that capacity for at least two years.

1) If legislation is passed allowing for such a first responder preference, this preference shall be established in the applicant selection process for available affordable units so that applicants who are first responders, and who apply within 90 days of the initial 120-day marketing period, shall receive preference for the rental of the agreed-upon percentage of affordable units. After the first 90 days of the initial 120-day marketing period, if any of those units subject to the preference remain available, then applicants from the general public shall be considered for occupancy. Following the initial 120-day marketing period, previously qualified applicants and future qualified applicants who are first responders shall be placed on a special waiting list as well as the general waiting list. The first responders on the special waiting list shall be given preference for affordable units, as the units become available, whenever the percentage of preference-occupied units falls below the agreed upon percentage. Any agreement to provide affordable housing preferences for first responders pursuant to N.J.S.A. 52:27D-311 shall not affect a municipality's ability to receive credit for the unit from the council, or its successor.

§70-22 Responsibilities of developers

A. The responsibilities of the developer shall include but not be limited to the following:

- 1) Submission of information as to financing terms readily available to very-low-, low- and moderate-income households for use by the Affordable Housing Agency in computing maximum sales prices.
- 2) Submission of an affordable housing plan and an affirmative marketing plan to the Affordable Housing Agency for approval, and submission of proofs of publication to ensure compliance with said plan.
- 3) The marketing of all very-low-, low- and moderate-income units in accordance with the requirements of this chapter.
- 4) Submission of quarterly reports to the Affordable Housing Agency detailing the number of very-low-, low- and moderate-income households who have signed leases or purchase agreements, as well as the number who have taken occupancy of lower-income units, including household size, number of bedrooms in the unit, sales price and monthly carrying costs or, in the case of rental units, the monthly rental charges and utilities included.

B. The developer's responsibilities hereunder shall expire automatically with respect to for-sale of very-low-, low- and moderate- income units upon the date upon which the last very-low-, low- and moderate-income unit within the particular development is sold by the developer. With respect to the rental of very-low-, low- and moderate-income units, the developer's responsibilities shall be assumed by the landlord and shall be performed by the landlord so long as such unit is a rental of a very-low-, low- and moderate-income unit and is subject to the restrictions of this chapter.

§70-23 Responsibilities of owners

A. Prior to reselling or renting his or her very-low-, low- or moderate-income unit, the owner shall provide written proof to the Affordable Housing Agency that the resale

or rental has been approved by the authorized state agency.

- B. The owner shall only resell or rent his or her very-low-, low- or moderate-income unit to a qualified purchaser or renter as determined by the Township's administrative agent.
- C. The owner shall be responsible for guaranteeing that the necessary documents are executed and filed at the closing of title or rental of a very-low-, low- or moderate-income unit to assure that the unit remains affordable to and occupied by very-low-, low- or moderate-income households.
- D. In the event that any first mortgagee or other creditor of an owner of a very-low-, low- and/or moderate-income unit exercises its contractual or legal remedies available in the event of default or nonpayment by the owner of a very-low-, low- and moderate-income unit, the owner shall notify the Affordable Housing Agency in writing within 10 days of such exercise by the first mortgagee or creditor and no later than 10 days after service of any summons and complaint.
- E. Any owner of a very-low-, low- and moderate-income unit shall notify the Affordable Housing Agency within 10 days, in writing, of any default in the performance by the owner of any obligation under either the master deed of the condominium association, including the failure to pay any lawful and proper assessment by the condominium association, or any mortgage or other lien against the very-low-, low- and moderate-income unit, which default is not cured within 60 days of the date upon which the default first occurs.
- F. The owner shall not permit any lien of any kind, which includes, but is not limited to, any lien imposed by any federal, state or municipal authority, other than a first-purchase money mortgage, Affordable Housing Agency approved second mortgage and/or lien of the Affordable Housing Agency to attach and remain on the property for more than 60 days.
- G. The owner of a very-low-, low- and moderate-income unit shall keep the unit in good repair and shall not commit waste thereon.

H. The owner shall pay all taxes and public assessments and assessments by the condominium association levied upon or assessed against the unit, or any part thereof, as and when the same becomes due and before penalties accrue.

I. If a very-low-, low- and moderate-income unit is part of a condominium association, the owner, in addition to paying any assessments required to be paid by the master deed of the condominium, shall further fully comply with all of the terms, covenants or conditions of said master deed, as well as fully comply with all terms, conditions and restrictions of this chapter.

J. The owner will pay all charges of any utility authority when the same become due and before penalties accrue.

#### §70-24 Responsibilities of condominium or homeowner's associations

As to any complex, development or property which contains a very-low-, low- or moderate-income restricted unit for which a condominium association organized under the Condominium Act (N.J.S.A. 46:8B-1 et seq.), or a homeowners' association has control, management and/or supervision over such affordable unit(s), the condominium or homeowners' association shall provide written notice to the Agency if any owner and/or tenant of an affordable unit (regardless of whether it is very-low-, low- or moderate-income qualified) shall become delinquent in the payment of any monthly assessment(s), fee(s) or charge(s) where the delinquency has existed for a period of 90 days. This written notice shall be provided to the Agency regardless of the amount of the assessment(s), fee(s), or charge(s) that are delinquent for a period of 90 days.

#### §70-25 Enforcement of affordable housing regulations.

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the Township 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 Township 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 Township 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 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.

(2) The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and

shall constitute a lien against the low- or moderate-income unit.

- (a) The judgment shall be enforceable, at the option of the Township, 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 Township, 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 Township for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the sheriff's sale. In the event that the proceeds from the sheriff's sale are insufficient to reimburse the Township in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Township 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 Township 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 Township 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 Township. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the owner or forfeited to the Township.

- (c) Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the sheriff's sale shall not be entitled to any right of redemption.
- (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 Township 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 Township shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the Township, 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.

§70-26 Appeals.

Appeals from all decisions of an administrative agent appointed pursuant to this chapter shall be filed in writing with the court.

Section 2. Repealer. All ordinances or parts thereof inconsistent herewith are repealed as to such inconsistencies.

Section 3. 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.

Section 4. Effective Date. This ordinance shall take effect upon its passage, publication, filing with the County of Monmouth, and entry of final judgement of compliance and repose.

The following Resolution #2019-315/Ordinance #2019-14 (Amending Section 220 "Land Use and Development," Article III to Implement the Recommendations of the Township Master Plan Re-examination Report and the Housing Element and Fair Share Plan) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman Scalea and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2019-315

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2019-14

AN ORDINANCE AMENDING SECTION 220 "LAND USE AND DEVELOPMENT," ARTICLE III, OF THE CODE OF THE TOWNSHIP OF MARLBORO TO IMPLEMENT THE RECOMMENDATIONS OF THE TOWNSHIP MASTER PLAN REXAMINATION REPORT AND THE HOUSING ELEMENT AND FAIR SHARE PLAN

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on December 12, 2019 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at

which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2019-14

AN ORDINANCE AMENDING SECTION 220 "LAND USE AND DEVELOPMENT," ARTICLE III, OF THE CODE OF THE TOWNSHIP OF MARLBORO TO IMPLEMENT THE RECOMMENDATIONS OF THE TOWNSHIP MASTER PLAN REEXAMINATION REPORT AND THE HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, in accordance with the provision of N.J.S.A. 40:55D-89, the Marlboro Planning Board is required every ten (10) years to prepare a periodic reexamination of the Township's master plan. A Reexamination Report consists of a review of previously adopted master plans, amendments and local development regulations to determine if the policy guidelines set forth therein are still applicable.

WHEREAS, the Township of Marlboro last adopted its Master Plan in 1997, with a 2012 Reexamination Report; and

WHEREAS, the Township of Marlboro has requested the Planning Board reexamine its master plan and development regulations in accordance with State statutes, specifically addressing the following:

- a. The major problems and objectives relating to land development in the municipality at the time of adoption of the last reexamination report.
- b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
- c. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.
- d. The specific changes recommended for the Master Plan or land development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.

e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) into the land use plan element of the municipal Master Plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality; and,

WHEREAS, the Township of Marlboro Planning Board has completed its reexamination and has recommended and adopted Master Plan Reexamination Report and Updated Housing Element and Fair Share Plan, dated August 7, 2019; and,

WHEREAS, pursuant to NJSA 40:55D-62, the Township Council has the power to adopt or amend any ordinance related to the nature and extent of uses of land, buildings, and structures thereon; and,

WHEREAS, the Marlboro Township Council has reviewed the Master Plan Reexamination Report and Updated Housing Element and wishes to implement the recommendations to create a new Zoning District to promote the preservation of open space and recreation areas for the enjoyment of the Township residents; and,

WHEREAS, the Marlboro Township Council has reviewed the Master Plan Reexamination Report and Updated Housing Element and wishes to implement the recommendations to create a new zoning district to provide public services, including utilities, government functions, schools, both public and private, and other related community facilities uses; and,

WHEREAS, the Marlboro Township Council has reviewed the Master Plan Reexamination Report and Updated Housing Element and wishes to implement the recommendations to include certain parcels within the Agricultural/Land Conservation Zoning District in order to minimize environmental impacts and protect the rural character of the Township; and,

WHEREAS, the Marlboro Township Council has reviewed the Master Plan Reexamination Report and Updated Housing Element and wishes to define industrial flex uses to promote development by modern industries and businesses; and,

WHEREAS, the Marlboro Township Council has reviewed the Master Plan Reexamination Report and Updated Housing Element and wishes to implement the recommendations to create a new Zoning District to promote generational housing for a variety of income levels, age groups, and household types in order to create a

housing base that supports and retains the existing residents within the Township, as well as explore opportunities for veterans housing and support services within the Township in order to allow Marlboro's veterans population to age in place in the community.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, that SECTION 220 "Land Use and Development" Article III, of the Code of the Township of Marlboro is hereby amended to include the following:

§220-XX "Recreation and Open Space (ROS) District."

A new "Recreation and Open Space" district shall be created, and the Township's zoning map shall be amended so that the following properties shall be removed from the existing district within which they reside and placed into the new "Recreation and Open Space" district:

Recreation and Open Space (ROS) district:

Recreation & Open Space District			
Block	Lot	Type	Acreage
101	5	Open Space	1.3
101	7	Township Owned	0.7
101	13	Farm	0.8
101	14	Farm	2
101	15	Farm	2.8
101	16	Farm	5
101	17.01	Township Owned	0.1
101	17.06	Township Owned	10.4
102	1	Farm	4.9
102	2	Farm	4.8
103	2	TAX LIEN	2.9
103	11	TAX LIEN	3.2
105	1	Township Owned	0.1
105	4	Township Owned	0.1
106	1	TWP ROSI	1
107	14	Township Owned	0.1
107	15	Township Owned	0.1
108	1	Township Owned	0.5
108	2.01	Township Owned	0.1
108	5	Township Owned	0.1
108	18	Township Owned	0.1
111	5	Township Owned	1.4
111	15	TWP ROSI	3.1

Recreation & Open Space District			
Block	Lot	Type	Acreage
111	33	Park	8
118	31	Burial Ground	0.1
119	14	Farm	0.5
119	21	Township Owned	1.8
119	22	Township Owned	3.4
119	24	Township Owned	4.7
119	32.17	Township Owned	1.2
119.01	30	TWP ROSI	1
119.01	56	TWP ROSI	4.7
119.02	8	Township Owned	1
119.02	20	Township Owned	0.8
119.02	67	TWP ROSI	4.4
119.02	68.07	Township Owned	0.3
120	5	Township Owned	1.1
120	6	Township Owned	1.7
120	7	Township Owned	Included with Lot 6
120	8	Township Owned	Included with Lot 6
120	9	Township Owned	Included with Lot 6
120	21	TWP ROSI	0.2
120	22	TWP ROSI	0.5
120	23	Park	0.5
120	24	Park	5.5
120	25.02	Park	14.8
120	33	TWP ROSI	10.2
120	36	Township Owned	3.8
120.08	1	TWP ROSI	15.5
121	3	Park	1
124	3	Township Owned	0.2
127	11	TWP ROSI	10.4
131	4	Township Owned	0.1
132	12.02	TWP ROSI	33.9
132	46	Township Owned	0.9
139	11	TWP ROSI	5.8
139	31	TWP ROSI	20
143	1.01	Open Space	2
143.01	34	TWP ROSI	4.2
143.02	54	TWP ROSI	3.3
143.02	92	TWP ROSI	2.3



Recreation & Open Space District			
Block	Lot	Type	Acreage
143.02	104	TWP ROSI	5.2
143.02	125	TWP ROSI	11.9
143.05	72	TWP ROSI	8
143.05	74	TWP ROSI	2
143.05	77	TWP ROSI	2
143.05	78.26	TWP ROSI	0.5
143.08	1	Township Owned	0.5
143.08	9	TWP ROSI	20.1
146	1	TAX LIEN	0.9
146	3	Township Owned	6
146	4	TAX LIEN	27.9
146	12	Township Owned	2.2
146	19	Township Owned	0.9
146	44	Township Owned	1
146	47	Township Owned	9.6
146	48	Cemetery	25.4
146	49	TAX LIEN	9.6
147	6	Township Owned	6.6
147	7	Township Owned	4.1
147	32.01	Township Owned	2.5
147	32.26	Township Owned	3.7
147	38	Township Owned	1.8
147	39	Township Owned	0.8
148	10.06	Township Owned	4.2
148	10.26	Township Owned	1.8
148	30	TWP ROSI	20.2
149	19	Park	3.5
151	16	Park	1.9
153	10.05	Township Owned	11.1
153	14.01	Township Owned	0.6
153	15	Cemetery	53.7
153	20	Township Owned	0.1
153	23	TWP ROSI	6.6
153	37	Township Owned	0.9
153.02	1	Township Owned	2.3
154	1.31	TWP ROSI	43.3
154	2.01	TWP ROSI	0.5
154	17.06	Open Space	13.9

Recreation & Open Space District			
Block	Lot	Type	Acreage
154	21	TWP ROSI	29.4
155	4.01	Township Owned	2.5
155	4.17	Township Owned	29.8
155	13.03	Township Owned	43
155	16.01	TWP ROSI	35.8
155	16.02	TWP ROSI	5
155	19	Open Space	0.9
155	20.01	TWP ROSI	62.3
155	23	Open Space	0.5
156	3	Farm	79.9
157	19	Open Space	6.1
157	34.01	Farm	60.7
157	34.04	Farm	111.4
159	1.01	Township Owned	47
159	1.02	Township Owned	5.7
159	3.21	Township Owned	6.2
159	3.28	Township Owned	7
159	10.20	Township Owned	12.2
159	11	Park	411
159	14	Park	12.5
160	8	TWP ROSI	20.5
160	35	Township Owned	1.1
160	36.01	Township Owned	16.5
160	79	Township Owned	7.7
160.01	5.06	Township Owned	4.9
160.01	5.18	Township Owned	1.1
164	2	Park	1.8
168	12	Park	8.4
169	2	Cemetery	6.8
169	4	Open Space	5.3
169	26	Park	8.2
170	8.01	Farm	15.5
170	9	Farm	9.4
170	10	Farm	8.2
170	33	Open Space	4.2
170	34	Open Space	52.9
170	35	Cemetery	35.5
171	36.09	Township Owned	8.8
171	43	TWP ROSI	14.4
171	50	TWP ROSI	21.5

Recreation & Open Space District			
Block	Lot	Type	Acreage
171	52.02	Farm	30.5
171	72	Township Owned	0.6
171	98	Township Owned	3.2
171.02	25	Township Owned	1.5
171.02	35	Township Owned	0.9
172	30	Cemetery	68.4
172	31	Township Owned	3.6
172	32	Township Owned	132.5
172	48	Township Owned	50
173	1	Cemetery	57.3
176	65.06	Township Owned	0.6
176	67.03	TWP ROSI	0.5
176	67.20	TWP ROSI	15.3
176	86	TWP ROSI	0.9
176	109	TWP ROSI	4.8
176	128.02	TWP ROSI	2
176.02	1	TWP ROSI	10
176.02	50	TWP ROSI	8.8
176.06	6	TWP ROSI	0.6
176.06	22	TWP ROSI	5.1
178	1.00	Township Owned	0.1
180	6	Township Owned	29.6
180	14	Township Owned	64.5
180	20	Township Owned	0.8
180	34	Township Owned	0.5
180	43	TWP ROSI	9.7
184	19	State ROW	0.5
184	20	State ROW	Included with Lot 19
184	21	State ROW	Included with Lot 19
184	22	State ROW	Included with Lot 19
184	23	State ROW	Included with Lot 19
184	24	State ROW	Included with Lot 19
184	25	State ROW	Included with Lot 19
184	26	State ROW	Included with Lot 19
184	27	Township Owned	2.2

Recreation & Open Space District			
Block	Lot	Type	Acreage
184	65	Township Owned	2.7
184	72	Township Owned	16.2
184.01	17	Township Owned	1.4
187	1	TWP ROSI	2.3
189	1	TWP ROSI	6.6
193.02	49	Township Owned	2.9
193.02	53.11	Township Owned	0.6
193.02	54.18	TWP ROSI	15.1
193.02	54.33	Township Owned	1.7
193.02	66	Park	1
193.05	11	Township Owned	2.8
193.05	25	Township Owned	2.1
193.05	42	Township Owned	6.1
193.06	9	Township Owned	0.4
194	7	Cemetery	1.1
<b>198</b>	14	Township Owned	3.8
<b>199</b>	1	Township Owned	0.9
<b>200</b>	1	Township Owned	0.8
<b>206</b>	9	Township Owned	18.6
<b>206</b>	25	Township Owned	47.5
<b>206</b>	30	Township Owned	0.5
<b>206.03</b>	30	Township Owned	1.7
<b>206.04</b>	1	Township Owned	0.2
<b>207</b>	2	Open Space	3
<b>207</b>	13	Park	9.5
<b>207</b>	22.33	TWP ROSI	3.9
<b>213</b>	20	TWP ROSI	8.4
<b>213</b>	27	Park	13.9
<b>213</b>	39	Township Owned	1.1
<b>213</b>	49.02	Park	9.6
<b>213.01</b>	49.01	Park	1.4
<b>214</b>	40	Park	2
<b>214</b>	41	Cemetery	12.3
<b>214</b>	42	Park	0.3
<b>214</b>	43.01	Park	361
<b>214</b>	43.02	Park	3.1
<b>214</b>	43.03	Park	16.5
<b>214</b>	44	TWP ROSI	1.3
<b>214</b>	46	Park	1.1
<b>214</b>	51.03	TWP ROSI	44.7

Recreation & Open Space District			
Block	Lot	Type	Acreage
<b>214.01</b>	1	TWP ROSI	41.1
<b>214.03</b>	18	TWP ROSI	68.1
<b>215</b>	4	Park	1
<b>225</b>	190	TWP ROSI	7.2
<b>225</b>	191	Township Owned	8.5
<b>225</b>	229	Township Owned	0.2
<b>251</b>	24	Township Owned	0.1
<b>252</b>	1	TWP ROSI	3.7
<b>253</b>	1	TWP ROSI	?
<b>253</b>	12	TWP ROSI	21
<b>253</b>	35.01	Township Owned	5.2
<b>253</b>	36.02	Township Owned	64.6
<b>253</b>	36.03	Township Owned	20.1
<b>255</b>	8	TWP ROSI	Included with Lot 55
<b>255</b>	16	TWP ROSI	Included with Lot 55
255	24	TWP ROSI	5.5
255	55	TWP ROSI	37.4
255	56	TWP ROSI	19.2
267	36	Open Space	1.7
267	37	Open Space	8.1
267	41	TWP ROSI	5.3
267	42	TWP ROSI	10.8
268	25	Township Owned	0.2
268.04	1	Township Owned	1.3
268.04	30	Township Owned	2.1
268.05	16	Township Owned	0.7
268.07	1.01	Township Owned	0.1
268.07	2.13	Township Owned	4.3
269	16	Township Owned	1.8
269	20.01	TWP ROSI	12
270	15.09	TWP ROSI	9.7
270	15.43	TWP ROSI	20.1
270	15.49	TWP ROSI	5.1
270	83.05	TWP ROSI	9.5
270	83.20	TWP ROSI	2.5
270	84	TWP ROSI	9.6
270	102	TWP ROSI	Included with Lot 84
270.01	5	TWP ROSI	2.7

Recreation & Open Space District			
Block	Lot	Type	Acreage
292	1	State ROW	0.8
292	2	State ROW	1.1
293	1	State ROW	0.3
296	30	TWP ROSI	4
299	33	Open Space	12.9
299	47	TWP ROSI	19.1
299	65	Township Owned	0.1
299	114	Farm	22
299	115	Farm	34.8
300	63	Township Owned	0.6
300.01	14	Township Owned	0.9
306	1	Township Owned	1.4
312	1	TWP ROSI	9.4
312	14	TWP ROSI	Included with Lot 24
312	24	TWP ROSI	8.4
312	24	TWP ROSI	8.4
312	32	TWP ROSI	6.2
312	41	TWP ROSI	25.9
312	102	TWP ROSI	0.3
312	103	TWP ROSI	10.3
312	104	TWP ROSI	15.2
312	124	TWP ROSI	15
312	147	TWP ROSI	1.5
312	158.08	TWP ROSI	1.3
312	159	TWP ROSI	5.3
321	7	TWP ROSI	1.1
331	62.08	Township Owned	3
332	12.07	TWP ROSI	1.6
337	11	TWP ROSI	1.5
338	7	TWP ROSI	7.6
339	1	TWP ROSI	27.6
339	58	TWP ROSI	1.7
339	67	Township Owned	1.6
339	89	TWP ROSI	3.7
339	112	Cemetery	2.6
342	1	State ROW	0.7
342	2	State ROW	Included with Lot 1
346	6	State ROW	1.7

Recreation & Open Space District			
Block	Lot	Type	Acreage
346	7	State ROW	Included with Lot 6
346	8	State ROW	Included with Lot 6
346	9	State ROW	Included with Lot 6
347	1	State ROW	0.3
347	2	State ROW	Included with Lot 1
348	1	State ROW	2.1
348	3	State ROW	Included with Lot 1
348	4	State ROW	Included with Lot 1
349	1	State ROW	0.7
349	2	State ROW	Included with Lot 1
349	16	State ROW	Included with Lot 1
352	8	State ROW	0.6
353	5	State ROW	0.9
353	6	State ROW	Included with Lot 5
353	7	State ROW	Included with Lot 5
354	1	State ROW	0.7
354	2	State ROW	Included with Lot 1
354	3	State ROW	Included with Lot 1
354	4	State ROW	Included with Lot 1
355	9	State ROW	3.7
355	10	State ROW	Included with Lot 9
356	2	Park	2
358	7	Park	2.4
360	5.01	Township Owned	1.4
360	25.23	Township Owned	4
360	25.29	TWP ROSI	1.6
360.02	18.26	Township Owned	57.5
362	16.11	Township Owned	0.6
363.01	5	Township Owned	0.5

Recreation & Open Space District			
Block	Lot	Type	Acreage
363.02	21	Township Owned	0.2
363.02	22	Township Owned	0.6
363.02	24	Township Owned	0.1
363.02	25	Township Owned	0.3
363.02	26	Township Owned	0.3
363.02	27	Township Owned	0.2
363.02	28	Township Owned	0.2
371	31	TWP ROSI	22.6
371	80	Township Owned	7.5
371	82	Township Owned	0.5
371	294	TWP ROSI	7.9
389	1	TWP ROSI	22.7
390	18	TWP ROSI	16.5
392	27.08	TWP ROSI	1.7
392	28.10	Township Owned	1.7
392	35	TWP ROSI	19.7
392	38.06	TWP ROSI	1.1
407	14	TWP ROSI	8.7
408	1	State ROW	3
408	47	Township Owned	0.2
408	48	TWP ROSI	21.8
408	49	TWP ROSI	2.5
408	50	TWP ROSI	8
408	51	State ROW	3.1
408	52	State ROW	Included with Lot 51
408	53	State ROW	Included with Lot 51
408	54	State ROW	Included with Lot 51
408	55	State ROW	Included with Lot 51
408	56	State ROW	Included with Lot 51
408	57	TWP ROSI	8
412	30	TWP ROSI	24
412	30	TWP ROSI	24
412	31	TWP ROSI	Included with Lot 30
412	32	TWP ROSI	44
412	107	TWP ROSI	8.9
412	141	TWP ROSI	8.1



Recreation & Open Space District			
Block	Lot	Type	Acreage
412	165.10	Township Owned	0.1
412	308	TWP ROSI	33.1
412.01	1	TWP ROSI	8
413	24.04	Township Owned	8
413	38.06	Township Owned	1.8
415	1	State ROW	3.5
415	3	State ROW	Included with Lot 1
415	6	State ROW	Included with Lot 1
415	36	Park	7
415	37	Park	3.7
416	3.07	Township Owned	2.3
416	4	Park	3.3
417	1	Park	0.4
417	19.05	Township Owned	3
417	19.14	Township Owned	2.5
419	2	Park	0.1
419	4	State ROW	0.1
419	5	State ROW	Included with Lot 4
419	6	TAX LIEN	1
419	7	Township Owned	0.4
419	8	Township Owned	0.1
419.01	6	Township Owned	2.1
420	44.05	TWP ROSI	2.5
420.02	17	Township Owned	4.2
			Total : 3,995.0

; and

The following standards and regulations shall apply to all developments located within the Recreation and Open Space district:

§220-XX "Recreation and Open Space (ROS) District."

A. Purpose

*The intent of the Recreation and Open Space District is to maintain areas of open space in a bucolic rural setting within the Township, and to provide appropriate*

lands to meet the recreational needs of Township residents.

*B. Permitted principal uses*

- 1) *Public open space*
- 2) *Public indoor and outdoor recreation facilities*
- 3) *Private recreational facilities*
- 4) *Public golf courses*
- 5) *Cemeteries*
- 6) *Essential services*

*C. Accessory uses*

- 1) *Signs*
- 2) *Fences*
- 3) *Off-street parking*
- 4) *Any use which is customarily incidental and subordinate to the principal use of the property.*

*D. Conditional uses*

- 1) *Public utilities*

*E. Area, Yard, and Building requirements*

- 1) *Any building shall be set back a minimum of 100 feet from any property line.*
- 2) *Maximum building height shall be 2 stories or 35 feet.*
- 3) *The maximum impervious coverage for the entire tract shall be 15 percent.; and*

*§220-XX "Community Facilities (CF) District."*

A new "Community Facilities" district shall be created, and the Township's zoning map shall be amended so that the following properties shall be removed from the existing district within which they reside and placed into the new "Community Facilities" district:

Community Facilities (CF) district:

<b>Community Facilities District</b>			
Block	Lot	Facility	Acreage
103	13	SEWER DISPOSAL	1.1
119.01	57	PUMP STATION	0.2
120	34	FIRE HOUSE	3.4
132	19	WATER TANK	1.4
139	66.01	WATER TOWER	2.8
139	86.01	PUMPING STATION	0.3

<b>Community Facilities District</b>			
Block	Lot	Facility	Acreage
143	1.03	PUMP STATION	1.2
143	11.02	Marlboro Memorial Middle School	26.8
147	32.27	PUMP STATION	0.2
151	8	FIRE HOUSE	1.8
153	38	Collier School	220.6
153	108	RADIO TOWER	0.3
157	11	MAINTENANCE BLDG.	3
157	13	VACANT LAND	5
159	3.33	PUMP STATION	0.4
160	36.02	PUMPING STATION	0.1
170	29	WELL	5.5
171	71	FILTERING PLANT	11.8
171.01	23	PUMP STATION	8.1
176	104	FIRE HOUSE	6.6
176.07	1	SEWER DISPOSAL	0.1
180	8	VACANT LAND	6.8
180	9	VACANT LAND	4.9
180	13	WATER TANK	6.6
180	83.02	PUMP STATION	0.9
206	28	Defino Elementary School	19.7
214	3.04	PUMP STATION	0.1
214.03	58	PUMP STATION	0.2
223	4	FIRE COMPANY PARKING	0.3
223	5	FIREHOUSE	0.2
223	6	PARKING FIRE CO	0.3
223	7	FIRE HOUSE	0.2
225	74	Marlboro Elementary School	18.7
225	199	Marlboro High School	44.2
253	34	Marlboro Middle School, and fields	30.8
253	35.02	Library	4.1
253	37.01	Municipal Complex	17.6
253	38	Board of Ed Building	2
253	39	Bus Storage	4
255	68	VACANT LAND	0.3
270	59	VACANT LAND	6.8
299	20	PARKING AREA	7.3
299	160	Asher Holmes Elementary	30.4

<b>Community Facilities District</b>			
Block	Lot	Facility	Acreage
299	177	Robertsville Elementary / Tennis Courts	2.9
305	181	PUMPING STATION	0.5
312	159	First Aid station	5.3
312	160	VACANT LAND	7.5
335	5	Schechter School	0.5
339	90	Dugan Elementary	21.4
360.02	15.01	PUMP STATION	0.2
360.02	18.63	PUMP STATION	0.3
415	32.02	PUMP STATION	0.2
		Total:	545.9

; and

The following standards and regulations shall apply to all developments located within the Community Facilities district:

*§220-XX "Community Facilities (CF) District."*

*A. Purpose*

*The intent of the Community Facilities District is to allow for adequate space to provide public services and related functions to the residents of the Township of Marlboro.*

*B. Permitted principal uses*

- 1) All public and quasi-public uses legally permitted in the Township of Marlboro may be permitted in the*
- 2) Libraries*
- 3) School facilities*
- 4) Public utilities*
- 5) Essential services*

*C. Accessory uses*

- 1) Signs*
- 2) Fences*
- 3) Off-street parking*
- 4) Any use which is customarily incidental and subordinate to the principal use of the property.*

*D. Conditional uses*

- 1) Wireless communications facilities; and*

*§220-92 "Municipal Zone" Repeal*

The Township Land Use and Development Ordinance shall be amended to repeal in its entirety §220-92 "Municipal Zone", as this district is to be supplemented and replaced by the aforementioned Community Facilities District, and the Recreation and Open Space District, respectively.

§220-93 "A/LC Agriculture/Land Conservation District." Amendment  
 The Township zoning map shall be amended to place the following properties into the Agriculture / Land Conservation (A/LC) District of the Township zoning map:

Agriculture / Land Conservation District Rezone			
Block	Lot	Facility	Acreage
119	17	Farm	13.8
119	18	Farm	2.9
119	19	Farm	1.5
120	4	Farm	10.3
120	26	Farm	13.6
120	27	Farm	29.5
120	31	Farm	12.6
146	6	Vacant	8
146	7	Vacant	10.2
146	8	Vacant	124
146	29	Vacant	5.6
156	4	Open Space	1.7
168	3	Open Space	2
168	4	Open Space	7.1
170	8.02	Farm	17.9
171	4	Farm	18.8
171	51	Farm	16.5
172	58	Open Space	22.6
172	59	Open Space	4.3
206	26	Farm	2
206	27	Farm	27
207	3	Farm	7.7
207	18	Farm	29
225	227	Farm	167.5
225	228	Farm	1.3
225	230	Farm	2.6
361	4	Vacant	6.6
364	1	Farm	27
364	2	Farm	15.9
414	1	Farm	0.5

Agriculture / Land Conservation District Rezone			
Block	Lot	Facility	Acreage
414	2	Farm	7.5
415	24	Farm	11.2
415	27	Farm	18.3
415	30	Farm	1.1
415	32.01	Farm	15.7
415	34.01	Farm	6.1
419	3	Farm	12.5
419	11	Farm	6.2
		Total:	688.6

; and

In addition to the rezoning of the aforementioned parcels, the Agriculture/Land Conservation District, Section 220-93 of the Township's Land Use and Development Ordinance, shall be amended to allow for lots in existence prior to the adoption of this ordinance, which do not meet the current minimum lot area requirements, to be considered conforming lots.; and

Section 220-93 (Agriculture/Land Conservation district) of the Township's Land Use and Development Ordinance shall be amended to include the following additional language:

*§220-93.G Lots in existence prior to Ordinance XX  
Any lot in the A/LC district which was in existence prior to the adoption of Ordinance XX shall be considered a conforming lot in terms of the requirements for minimum lot area, frontage, width, and depth. All permitted uses in the A/LC district shall be permitted on these lots;  
and*

*§220-4 "Definitions and Word Usage" Amendment*

The definitions found in Section 220-4 of the Township Code shall be amended to include the following new definition for "industrial flex use:"

*INDUSTRIAL FLEX USE*

*The use of any premises, structure, building or part of a building or place as an INDUSTRIAL USE, which intended to provide flexibility in the use of its space, and may include multiple tenants in a single building, or may incorporate office space, commercial space, or may have multiple users accessing the same space at different time periods.; and*

*§220-84 "Industrial-Office-Research District" Amendment*

Section 220-89.A shall be amended to include an industrial flex use as defined above as a permitted principal use in the Industrial-Office-Research (IOR) district; and

§220-XX "Generational Housing Districts"

The Township's list of zoning districts, and zoning map shall be amended to create and incorporate seven (7) new "Generational Housing" districts, and one (1) "Generational Housing" overlay district, and the following properties shall be rezoned into the seven (7) new "Generational Housing" districts, and one (1) "Generational Housing" overlay district, as follows:

Generational Housing 1 (GH-1) district (MDG/Bathgate)

GH 1 District	
Block	Lot
213.01	44

Generational Housing 2 (GH-2) district (EL at Marlboro)

GH 2 District	
Block	Lot
415	22

Generational Housing 3 (GH-3) district (Weitz/Pallu),

GH 3 District	
Block	Lot
146	25
	26

Generational Housing 4 (GH-4) (Weitz/Ashbel)

GH 4 District	
Block	Lot
119	16

Generational Housing 5 (GH-5) (M&M)

GH 5 District	
Block	Lot
122	27.04

Generational Housing 6 (GH-6) (Buckdale)

GH 6 District	
Block	Lot
335	6
	7
	8
	11

Generational Housing 7 (GH-7) (Wildflower/The Place at Marlboro)

GH 7 District	
Block	Lot
148	31
149	16

Generational Housing 8 Overlay (GH-8) (Marlboro Motor Lodge)

GH 8 Overlay District	
Block	Lot
270	14

; and

The following standards and regulations shall apply to all developments located within any of the Generational Housing districts:

§220-XX "Generational Housing Districts"

The following regulations shall apply to all development within any of the GH districts:

A. Purpose:

The intent of Generational Housing is to promote residential communities for multiple generations and household types while satisfying the Township's constitutional obligation to create realistic housing opportunities for all our residents. Generational Housing opportunities will be available to families just starting out, including children of Marlboro parents who currently worry about where their kids will live, and the entry level employees including police officers, teachers and other public employees who work in and serve



our own Town but could never imagine finding a home here. Empty-nesters and seniors relying upon monthly Social Security checks who wish to remain in Marlboro need to have the opportunity to do so and should be able to come back home to live, work and raise a family. Generational Housing also recognizes that we have a collective duty to do more for those who have sacrificed on behalf of our country--veterans must have a chance to call Marlboro their home. Generational Housing is designed to meet these very real demands.

*B. Veterans and first responders preference*

- 1) For all affordable dwelling units, military veterans and first responders, to the extent permitted by law, shall be granted preferential status as applicants, as enumerated within the Township's Affordable Housing Ordinance, §70-21 of the Township Code (to be adopted concurrently with this ordinance).

*C. Recreation requirements*

- 1) All developments must provide active or passive recreation facilities at a ratio of 50 square feet per dwelling unit.
- 2) Recreational facilities shall be designed to accommodate users with disabilities, and be constructed in accordance with the Barrier Free Sub-code of the Uniform Construction Code of the State of New Jersey, and all other applicable codes and standards.

*D. Affordable housing requirements*

- 1) In inclusionary development, to the extent feasible, low and moderate income units shall be integrated into the design with market rate units.
- 2) In inclusionary developments, low and moderate income units shall have access to all of the same common elements and facilities as the market rate units.
- 3) All new construction of affordable dwelling units shall incorporate an even split between low and moderate income units. In the event that an even split results in a fraction of a dwelling unit, the additional dwelling unit shall be a low income unit.

- 4) The income limits and bedroom distribution for all affordable housing units shall be in accordance with the terms of the order of the Superior Court in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15, and in accordance with the Uniform Housing Affordability Controls (UHAC) found in N.J.A.C. 5:80-26.1 et seq.
- 5) In the event that any phasing of construction is proposed, the phasing shall be in accordance with applicable law, including applicable regulations promulgated by the State of New Jersey.
- 6) Affordable housing units may be located in one building, or in multiple buildings.

*E. Other provisions*

- 1) Each development within a GH district may contain a common clubhouse or community amenity facility for the use of its residents and their guests. Such clubhouse shall be permitted to have a maximum height of 2 stories, and 35 feet.
- 2) The roof of any clubhouse or community amenity facility may be utilized as additional community amenity space.
- 3) Monument walls with or without signage, with maximum height of 3 feet, shall be permitted at any entrance to a residential development, provided that the wall does not interfere with any required sight distances.
- 4) Patios, decks, terraces, or balconies may be permitted to encroach within any required rear or side yard setback, provided that no patio, deck, terrace, or balcony is set back less than 20 feet from any tract boundary.
- 5) All stormwater management basins or other facilities shall be managed and maintained by a homeowners association.

*F. Circulation requirements*

- 1) No right-of-way dedication of 75 feet as per §220-184.C of the Township's Land Use and Development Ordinance shall apply to any development within a Generational Housing (GH) district.

- 2) Residential development shall conform to applicable requirements of the Residential Site Improvement Standards.
- 3) Off-street parking shall be permitted within a front, side, or rear yard area.
- 4) All residential development projects that require 50 off-street parking spaces or more, shall provide for at minimum 2 of those off-street parking spaces to be reserved for electric vehicle charging stations. Individual attached garages and/or driveways that serve individual residential single-family dwellings, or individual townhouse dwellings, shall be exempt from this provision.
- 5) Where commercial uses are included in a development with multi-family residences, off-street parking may be shared by the commercial uses and the multi-family residences. A maximum of 20 parking spaces may be shared and considered to satisfy the off-street parking requirements for each use.
- 6) Any parking spaces which are proposed for shared usage, shall be located within 150 feet of the primary entrance of each use.

#### *G. Design standards*

- 1) The standards enumerated in this section shall supersede any and all design requirements found in §220-38 for any attached single-family residential, townhouse, or multi-family residential development in a GH district.
- 2) Buildings shall be oriented so that their primary entrance faces the public street or right-of-way, or an internal roadway. Primary entrances shall not face a side or rear yard area, except for end unit townhouse dwellings, where the primary entrance shall be permitted to face a side yard.
- 3) Blank or featureless walls shall be avoided.
- 4) Primary exterior building façade materials on a front façade shall be brick or brick veneer, stone, cultured stone, stucco, natural wood, composite wood, vinyl, metal, glass, or similarly durable materials. A minimum of 50 percent of the front building façade, excluding any windows, doors, or fenestration, shall be composed of these materials.

- 5) Buildings which have a horizontal width of greater than 80 feet, shall be designed to be separated into vertical segments.
- 6) No building shall have an uninterrupted horizontal width of greater than 40 feet without a change in the vertical plane of the façade. A step-back or projection with a minimum depth of 18 inches shall be provided.
- 7) Projection requirements may be satisfied by decks or patios.
- 8) Buildings with pitched roofs shall have eaves that overhang the building face by a minimum of 12 inches. Any building eave or roofline which extends from the face of the building may encroach into any required front, side, or rear yard setback by a maximum of 12 inches.
- 9) Buildings with flat roofs shall include a decorative cornice along the top of the front facing façade which projects at minimum an average of 8 inches from the face of the building.
- 10) Any accessory structure which will be visible from any street or public right-of-way, shall be designed to be consistent in appearance with the principal structure on the property.
- 11) Any outdoor storage area for garbage and recycling materials which is to serve more than one dwelling, or any garbage and recycling storage area for a non-residential use, shall be screened by a fence of at least 6 feet in height.
- 12) Attached single-family (townhouse) design standards:
  - a) There shall be a variety of design and architectural styles and setbacks for the purpose of presenting an aesthetically desirable effect over the entire townhouse development.
  - b) No more than four contiguous dwelling units within a structure may have the same front yard setback.
  - c) Variations in building setbacks shall be not less than 2 feet.
- 13) Non-residential design standards:
  - a) For any retail, restaurant, or commercial tenant space, a minimum of 50% of the building façade area at the ground level facing the

public right of way, shall be transparent glazing.

b) For any retail, restaurant, or commercial space, the maximum height of the storefront sill above the sidewalk shall be 3 feet.

c) For any retail, restaurant, or commercial space on the ground level, a designated signage band shall be designed and incorporated into the building façade above the storefront area for each tenant space.

14) Sustainable Design Standards

a) Strategies that minimize the impact of development on the environment and enhance the health, safety, and well-being of residents by producing durable, low-maintenance, resource-efficient housing, while making optimum use of existing infrastructure and community services, shall be encouraged.

15) Any deviation from these design standards shall require design waiver relief and not variance relief from the appropriate Board.

§220-XX.1 "Generational Housing 1 District"

The following regulations shall apply to all development within the GH-1 district: (MDG/Bathgate)

A. Purpose:

The Generational Housing - 1 District is provided in accordance with the terms of the settlement agreement between the Township of Marlboro and Marlboro Development Group, and an order of the Superior Court in the matter of in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15, and with the terms of in Re: Marlboro Development Group v. Township of Marlboro, et al. Docket No. MON-L-3826-15.

B. Permitted principal uses

1) Attached single-family dwellings (townhouses) for market rate units

2) Multi-family dwellings containing affordable housing units

3) Commercial uses, as set forth below and detailed in Exhibit C to the above referenced settlement agreement.

- a) Retail sales and services, including convenience stores
  - b) Personal service establishments
  - c) Business and professional offices
  - d) Medical and dental offices
  - e) Restaurants, including fast food
  - f) Banks and financial service institutions
  - g) Entertainment uses such as billiard hall or music venue
- 4) Mixed-use buildings of any combination of the above listed permitted uses. In any mixed use building, no residential uses shall be permitted on the ground floor.

C. Accessory uses

- 1) Signs
- 2) Fences
- 3) Structural retaining walls
- 4) Off-street parking
- 5) Drive-thru window service in connection with a permitted commercial use
- 6) Patios, decks, terraces, porches, or balconies
- 7) Solar panels
- 8) Residential amenity spaces including clubhouses, swimming pools, playgrounds, picnic areas, and gathering spaces
- 9) Dog runs
- 10) Public and/or private utilities
- 11) Temporary construction and sales trailers
- 12) Management or leasing offices associated with the development
- 13) Any use which is customarily incidental and subordinate to the principal use of the property

D. Conditional uses

- 1) Public utilities

E. Area, yard, and building requirements

- 1) The maximum permitted residential density shall be 105 total dwelling units within the district. Of the maximum of 105 total dwelling units within the district no more than 20 dwellings may be multi-family dwellings.
- 2) The minimum tract area for market-rate townhouse development shall be 10 acres.

- 3) The minimum tract area for stand-alone commercial development shall be 25,000 square feet.
- 4) The minimum tract area for any multi-family development or mixed use development shall be 20,000 square feet.
- 5) All non-residential uses, whether in a stand-alone building or in a mixed use building, shall be located within 275 feet of the Route 79 right-of-way.
- 6) A minimum of 8,000 square feet (gross floor area) of commercial space shall be provided within the district.
- 7) An additional 8,000 square feet (gross floor area) of commercial space shall be permitted, up to a maximum total of 16,000 square feet (gross floor area) of commercial space within the district.
- 8) All portions of a tract dedicated to market-rate townhouse construction shall be located a minimum of 200 feet from the Route 79 right-of-way.
- 9) Attached single family dwellings (townhouses):
  - a) Maximum building height - 3.5 stories / 40 feet
  - b) Maximum number of dwelling units per building - 6 units
  - c) Townhouse building setbacks:
    - [1] Side to side - 20 feet
    - [2] Side to front/back - 30 feet
    - [3] Back to back - 45 feet
    - [4] From property boundary - 15 feet
    - [5] From internal road or drive aisle - 15 feet
- 10) Multi-family dwellings and mixed use buildings:
  - a) Maximum building height - 3.5 stories / 40 feet
  - b) Building setbacks:
    - [1] From Route 79 - 25 feet
    - [2] From Stevenson Drive - 25 feet
    - [3] From all other boundaries - 8 feet
    - [4] From internal roads or drive aisle - 5 feet
    - [5] From other buildings - 25 feet
- 11) Commercial buildings:
  - a) Maximum building height - 3.5 stories / 40 feet

- b) *Building setbacks:*
  - [1] *From internal roads or drive aisle - 2 feet*
  - [2] *From Route 79 - 60 feet*
  - [3] *From all other property boundaries - 2 feet*
  - [4] *From drive-thru aisle - 0 feet*
- 12) *Accessory structures:*
  - a) *Maximum building height - 15 feet*
  - b) *Setbacks:*
    - [1] *Side yard - 3 feet*
    - [2] *Rear yard - 5 feet*
  - c) *Facilities for solid waste or recycling storage shall not require any setbacks from any parking area.*
- 13) *Parking area setbacks:*
  - a) *10 feet from any adjacent property line*
  - b) *0 feet from any internal subdivision line*
  - c) *0 feet from a commercial building*
  - d) *5 feet from a multi-family or mixed use building*
  - e) *10 feet from an attached single-family (townhouse) dwelling*
  - f) *0 feet from any internal drive aisle*

*F. Circulation requirements:*

- 1) *One site access driveway shall be provided from Route 79, which may be shared by all uses on the site.*
- 2) *One site access driveway shall be provided from Schanck Road which shall provide access only for townhouse residential uses.*
- 3) *A maximum of two access driveways may be provided on Stevenson Drive.*
- 4) *Off-street parking for any non-residential use shall be provided at a ratio of 1 space per 250 square feet of leasable floor area.*
- 5) *No designated loading space shall be required for any non-residential use within a building of less than 12,000 square feet in leasable area.*

*G. Signage requirements:*

- 1) *In connection with commercial uses, one externally or internally illuminated pylon project identification sign, with a maximum height of 25*



- feet and a maximum sign area of 170 square feet per side, and a minimum setback of 10 feet from Route 79, shall be permitted.
- 2) Within any commercial use, wall signage, or tenant signs shall be permitted for each tenant space. The total amount of signage shall not exceed 10 percent of the total façade area of the side of the building facing the public street. Wall mounted signage may be internally or externally illuminated.
  - 3) Signage in connection with a drive-thru use may be permitted to have a maximum height of 9 feet, and a maximum sign area of 30 square feet. Drive-thru menu signage may be digital LED or static, and may be internally or externally illuminated. No more than two drive-thru signs shall be permitted.
  - 4) Any structure housing affordable housing units shall be permitted one externally illuminated project sign with a maximum height of 6 feet, a maximum sign area of 50 square feet, and a minimum setback of 10 feet from Route 79.
  - 5) For any residential townhouse development, externally illuminated project identification signs at both sides of a site access drive, with a maximum height of 10 feet, a maximum sign width of 20 feet, a maximum sign area of 50 square feet, and a minimum setback of 10 feet from any street or right-of-way, shall be permitted.
  - 6) Masonry and supporting members for any project identification sign shall not be included in the calculation of signage area.
  - 7) Directional or way-finding signage shall be permitted as necessary to guide vehicles or pedestrians safely through any development. Directional or way-finding signage shall have a maximum height of 7 feet, and a maximum sign area of 5 square feet.
  - 8) Temporary advertising signs for residential development shall be permitted. Ground signs shall have a maximum height of 8 feet, and a maximum sign area of 25 square feet. Flag signs shall have a maximum height of 22 feet, and a maximum sign area of 60 square feet. Banner signs shall not exceed the width of the temporary construction fencing.
  - 9) Any other signage permitted by §220-99 not specifically regulated in this section of the

ordinance, shall be permitted in this district in accordance with those regulations.

H. Other provisions:

- 1) A minimum of 18.5 percent of the total number of dwelling units, or twenty (20) units if the site is developed at the maximum permitted density of 105 dwelling units, must be set aside as non-age restricted affordable rental units. Any calculation that results in a fraction of a unit, shall be rounded up to the nearest whole number as the required number of affordable dwelling units to be provided.
- 2) A landscaped buffer with a minimum width of 20 feet shall be provided around all tract boundaries where the property abuts a residential use or zone. No buffer shall be required for any internal subdivision lines within the district.
- 3) Off-street parking and circulation facilities may encroach into a required landscaped buffer area, provided that the encroachment does not exceed more than 5 percent of the total area of the buffer, and that in no case is the buffer width reduced to less than 5 feet.
- 4) The residential components of any development project may incorporate a gated entrance for security purposes.
- 5) Belgium block curbing or straight curbs shall be permitted in residential developments.
- 6) The market rate townhouse units may be developed as zero lot line subdivision without additional setback requirements in fee simple ownership or in the condominium form of ownership.

§220-XX.2 "Generational Housing 2 District"

The following regulations shall apply to all development within the GH-2 district: (EL at Marlboro/Marlboro Parke)

A. Purpose

The Generational Housing - 2 District is provided in accordance with the terms of an order of the Superior Court in the matter of in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15, and with the terms of in Re: El at Marlboro 79 LLC v Township

of Marlboro and the Planning Board of Marlboro. Docket  
No. MON-L-2974-15.

*B. Permitted principal uses*

- 1) *Attached single-family dwellings (townhouses)*
- 2) *Multi-family dwellings*

*C. Accessory uses*

- 1) *Signs*
- 2) *Fences*
- 3) *Structural retaining walls*
- 4) *Off-street parking*
- 5) *Patios, decks, terraces, porches, or balconies*
- 6) *Maintenance garage building*
- 7) *Solar panels*
- 8) *Residential amenity spaces including clubhouses, swimming pools, playgrounds, picnic areas, and gathering spaces*
- 9) *Dog runs*
- 10) *Public and/or private utilities*
- 11) *Temporary construction and sales trailers*
- 12) *Management and leasing offices associated with the development*
- 13) *Any use which is customarily incidental and subordinate to the principal use of the property*

*D. Conditional uses*

- 1) *Public utilities*

*E. Area, yard, and building requirements*

- 1) *The maximum permitted residential density shall be 280 total dwelling units within the district.*
- 2) *The minimum tract area for development shall be 25 acres.*
- 3) *The maximum impervious coverage for the entire tract shall be 65 percent*
- 4) *The maximum building coverage for the entire tract shall be 35 percent*
- 5) *The minimum distance between buildings shall be 20 feet*
- 6) *Overall tract building setbacks:*
  - a) *Front yard - 50 feet*
  - b) *Side yard - 40 feet*
  - c) *Rear yard - 50 feet*
- 7) *Overall building setbacks:*

- a) *Front to front - 60 feet*
- b) *Front to side - 40 feet*
- c) *Side to side - 20 feet*
- d) *Rear to rear - 50 feet*
- e) *To any internal roadway or parking - 10 feet*
- 8) *Attached single family dwellings (townhouses):*
  - a) *Minimum lot area - 2,000 square feet*
  - b) *Minimum lot width - 22 feet*
  - c) *Minimum lot depth - 100 feet*
  - d) *Maximum building height - 3 stories / 40 feet*
  - e) *Maximum number of dwellings per building - 8 units*
  - f) *Townhouse building setbacks:*
    - [1] *Front yard - 20 feet*
    - [2] *Side yard (exterior wall) - 10 feet*
    - [3] *Side yard (interior wall) - 0 feet*
    - [4] *Rear yard - 15 feet*
  - g) *Maximum building coverage - 65 percent*
  - h) *Maximum lot coverage - 90 percent*
- 9) *Multi-family dwellings:*
  - a) *Maximum building height - 3 stories / 45 feet*
- 10) *Accessory structures:*
  - a) *Maximum building height - 15 feet*
  - b) *Setbacks:*
    - [1] *Side yard - 3 feet*
    - [2] *Rear yard - 5 feet*
    - [3] *Tract boundary - 25 feet*

*F. Circulation requirements:*

- 1) *A boulevard street entry from Route 79 shall serve as the primary entrance driveway to any development.*
- 2) *A bikeway with a minimum width of 6.5 feet may be provided along the frontage of Route 79, and may be permitted to encroach within any front yard setback requirement.*
- 3) *All parking areas shall be setback a minimum of 25 feet from any tract boundary.*
- 4) *A sidewalk with a minimum width of 4 feet shall be provided on at least one side of every street.*

*G. Signage requirements:*

- 1) *A maximum of two monument signs shall be permitted at the entrance to a development along Route 79.*

- a) Monument signs shall be permitted to have a maximum height of 8 feet.
  - b) Monument signs shall be permitted to have a maximum sign area of 100 square feet.
  - c) Monument signs shall be setback a minimum of 10 feet from the Route 79 right-of-way, and shall not interfere with any required sight distances.
  - d) The structure of any monument sign shall be primarily composed of stone or brick.
- 2) One temporary non-illuminated, double sided advertising sign shall be permitted.
    - a) An advertising sign shall have a maximum height of 8 feet.
    - b) An advertising sign shall have a maximum sign area of 32 square feet.

#### H. Other provisions

- 1) A minimum of 20 percent of the total number of dwelling units, or fifty-six (56) dwelling units, whichever is greater, must be non-age restricted affordable rental units. Any calculation that results in a fraction of a unit, shall be rounded up to the nearest whole number as the required number of affordable dwelling units to be provided.
- 2) A landscaped buffer with a minimum width of 25 feet shall be provided around all tract boundaries.
- 3) A minimum of 20% of the total tract area shall be set aside as conservation, recreation, or open space.
- 4) No more than half of the required open space or recreation set aside area shall be within wetlands, wetlands buffer areas, or 100-year floodplain areas, as determined by the most recent FEMA flood insurance rate maps.
- 5) Open space and recreation, both active and passive, may be satisfied by any walking paths throughout the community, all green lawn or landscaped areas outside of the building footprints, a tot lot, an outdoor pool, or a clubhouse.
- 6) Outdoor storage sheds for residential use shall be prohibited.
- 7) There shall be no bedroom limitations or requirements for any market-rate townhouse dwelling units.

§220-XX.3 "Generational Housing 3 District"

The following regulations shall apply to all development within the GH-3 district: (Weitz/Pallu)

A. Purpose

The Generational Housing - 3 District is provided in accordance with the terms of an order of the Superior Court in the matter of in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15, and with the terms of in Re: Ashbel Associates, LLC, et al. v. Township of Marlboro, et al. Docket No. MON-L-3069-15. In accordance with the court matters identified above, certain properties located at Block 267, Lots 36 and 37, and Block 299, Lot 33, are to be donated to the Township for the purposes of open space or other municipal non-housing use, in association with the development of any property located within the Generational Housing - 3 District. Those properties are being rezoned to the newly created Recreation and Open Space District as a part of this ordinance. In addition, three separate parcels which were party to this same court matters, known as Block 146 Lot 21, Block 146 Lot 23, and Block 207 Lot 5, are not to be rezoned, and have specifically been excluded from consideration from any zoning actions described in this ordinance.

B. Permitted principal uses

- 1) Multi-family dwellings

C. Accessory uses

- 1) Signs
- 2) Fences
- 3) Structural retaining walls
- 4) Off-street parking
- 5) Patios, decks, terraces, porches, or balconies
- 6) Solar panels
- 7) Residential amenity spaces including clubhouses, swimming pools, playgrounds, picnic areas, and gathering spaces
- 8) Dog runs
- 9) Public and/or private utilities
- 10) Temporary construction and sales trailers
- 11) Management or leasing offices associated with the development

- 12) Any use which is customarily incidental and subordinate to the principal use of the property.

*D. Conditional uses*

- 1) *Public utilities*

*E. Area, yard, and building requirements*

- 1) *The maximum permitted residential density shall be a total of 387 residential dwelling units within the district.*
- 2) *The minimum tract area for development shall be 10 acres.*
- 3) *The maximum impervious coverage for the entire tract shall be 65 percent*
- 4) *The maximum building coverage for the entire tract shall be 25 percent*
- 5) *Overall tract building setbacks:*
  - a) *Texas Road - 130 feet*
  - b) *Wooleytown Road - 75 feet*
  - c) *Side yard - 50 feet*
  - d) *Rear yard - 50 feet*
  - e) *Building to roadway - 15 feet*
- 6) *Multi-family dwellings:*
  - a) *Maximum number of dwelling units per building - 30 units*
  - b) *Maximum building length - 220 feet*
  - c) *Maximum building depth - 80 feet*
  - d) *Maximum building height - 3 stories / 45 feet*
  - e) *Minimum building separation*
    - [1] *Front to front - 60 feet*
    - [2] *Side to side - 40 feet*
    - [3] *Rear to rear - 50 feet*
    - [4] *Front to side/rear - 40 feet*
    - [5] *Deviations of up to 5 feet from any of these minimum building separation requirements may be permitted as de minimis.*
- 7) *Accessory structures:*
  - a) *Maximum building height - 15 feet*
  - b) *Setbacks:*
    - [1] *Side yard - 3 feet*
    - [2] *Rear yard - 5 feet*

*F. Circulation requirements:*

- 1) A maximum of two (2) access driveways shall be permitted on Texas Road.
- 2) A maximum of one (1) access driveway shall be permitted on Wooleytown Road.
- 3) Parking setbacks:
  - a) Texas Road - 50 feet
  - b) Wooleytown Road - 20 feet
  - c) Buildings - 10 feet

G. Signage requirements:

- 1) A maximum of one entrance sign shall be permitted per access driveway.
  - a) Any entrance sign shall be a monument sign composed of a stone base.
  - b) The maximum permitted height of an entrance sign shall be 8 feet, on top of a stone base with a maximum height of 2 feet, for a maximum permitted total height of 10 feet.
  - c) The maximum permitted width of an entrance sign shall be 8 feet.
  - d) The maximum permitted width of a stone base shall be 10 feet.
  - e) The maximum permitted sign area of an entrance sign shall be 40 square feet, exclusive of any stone base or other structural supports.
  - f) Any entrance sign shall be setback a minimum of 15 feet from a street right-of-way.
  - g) Any entrance sign shall be setback a minimum of 8 feet from any internal road or driveway.
  - h) Entrance signs shall be permitted to be internally or externally illuminated.
- 2) A maximum of two building identification wall signs shall be permitted per building.
  - a) Building identification wall signs shall not exceed the height of the eave of the roof.
  - b) Building identification wall signs shall have a maximum permitted sign area of 6 square feet each.
  - c) Building identification wall signs shall be permitted to project from the face of the wall a maximum distance of 6 inches.
- 3) Directional signage shall be permitted as necessary for safe and efficient circulation on the site.
  - a) Directional signage shall have a maximum sign height of 4 feet.



- b) Directional signage shall have a maximum sign area of 15 square feet per side.
- c) Directional signage shall be setback a minimum of 4 feet from any street or driveway.

#### H. Other provisions

- 1) A minimum of 20 percent of the total number of dwelling units, or seventy-eight (78) dwelling units, whichever is greater, must be non-age restricted affordable rental units. Any calculation which results in a fraction of a unit, shall be rounded up to the nearest whole number as the required number of affordable dwelling units to be provided.
- 2) A landscaped buffer with a minimum width of 20 feet shall be provided along all tract boundaries.
- 3) The provisions of §220-43.G Tennis and Sports Courts, shall not apply unless such proposed uses are located within the tract boundaries.
- 4) Pools and other recreation features shall be permitted with a minimum setback of 20 feet from any residential dwelling, clubhouse, structure, or any other pool.
- 5) Drainage, utilities, driveways, and recreation facilities may be permitted to encroach within a required buffer area.

#### §220-XX.4 "Generational Housing 4 District"

The following regulations shall apply to all development within the GH-4 district: (Weitz/Ashbel)

##### A. Purpose

The Generational Housing - 4 District is provided in accordance with the terms of an order of the Superior Court in the matter of in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15, and with the terms of in Re: Ashbel Associates, LLC, et al. v. Township of Marlboro, et al. Docket No. MON-L-3069-15. In accordance with the court matters identified above,, certain properties located at Block 267, Lots 36 and 37, and Block 299, Lot 33, are to be donated to the Township for the purposes of open space or other municipal non-housing use, in association with the development of any property located within the Generational Housing - 3 District. Those properties are

being rezoned to the newly created Recreation and Open Space District as a part of this ordinance. In addition, three separate parcels which were party to this same court matters, known as Block 146 Lot 21, Block 146 Lot 23, and Block 207 Lot 5, are not to be rezoned, and have specifically been excluded from consideration from any zoning actions described in this ordinance.

*B. Permitted principal uses*

- 1) *Multi-family dwellings*

*C. Accessory uses*

- 1) *Signs*
- 2) *Fences*
- 3) *Structural retaining walls*
- 4) *Off-street parking*
- 5) *Patios, decks, terraces, porches, or balconies*
- 6) *Solar panels*
- 7) *Residential amenity spaces including clubhouses, swimming pools, playgrounds, picnic areas, and gathering spaces*
- 8) *Dog runs*
- 9) *Public and/or private utilities*
- 10) *Temporary construction and sales trailers*
- 11) *Management or leasing offices associated with the development*
- 12) *Any use which is customarily incidental and subordinate to the principal use of the property.*

*D. Conditional uses*

- 1) *Public utilities*

*E. Area, yard, and building requirements*

- 1) *The maximum permitted residential density shall be a total of 120 residential dwelling units.*
- 2) *The minimum tract area for development shall be 10 acres.*
- 3) *The minimum tract width shall be 500 feet*
- 4) *The minimum tract depth shall be 500 feet*
- 5) *The maximum impervious coverage for the entire tract shall be 50 percent*
- 6) *The maximum building coverage for the entire tract shall be 25 percent*
- 7) *Overall tract building setbacks:*
  - a) *Texas Road - 75 feet*
  - b) *Side yard - 50 feet*

- c) Rear yard - 50 feet
- d) Building to roadway - 15 feet
- 8) Multi-family dwellings:
  - a) Maximum number of dwelling units per building - 30 units
  - b) Maximum building height - 3 stories / 45 feet
  - c) Maximum building length - 220 feet
  - d) Maximum building depth - 80 feet
  - e) Minimum building separation
    - [1] Front to front - 60 feet
    - [2] Side to side - 40 feet
    - [3] Rear to rear - 50 feet
    - [4] Front to side/rear - 40 feet
    - [5] Building to roadway - 15 feet
    - [6] Deviations of up to 5 feet from any of these minimum building separation requirements may be permitted as de minimis.
- 9) Accessory structures:
  - a) Maximum building height - 15 feet
  - b) Setbacks:
    - [1] Side yard - 3 feet
    - [2] Rear yard - 5 feet

*F. Circulation requirements:*

- 1) A maximum of two (2) access driveways shall be permitted on Texas Road.
- 2) Parking setbacks:
  - a) Texas Road - 40 feet
  - b) Buildings - 10 feet

*G. Signage requirements:*

- 1) A maximum of one entrance sign shall be permitted per access driveway.
  - a) Any entrance sign shall be a monument sign composed of a stone base.
  - b) The maximum permitted height of an entrance sign shall be 8 feet, on top of a stone base with a maximum height of 2 feet, for a maximum permitted total height of 10 feet.
  - c) The maximum permitted width of an entrance sign shall be 8 feet.
  - d) The maximum permitted width of a stone base shall be 10 feet.

- e) *The maximum permitted sign area of an entrance sign shall be 40 square feet, exclusive of any stone base or other structural supports.*
- f) *Any entrance sign shall be setback a minimum of 15 feet from a street right-of-way.*
- g) *Any entrance sign shall be setback a minimum of 8 feet from any internal road or driveway.*
- h) *Entrance signs shall be permitted to be internally or externally illuminated.*
- 2) *A maximum of two building identification wall signs shall be permitted per building.*
  - a) *Building identification wall signs shall not exceed the height of the eave of the roof.*
  - b) *Building identification wall signs shall have a maximum permitted sign area of 6 square feet each.*
  - c) *Building identification wall signs shall be permitted to project from the face of the wall a maximum distance of 6 inches.*
- 3) *Directional signage shall be permitted as necessary for safe and efficient circulation on the site.*
  - a) *Directional signage shall have a maximum sign height of 4 feet.*
  - b) *Directional signage shall have a maximum sign area of 15 square feet per side.*
  - c) *Directional signage shall be setback a minimum of 4 feet from any street or driveway.*

#### *H. Other provisions*

- 1) *A minimum of 20 percent of the total number of dwelling units, or twenty-four (24) dwelling units, whichever is greater, must be non-age restricted affordable rental units. Any calculation which results in a fraction of a unit, shall be rounded up to the nearest whole number as the required number of affordable dwelling units to be provided.*
- 2) *A landscaped buffer with a minimum width of 20 feet shall be provided along all tract boundaries.*
- 3) *Drainage, utilities, driveways, and recreation facilities may be permitted to encroach within a required buffer area.*

#### *§220-XX.5 "Generational Housing 5 District"*

*The following regulations shall apply to all development within the GH-5 district: (M&M)*

A. Purpose

The Generational Housing - 5 District is provided in accordance with the terms of an order of the Superior Court in the matter of in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15.

B. Permitted principal uses

- 1) Attached single-family dwellings
- 2) Multi-family dwellings

C. Accessory uses

- 1) Signs
- 2) Fences
- 3) Structural retaining walls
- 4) Off-street parking
- 5) Patios, decks, terraces, porches, or balconies
- 6) Solar panels
- 7) Residential amenity spaces including clubhouses, swimming pools, playgrounds, picnic areas, and gathering spaces
- 8) Public and/or private utilities
- 9) Temporary construction and sales trailers
- 10) Management or leasing offices associated with the development
- 11) Any use which is customarily incidental and subordinate to the principal use of the property.

D. Conditional uses

- 1) Public utilities

E. Area, yard, and building requirements

- 1) The maximum permitted residential density shall be a total of 200 residential dwelling units.
- 2) The minimum tract area for development shall be 10 acres.
- 3) The maximum impervious coverage for the entire tract shall be 50 percent
- 4) The maximum building coverage for the entire tract shall be 25 percent
- 5) Overall tract building setbacks:
  - a) Route 79 - 75 feet
  - b) Side yard - 50 feet
  - c) Rear yard - 50 feet
- 6) Overall building setbacks:

- a) Front to front - 60 feet
- b) Front to side - 40 feet
- c) Side to side - 25 feet
- d) Rear to rear - 50 feet
- e) To any internal roadway or parking - 10 feet
- 7) Attached single-family dwellings (townhouses):
  - a) Minimum lot area - 2,000 square feet
  - b) Minimum lot width - 20 feet
  - c) Minimum lot depth - 100 feet
  - d) Maximum building height - 3.5 stories / 40 feet
  - e) Maximum number of dwellings per building - 6 units
  - f) Townhouse building setbacks:
    - [1] Front yard - 20 feet
    - [2] Side yard (exterior wall) - 10 feet
    - [3] Side yard (interior wall) - 0 feet
    - [4] Rear yard - 20 feet
  - g) Maximum building coverage - 60 percent
  - h) Maximum lot coverage - 85 percent
- 8) Multi-family dwellings:
  - a) Maximum building height - 3.5 stories / 45 feet
  - b) Minimum building separation
    - [1] Front to front - 60 feet
    - [2] Side to side - 40 feet
    - [3] Rear to rear - 50 feet
    - [4] Front to side/rear - 40 feet
- 9) Accessory structures:
  - a) Maximum building height - 15 feet
  - b) Setbacks:
    - [1] Side yard - 3 feet
    - [2] Rear yard - 5 feet

*F. Circulation requirements:*

- 1) A maximum of one access driveway shall be permitted on Route 79
- 2) Parking setbacks:
  - a) Route 79 - 50 feet
  - b) Buildings - 10 feet (excluding driveways for single-family dwellings)

*G. Other provisions*

- 1) A minimum of 20 percent of the total number of dwelling units, or 40 dwelling units, whichever is

greater, must be non-age restricted affordable rental units. Any calculation which results in a fraction of a unit, shall be rounded up to the nearest whole number as the required number of affordable dwelling units to be provided.

- 2) A landscaped buffer with a minimum width of 20 feet shall be provided along all tract boundaries.
- 3) Drainage, utilities, driveways, and recreation facilities may be permitted to encroach within a required buffer area.

§220-XX.6 "Generational Housing 6 District"

The following regulations shall apply to all development within the GH-6 district: (Buckdale)

A. Purpose

The Generational Housing - 6 District is provided in accordance with the terms of an order of the Superior Court in the matter of in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15.

B. Permitted principal uses

- 1) Detached single-family dwellings
- 2) Attached single-family dwellings (townhouses)

C. Accessory uses

- 1) Signs
- 2) Fences
- 3) Structural retaining walls
- 4) Off-street parking
- 5) Patios, decks, terraces, porches, or balconies
- 6) Solar panels
- 7) Residential amenity spaces including clubhouses, swimming pools, playgrounds, picnic areas, and gathering spaces
- 8) Public and/or private utilities
- 9) Temporary construction and sales trailers
- 10) Management or leasing offices associated with the development
- 11) Any use which is customarily incidental and subordinate to the principal use of the property.

D. Conditional uses

- 1) Public utilities

*E. Area, yard, and building requirements*

- 1) *The maximum permitted residential density shall be a total of 45 residential dwelling units.*
- 2) *The minimum tract area for development shall be 10 acres.*
- 3) *The maximum impervious coverage for the entire tract shall be 60 percent*
- 4) *The maximum building coverage for the entire tract shall be 32 percent*
- 5) *Overall tract building setbacks:*
  - a) *Buckley Road - 50 feet*
  - b) *Route 79 - 100 feet*
  - c) *Side yard - 50 feet*
  - d) *Rear yard - 50 feet*
- 6) *Detached single-family dwellings:*
  - a) *Minimum lot area - 4,000 square feet*
  - b) *Minimum average unit width - 30 feet*
  - c) *Maximum building height - 3 stories / 35 feet*
  - d) *Minimum detached single-family building setbacks:*
    - [1] *Front yard - 25 feet*
    - [2] *Side yard (one side) - 0 feet*
    - [3] *Side yard (combined) - 10 feet*
    - [4] *Rear yard - 25 feet*
  - e) *Maximum building coverage - 60 percent*
  - f) *Maximum lot coverage - 85 percent*
- 7) *Attached single-family dwellings (townhouses):*
  - a) *Minimum lot area - 2,000 square feet*
  - b) *Minimum lot width - 20 feet*
  - c) *Minimum lot depth - 100 feet*
  - d) *Maximum building height - 3 stories / 35 feet*
  - e) *Maximum number of dwellings per building - 6 units*
  - f) *Minimum townhouse building setbacks:*
    - [1] *Front yard - 20 feet*
    - [2] *Side yard (exterior wall) - 10 feet*
    - [3] *Side yard (interior wall) - 0 feet*
    - [4] *Rear yard - 20 feet*
    - [5] *Distance between buildings - 25 feet*
- 8) *Accessory structures:*
  - a) *Maximum building height - 15 feet*
  - b) *Setbacks:*
    - [1] *Side yard - 3 feet*
    - [2] *Rear yard - 5 feet*



F. Other provisions

- 1) A minimum of 20 percent of the total number of dwelling units, or 9 dwelling units, whichever is greater, must be non-age restricted affordable rental units. Any calculation which results in a fraction of a unit, shall be rounded up to the nearest whole number as the required number of affordable dwelling units to be provided.
- 2) All new construction of affordable dwelling units shall incorporate an even split between low and moderate income units. In the event that an even split results in a fraction of a dwelling unit, the additional dwelling unit shall be permitted to be a moderate income unit within the GH-6 district.
- 3) No recreation space or amenities shall be required within the GH-6 district.
- 4) The maximum permitted size of any deck or patio shall be 10 feet in width by 10 feet in depth.

§220-XX.7 "Generational Housing 7 District"

The following regulations shall apply to all development within the GH-7 district: (Wildflower)

A. Purpose

The Generational Housing - 7 District is provided in accordance with the terms of an order of the Superior Court in the matter of in Re: In the Matter of the Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15.

B. Permitted principal uses

- 1) Detached single-family dwellings
- 2) Attached single-family dwellings (townhouses)
- 3) Multi-family dwellings

C. Accessory uses

- 1) Signs
- 2) Fences
- 3) Structural retaining walls
- 4) Off-street parking
- 5) Patios, decks, terraces, porches, or balconies
- 6) Solar panels
- 7) Residential amenity spaces including clubhouses, swimming pools, playgrounds, picnic areas, and gathering spaces
- 8) Public and/or private utilities

- 9) Temporary construction and sales trailers
- 10) Management or leasing offices associated with the development
- 11) Any use which is customarily incidental and subordinate to the principal use of the property.

*D. Conditional uses*

- 1) Public utilities

*E. Area, yard, and building requirements*

- 1) The maximum permitted residential density shall be a total of 258 residential dwelling units within the district.
- 2) The minimum tract area for development shall be 2 acres.
- 3) Detached single-family dwellings:
  - a) Minimum lot area - 6,000 square feet
  - b) Minimum lot width - 40 feet
  - c) Minimum lot depth - 90 feet
  - d) Maximum building height - 3 stories / 35 feet
  - e) Minimum detached single-family building setbacks:
    - [1] Front yard - 20 feet
    - [2] Side yard (one side) - 5 feet
    - [3] Side yard (combined) - 15 feet
    - [4] Rear yard - 20 feet
  - f) Maximum building coverage - 60 percent
  - g) Maximum lot coverage - 50 percent
- 4) Attached single-family dwellings (townhouses):
  - a) Minimum lot area - 2,000 square feet
  - b) Minimum lot width - 20 feet
  - c) Minimum lot depth - 100 feet
  - d) Maximum building height - 3 stories / 35 feet
  - e) Maximum number of dwellings per building - 6 units
  - f) Minimum townhouse building setbacks:
    - [1] Front yard - 10 feet
    - [2] Side yard (exterior wall) - 10 feet
    - [3] Side yard (interior wall) - 0 feet
    - [4] Rear yard - 20 feet
    - [5] Distance between buildings - 20 feet
- 5) Multi-family dwellings:
  - a) Minimum lot area - 2 acres
  - b) Minimum lot width - 125 feet
  - c) Minimum lot depth - 125 feet

- d) Maximum building height - 4 stories / 50 feet
- e) Minimum building setbacks:
  - [1] Front yard - 10 feet
  - [2] Side yard - 10 feet
  - [3] Rear yard - 10 feet
  - [4] Distance between buildings - 20 feet
- f) Maximum lot coverage - 80 percent
- 6) Accessory structures:
  - a) Maximum building height - 15 feet
  - b) Setbacks:
    - [1] Side yard - 3 feet
    - [2] Rear yard - 5 feet

F. Other provisions

- 1) One hundred percent (100%) of all residential dwelling units constructed within the Generational Housing 7 district shall be affordable dwelling units other than up to two superintendent's units, as the superintendent's units are not required to be deed restricted as affordable housing units.
- 2) All new construction of affordable dwelling units shall incorporate an even split between low- and moderate-income units. In the event that an even split results in a fraction of a dwelling unit, the additional dwelling unit shall be permitted to be a low-income unit within the GH-7 district. Thirteen (13) percent of all affordable dwelling units shall be very low-income units as defined in the Fair Housing Act. The bedroom distribution shall be as required by N.J.A.C. 5:80-26.3 and the very low-income, low-income, and moderate-income units shall be proportionally distributed within each bedroom category.
- 3) No recreation space or amenities shall be required within the GH-7 district.
- 4) A landscaped buffer with a minimum width of 15 feet shall be provided along all tract boundaries.

§220-XX.8 "Generational Housing 8 Overlay District"

The following regulations shall be applicable to all property within the GH-8 district (Motor Lodge) as an overlay district.

A. Purpose

The Generational Housing - 8 District is provided in accordance with the terms of an order of the Superior Court in the matter of in Re: In the Matter of the

Application of the Township of Marlboro for a Declaratory Judgement, Docket No. MON-L-2121-15. The regulations found within this ordinance shall serve as an overlay to the underlying zoning. Development may be permitted under either these overlay district standards, or the underlying zoning. There shall be no mixing of overlay or underlying standards for any development.

*B. Permitted principal uses*

- 1) Detached single-family dwellings*
- 2) Attached single-family dwellings (townhouses)*
- 3) Multi-family dwellings*

*C. Accessory uses*

- 1) Signs*
- 2) Fences*
- 3) Structural retaining walls*
- 4) Off-street parking*
- 5) Patios, decks, terraces, porches, or balconies*
- 6) Solar panels*
- 7) Residential amenity spaces including clubhouses, swimming pools, playgrounds, picnic areas, and gathering spaces*
- 8) Public and/or private utilities*
- 9) Temporary construction and sales trailers*
- 10) Management or leasing offices associated with the development*
- 11) Any use which is customarily incidental and subordinate to the principal use of the property.*

*D. Conditional uses*

- 1) Public utilities*

*E. Area, yard, and building requirements*

- 1) The maximum permitted residential density shall be a total of 92 residential dwelling units.*
- 2) The minimum tract area for development shall be 3 acres.*
- 3) The maximum impervious coverage for the entire tract shall be 60 percent*
- 4) The maximum building coverage for the entire tract shall be 32 percent*
- 5) Overall tract building setbacks:*
  - a) Route 9 - 30 feet*
  - b) Side yard - 30 feet*
  - c) Rear yard - 50 feet*

- 6) *Detached single-family dwellings:*
  - a) *Minimum lot area - 6,000 square feet*
  - b) *Minimum lot width - 40 feet*
  - c) *Minimum lot depth - 90 feet*
  - d) *Maximum building height - 3 stories / 35 feet*
  - e) *Minimum detached single-family building setbacks:*
    - [1] *Front yard - 20 feet*
    - [2] *Side yard (one side) - 5 feet*
    - [3] *Side yard (combined) - 15 feet*
    - [4] *Rear yard - 20 feet*
  - f) *Maximum building coverage - 60 percent*
  - g) *Maximum lot coverage - 50 percent*
- 7) *Attached single-family dwellings (townhouses):*
  - a) *Minimum lot area - 2,000 square feet*
  - b) *Minimum lot width - 20 feet*
  - c) *Minimum lot depth - 100 feet*
  - d) *Maximum building height - 3 stories / 35 feet*
  - e) *Maximum number of dwellings per building - 6 units*
  - f) *Minimum townhouse building setbacks:*
    - [1] *Front yard - 10 feet*
    - [2] *Side yard (exterior wall) - 10 feet*
    - [3] *Side yard (interior wall) - 0 feet*
    - [4] *Rear yard - 20 feet*
    - [5] *Distance between buildings - 20 feet*
- 8) *Multi-family dwellings:*
  - a) *Minimum lot area - 2 acres*
  - b) *Minimum lot width - 125 feet*
  - c) *Minimum lot depth - 125 feet*
  - d) *Maximum building height - 4 stories / 50 feet*
  - e) *Minimum building setbacks:*
    - [1] *Front yard - 10 feet*
    - [2] *Side yard - 10 feet*
    - [3] *Rear yard - 10 feet*
    - [4] *Distance between buildings - 20 feet*
  - f) *Maximum lot coverage - 80 percent*
- 9) *Accessory structures:*
  - a) *Maximum building height - 15 feet*
  - b) *Setbacks:*
    - [1] *Side yard - 3 feet*
    - [2] *Rear yard - 5 feet*

*F. Other provisions*

- 1) *One hundred percent (100%) of all residential dwelling units constructed within the Generational Housing 8 overlay district shall be age-restricted affordable rental dwelling units other than one superintendent's unit, as the superintendent's unit is not required to be deed restricted as an affordable housing unit.*
- 2) *All new construction of affordable dwelling units shall incorporate an even split between low- and moderate-income units. In the event that an even split results in a fraction of a dwelling unit, the additional dwelling unit shall be permitted to be a low- income unit within the GH-8 district. Thirteen (13) percent of all affordable dwelling units shall be very low-income units as defined in the Fair Housing Act. The bedroom distribution shall be as required by N.J.A.C. 5:80-26.3 and the very low-income, low-income, and moderate-income units shall be proportionally distributed within each bedroom category.*
- 3) *No recreation space or amenities shall be required within the GH-8 district.*
- 4) *A landscaped buffer with a minimum width of 20 feet shall be provided along all tract boundaries.*

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

BE IT FURTHER ORDAINED, that a certified copy of this Ordinance shall be provided to each of the following:

- a. Township Business Administrator
- b. Township Chief Financial Officer
- c. Township Engineer
- d. Louis Rainone, Esq.

The following Resolution #2019-316/Ordinance #2019-15 (Adopting a Redevelopment Plan for the Designated Redevelopment Area known as the Scattered Site Redevelopment Area in Accordance with the NJ Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1, et seq.) was introduced by reference, offered by Councilman Scalea, seconded by Councilwoman Metzger and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2019-316

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2019-15

AN ORDINANCE ADOPTING A REDEVELOPMENT PLAN FOR THE SCATTERED SITES REDEVELOPMENT AREA OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on December 12, 2019 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2019-15

AN ORDINANCE ADOPTING A REDEVELOPMENT PLAN FOR THE DESIGNATED REDEVELOPMENT AREA KNOWN AS THE SCATTERED SITE REDEVELOPMENT AREA IN ACCORDANCE WITH THE NEW JERSEY LOCAL REDEVELOPMENT AND HOUSING LAW (N.J.S.A. 40A:12A-1, ET SEQ.)

WHEREAS, on August 10, 2017 the Township Council of the Township of Marlboro (the "Township Council") previously adopted Resolution 2017-272 directing the Planning Board of the Township of Marlboro (the "Planning Board") to undertake a preliminary investigation to determine whether those parcels identified on the Township's tax map as Block 103, Lot 1; Block 111, Lots 10, 11, 12, and 13; Block 146, Lots 28, 30, 31, 32, 33 and 38; Block 147, Lot 34; Block 170, Lots 2 and 3; Block 172, Lot 13 (now known as Lot 13.01), Block 268, Lot 79 met the statutory criteria to be designated as a Condemnation "Area in Need of Redevelopment" pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-3 et seq. (the "LRHL"); and

WHEREAS, on October 4, 2018, the Township Council adopted Resolution 2018-293, which further directed the Planning Board to include Block 111, Lot 4 within the area to be investigated; and

WHEREAS, the Planning Board held a public hearing on July 17, 2019 regarding the preliminary investigation of the properties, and said properties were found to meet the standard for an area in need of redevelopment designation including condemnation, and the Planning Board subsequently adopted a resolution (PB 1-2019) recommending that the Township Council designate the Study Area as an "Area in Need of Redevelopment" that includes condemnation authority pursuant to the LRHL; and

WHEREAS, the Township Council subsequently adopted Resolution 2019-281 on September 5, 2019 designating the properties as an "Area in Need of Redevelopment" with condemnation, in accordance with the Planning Board's recommendation and the LRHL; and directed the Planning Board to prepare a redevelopment plan and to transmit the redevelopment plan to the Township Council for review and adoption; and

WHEREAS, CME Associates prepared a redevelopment plan dated October 28, 2019 providing the development standards for each of the properties within the Scattered Sites Redevelopment Area (on file with the Township Clerk) (the "Redevelopment Plan"); and

WHEREAS, pursuant to the LRHL, the Planning Board must review the Redevelopment Plan and transmit its recommendations relating to the Redevelopment Plan to the Township Council in accordance with the provisions of N.J.S.A. 40A:12A-7(e) of the LRHL; and

WHEREAS, on November 14, 2019 the Township Council adopted a resolution directing the Planning Board to review the Redevelopment Plan and transmit its recommendations relating to the Redevelopment Plan to the Township Council in accordance with the LRHL; and

WHEREAS, on November 14, 2019 the Township Council introduced ordinance numbered 2019-15 adopting the Redevelopment Plan, to ensure the success of redevelopment within the Study Area in conformity with the Township's redevelopment objectives; and

WHEREAS, on December 4, 2019 the Planning Board met and discussed the Redevelopment Plan; and

WHEREAS, on December 4, 2019 the Planning Board adopted a resolution determining the Redevelopment Plan to be consistent



with the Township's Master Plan, and further favorably recommending the adoption of the Redevelopment Plan; and

WHEREAS, the Township Council believes that the adoption of the Redevelopment Plan is in the best interests of the Township and the development of the Redevelopment Area.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Township Council adopts the Scattered Site Redevelopment Plan, pursuant to the terms of N.J.S.A. 40A:12A-7 of the LHRL; and

BE IT FURTHER ORDAINED, that the zoning ordinances of the Township found at Section 220 of the Township Code of the Township of Marlboro are hereby amended to include the amendments indicated in the Scattered Site Redevelopment Plan and the provisions therein; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

BE IT FURTHER ORDAINED, that a certified copy of this Ordinance shall be provided to each of the following:

- a. Township Business Administrator
- b. Township Chief Financial Officer
- c. Township Engineer
- d. Louis Rainone, Esq.

The following Resolution #2019-317/Ordinance #2019-16 (Authorizing Acceptance of Block 154, Lot 17.05 (Reids Hill Road)) was introduced by reference, offered by Councilwoman Marder, seconded by Council Vice President Mazzola and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2019-317

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2019-16

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF THE OPEN SPACE DEDICATION OF BLOCK 154 LOT 17.05 LOCATED ON REIDS HILL ROAD ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on December 12, 2019 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2019-16

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF THE OPEN SPACE DEDICATION OF BLOCK 154 LOT 17.05 LOCATED ON REIDS HILL ROAD ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO

WHEREAS, Carl G. Antisell, Douglas A. Antisell and Donald T. Antisell received Zoning Board approval for a subdivision on April 26, 2016 which proposed dedication of Block 154 Lot 17.05, comprising approximately 14 acres located on REIDS HILL ROAD on the official tax map of the Township of Marlboro for conservation purposes as part of the grant of subdivision approval; and

WHEREAS, it is a matter of procedure that the Township of Marlboro adopt an Ordinance accepting the dedication of this Block and Lot.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro that it hereby accepts the Deed of Dedication from Carl G. Antisell, Douglas A. Antisell and Donald T. Antisell to the Township of Marlboro, for any and all conservation purposes, for the property known as Block 154, Lot 17.05 on the official tax map of the Township of Marlboro.

BE IT FURTHER ORDAINED, if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to

the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, this Ordinance shall take effect upon passage and publication in accordance with applicable law.

As the Consent Agenda, the following Resolutions were introduced by reference, offered by Councilwoman Marder, seconded by Council President Metzger and passed on a roll call vote of 5 - 0 in favor: Res. #2019-318 (Authorizing 2019 Budget Transfers), Res. #2019-319 (Mortgage Subordination - 2 Sherbrooke Lane), Res. #2019-320 (Amending Professional Services Agreement for 2019 Township Attorney Services), Res. #2019-321 (Amending Engineering Services Agreement for Professional Environmental Engineering Services), Res. #2019-322 (Award of Bid - Improvements to Pleasant Valley Road Streambank Phase II), Res. #2019-323 (Authorizing Application to FEMA for Pre-Disaster Mitigation Funding FY 19), Res. #2019-324 (Amending Water Engineering Services Agreement for Extension of Water Main - Former State Hospital Project (19-500-2)), Res. #2019-325 (Amending Water Engineering Services Agreement for Various Water Capital Projects), Res. #2019-326 (Confirming Emergency Water Main Repairs), Res. #2019-327 (Authorizing State Contract to Furnish and Install Above-Ground Fuel Storage Tank at the Tennent Road Pump Station (19-500-3)) Res. #2019-328 (Award of Bid - Provision of E-ticketing), Res. #2019-329 (Lien Redemptions - Various), Res. #2019-330 (Closed Session - Affordable Housing Litigation).

RESOLUTION # 2019-318

RESOLUTION AUTHORIZING 2019 BUDGET TRANSFERS

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriation transfers during the last two (2) months of the fiscal year, when it has been determined that it is necessary to expend for any of the purposes specified in the budget an amount in excess of the sum appropriated therefore and where it has been further determined that there is an excess in any appropriation over and above the amount deemed to be necessary to fulfill the purpose of such appropriation.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Calendar Year 2019 Municipal Budget as follows:

CURRENT:		
Account	From	To
Employee Insurance Other Expenses	\$ 171,000.00	
Clerk Salaries & Wages		\$ 1,000.00
Administration Other Expenses		10,000.00
Ethics Commission Other Expenses		2,000.00
Tax Assessor Salaries & Wages		3,000.00
Legal Services Other Expenses		20,000.00
Engineering Other Expenses		20,000.00
Planning Board Other Expenses		10,000.00
Liability Insurance Other Expenses		20,000.00
Road Maintenance Salaries & Wages		50,000.00
Vehicle Maintenance Salaries & Wages		30,000.00
Condominium Services Act Other Expenses		5,000.00
	\$ 171,000.00	\$ 171,000.00

RESOLUTION # 2019-319

A RESOLUTION OF THE MARLBORO TOWNSHIP TOWN COUNCIL AUTHORIZING A SUBORDINATION OF A MORTGAGE DATED NOVEMBER 9, 2011, AGAINST A PROPERTY LOCATED AT 2 SHERBROOKE LANE, MORGANVILLE, NEW JERSEY, AND OWNED BY BARRY J. IVLER AND BONNIE JAY IVLER, HUSBAND AND WIFE

WHEREAS, the Township of Marlboro currently operates and participates under the auspices of New Jersey's Fair Housing Act (N.J.S.A. 52:27D-301 et. seq.) as to its affordable housing obligations; and

WHEREAS, the homeowners hereunder, Barry Ivler and Bonnie Ivler, husband and wife ("the Homeowners"), purchased a residence which is commonly known as 2 Sherbrooke Lane, in the Township of Marlboro, and said home can be more specifically identified as Lot 13, Block 267 ("the Residence"); and

WHEREAS, the Homeowners previously made application to the then administrative agent as to Marlboro Township's "Housing Rehabilitation Program"; and

WHEREAS, Marlboro's administrative agent issued a "certificate of eligible household" to the Homeowners on July 28, 2011; and

WHEREAS, as part and parcel of participating in the rehabilitation program the Homeowners executed a mortgage to

Marlboro Township (dated November 9, 2011) to secure a forgivable loan of \$16,875.00 with said mortgage being recorded on November 8, 2012, in the Monmouth County Clerk's Office in deed book OR-8979, at page 8611 et seq. ("the Marlboro Mortgage"); and

WHEREAS, by virtue of the foregoing, the Residence was made subject to the Marlboro Mortgage and the Uniform Housing Affordability Controls act which is codified at N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS, the Homeowners have now negotiated with Pennymac Loan Services, LLC ("the Lender") to refinance their existing first mortgage against the Residence (currently held by Mers, Inc., as nominee for the FFC Mortgage Corporation); and

WHEREAS, as a condition of the imminent refinancing with the Lender, the Lender requires a subordination of the Marlboro Mortgage; and

WHEREAS, the Homeowners now desire to refinance and as a consequence thereof, they too ask the Marlboro Township Town Council to approve a subordination of the Marlboro Mortgage in order to facilitate their refinance application; and

WHEREAS, it has been determined that there is good cause to grant this subordination of the Marlboro Mortgage to the new loan to be made to the Homeowners by the Lender.

NOW, THEREFORE, BE IT RESOLVED that the Honorable Mayor Jonathan L. Hornik is hereby authorized to execute the attached subordination of the Marlboro Mortgage on the Residence.

BE IT FURTHER RESOLVED that subsequent to the signature of the said subordination that this subordination will be recorded in the Monmouth County Clerk's Office.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Mayor Jonathan L. Hornik;
- b. Township Business Administrator, Jon Capp;
- c. CGP&H (administrative agent);
- d. Township Attorney; and,
- e. Kenneth W. Biedzynski, Affordable Housing Special Counsel.

RESOLUTION # 2019-320

RESOLUTION AMENDING A PROFESSIONAL SERVICES CONTRACT  
WITH LOUIS N. RAINONE, ESQ. OF RAINONE COUGHLIN  
MINCHELLO, LLC FOR TOWNSHIP ATTORNEY SERVICES FOR THE  
TOWNSHIP OF MARLBORO

WHEREAS, the Township entered into an agreement with LOUIS N. RAINONE, ESQ. OF RAINONE COUGHLIN MINCHELLO, LLC to provide Township Attorney services, awarded pursuant to a fair and open process in accordance with the provisions of N.J.S.A 19:44A-20.5 (R.2019-013); and

WHEREAS, the contract contains a provision "For litigation matters, other special projects, including, but not limited to Affordable Housing issues, and such other matters as may be assigned to the Township Attorney by the Township's Mayor and/or Council from time to time at an hourly rate of One Hundred and Sixty Five Dollars (\$165.00) per hour for attorneys and Seventy Five Dollars (\$75.00) per hour for para-professionals and law clerks."; and

WHEREAS, the Township Attorney was authorized to pursue several matters of litigation in 2019 which will result in additional work in excess of the initial contract estimate; and

WHEREAS, it is recommended that an increase of \$50,000.00 is necessary to provide for Township Attorney services through the end of 2019, requiring an amendment to the existing agreement; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds in the amount of \$50,000.00 are available for this purpose from Accounts #01-201-20-030-226000 and #01-201-20-050-226000; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that:

1. The Township Council of the Township of Marlboro hereby authorizes and approves of an amendment to the Professional Services Contract with LOUIS N. RAINONE, ESQ. OF RAINONE COUGHLIN MINCHELLO, LLC pursuant to a fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5; and

2. The Professional Services Contract has been awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(a)(i); and

3. The Professional Services Contract provides for compensation at the rates set forth in the proposal dated October 25, 2018, in an additional amount not to exceed \$50,000.00; and

4. That notice of the award of this contract amendment shall be published in accordance with law; and

5. That a certified copy of this Resolution shall be provided to each of the following:

- a. Rainone Coughlin Minchello, LLC
- b. Township Business Administrator
- c. Township Chief Financial Officer

RESOLUTION # 2019-321

A RESOLUTION AUTHORIZING AN AMENDMENT TO A  
PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES  
AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL  
ENVIRONMENTAL ENGINEERING SERVICES IN CONNECTION WITH  
THE TOWNSHIP'S OPEN SPACE PRESERVATION PROGRAM

WHEREAS, over the past five (5) years, the Township has preserved more than 200 acres of farmland and open space; and

WHEREAS, the Township of Marlboro has an ongoing commitment to expand the inventory of lands that are dedicated for farmland, open space and recreation, and preserved from residential development; and

WHEREAS, the Township routinely exercises rigorous environmental due diligence in order to ensure that land acquisitions provide the maximum benefit to Marlboro taxpayers, and remain eligible for State and County funding programs where applicable; and

WHEREAS, the Township Council approved R. 2018-251 on August 9, 2018 authorizing the first phase of environmental due diligence on up to four (4) properties; and

WHEREAS, following the initial phase of investigation, additional environmental investigation is required (the "Project"); and

WHEREAS, CME Associates has provided proposals dated November 8, 2019 (the "Proposal") for the necessary additional environmental due diligence, for a not to exceed cost of \$32,250.00; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project by way of its Township Engineers at a fee not to exceed \$32,250.00 for such Professional Services, as further described and set forth in CME's Proposals, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds in the amount of \$32,250.00 are available in Capital Account 04-215-11-04A-140291 for this purpose; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposals; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.



NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include engineering services by way of its Township Engineers ("Professional Services"), at a fee not to exceed \$32,250.00 for such Professional Services, as further described and set forth in CME's Proposal dated November 81, 2019 ("Proposal"), be and is hereby authorized.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein.

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$32,250.00 for such additional Professional Services for the Project as described in the Proposal.

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk.

BE IT FURTHER RESOLVED, notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Township Business Administrator
- c. Township Chief Financial Officer

RESOLUTION # 2019-322

A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT TO  
EARLE ASPHALT COMPANY, FOR THE MARLBORO TOWNSHIP  
PLEASANT VALLEY ROAD STREAM BANK STABILIZATION PHASE

II

WHEREAS, the Township of Marlboro as part of its 2018 capital programs (060-22) authorized the PLEASANT VALLEY ROAD STREAM BANK STABILIZATION PHASE II project ("Project"); and

WHEREAS, the Township was awarded a Fiscal Year 2017 grant under the Pre Disaster Mitigation Program sponsored by the Federal Emergency Management Agency (FEMA) in the amount of

\$420,236.00 for the Project; and

WHEREAS, the Township of Marlboro authorized the acceptance of bids for the PLEASANT VALLEY ROAD STREAM BANK STABILIZATION PHASE II, and on October 23, 2019, received three (3) bids, summarized as follows:

BASE BID		Marbro Inc.	Earle Asphalt Company	Midlantic construction LLC
		127 Pine Street Montclair, NJ 07042	P.O. Box 556 Farmingdale, NJ 07727	371 N. Main Street Barnegat
1	MAINTENANCE AND PROTECTION OF TRAFFIC	\$100,000.00	\$35,009.63	\$117,000.00
2	TRAFFIC DIRECTOR, MUNICIPAL POLICE ALLOWANCE	\$15,000.00	\$15,000.00	\$15,000.00
3	CLEARING SITE	\$189,707.00	\$50,000.00	\$297,000.00
4	STEEL SHEET PILING, AZ 18	\$18,000.00	\$66,000.00	\$42,000.00
5	STEEL SHEET PILING, AZ 37	\$36,625.00	\$87,900.00	\$79,110.00
6	STEEL SHEET PILING, PZ 27	\$114,000.00	\$199,500.00	\$444,600.00
7	NON-VEGETATIVE SURFACE HOT MIX ASPHALT	\$12,250.00	\$11,200.00	\$9,100.00
8	BEAM GUIDE RAIL	\$7,000.00	\$20,216.00	\$10,640.00
9	FLARED GUIDE RAIL TERMINAL	\$10,785.00	\$15,000.00	\$12,960.00
10	TOPSOILING, 4" THICK	\$2,100.00	\$3,750.00	\$1,350.00
11	FERTILIZING AND SEEDING, TYPE A	\$450.00	\$1,500.00	\$150.00
12	STRAW MULCHING	\$1,200.00	\$37.50	\$150.00
13	ALLOWANCE FOR WORK NOT SPECIFIED	\$10,000.00	\$10,000.00	\$10,000.00
GRAND TOTAL (proposals 1-13)		\$517,117.00	\$515,113.13	\$1,039,060.00

; and

WHEREAS, it has been determined that the submission of the lowest bidder, EARLE ASPHALT COMPANY is responsive as detailed in an October 25, 2019 memo submitted by the Township Engineer; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Township Engineer to award the bid as set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that a contract be awarded to EARLE ASPHALT COMPANY whose address is P.O. Box 556, Farmingdale, NJ 07727, in an amount not to exceed \$515,113.13, for the project titled the PLEASANT VALLEY ROAD STREAM BANK STABILIZATION PHASE II.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, a contract with EARLE ASPHALT COMPANAY in an amount not to exceed \$515,113.13.

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified that sufficient funds in the amount of \$515,113.13 are available for the aforesaid contract in capital accounts # 04-215-05-36C-060288, 04-215-11-02F-060288, 04-215-18-01C-060288 and 04-215-19-01D-060288.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Earle Asphalt Co.
- b. Township Business Administrator
- c. Director of Public Works
- d. Township Engineer
- e. Chief Financial Officer

RESOLUTION # 2019-323

RESOLUTION AUTHORIZING APPLICATION TO FEMA FOR FY 2019  
PRE-DISASTER MITIGATION GRANT FUNDING

WHEREAS, FEMA's Pre Disaster Mitigation (PDM) program provides funds for hazard mitigation planning and projects on an annual basis; and

WHEREAS, the PDM program was set in place to reduce overall risk to people and structures, while at the same time, also reducing reliance on federal funding if an actual disaster were to occur; and

WHEREAS, a condition of the PDM program is a commitment to a local match of 25%; and

WHEREAS, the Township applied for and received a FY 2017 grant through this program in the amount of \$420,236 for the Pleasant Valley Road Streambank Stabilization project; and

WHEREAS, the Township of Marlboro wishes to apply to FEMA for pre-disaster funding for the "Streambank Stabilization Project" which will include but is not limited to the Stream Bank Stabilization to protect Pleasant Valley Road and Nolan Road in Marlboro Township; and

WHEREAS, the Engineer's estimate for the Pleasant Valley Road Streambank Stabilization Phase III project is approximately

\$1,800,000 and the estimate for the Nolan Road Streambank Stabilization Project is approximately \$2,000,000.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that Marlboro Township hereby authorizes the electronic submission of a grant application to FEMA for the Pre-Disaster Mitigation Grant Program.

BE IT FURTHER RESOLVED, the Mayor and Township Clerk are hereby authorized to accept the terms of the program and execute a grant agreement on behalf of the Township of Marlboro.

RESOLUTION # 2019-324

A RESOLUTION AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL ENGINEERING AND CONSULTING SERVICES FOR WATER MAIN IMPROVEMENTS IN CONNECTION WITH THE PRESERVATION OF THE FORMER MARLBORO STATE HOSPITAL SITE

WHEREAS, the State of New Jersey is in the final stages of remediating the former Marlboro Hospital property with the goal of turning the property over to County residents for open space and recreation; and

WHEREAS, in order to meet this goal, the State has proposed to construct water main extension(s) and connect to the water supply system owned and operated by the Marlboro Township Water Utility in order to service the existing social service facilities, Mattie House and New Hope and Discovery Institute ("facilities") which are located on the former Hospital property; and

WHEREAS, the connection of the aforementioned facilities to public water will impose demands on the water distribution system which necessitate expansion of existing infrastructure; and

WHEREAS, the installation of additional water main has been proposed in order to provide a looped water supply to the facilities and surrounding area while mitigating flow and pressure impact(s) on the existing water distribution system caused by the additional demands; and

WHEREAS, the Township and State explored several options, including the installation of water main across a preserved farmland parcel known as Block 157, Lot 34.04 with a permanent easement in favor of the Marlboro Township Water Utility, an

option which required an application to the State Agricultural Development Committee (SADC); and

WHEREAS, the Township previously authorized R.2018-367 dated December 18, 2018 for professional engineering services for the purposes of investigating various options and preparing and submitting an application to the SADC; and

WHEREAS, after meeting with SADC representatives, the Township and State have reached agreement on an alternate plan for the installation of looped water main on Pleasant Valley Road which will avoid the costly and time intensive process of completing and submitting an application to SADC and acquiring property, enabling the Township and State to proceed immediately to the engineering design phase ("Project"); and

WHEREAS, the Township has an interest in facilitating the preservation of the former Hospital site, and has determined that the alternate plan will expedite the Project in the most cost effective way possible; and

WHEREAS, the Township is in need of professional engineering services for survey, design, permitting, bid and construction management activities associated with the alternate plan to install of looped water main in connection with the preservation of the former Hospital site; and

WHEREAS, CME has provided proposals dated September 16, 2019 and October 1, 2019 for the supplementary professional services required to solidify the alternate plan as well as the professional services required to design, prepare and submit an application for the necessary permitting as well as bid the Project; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project by way of its Township Engineers at a fee not to exceed \$86,944.00 for such Professional Services, as further described and set forth in CME's Proposals, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds in the amount of \$86,944.00 are available in Water Capital

Accounts 06-215-18-02G-500288 and 06-215-19-02F-500288 for this purpose; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposals; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Professional Services Contract between CME Associates and the Township of Marlboro be amended to include WATER MAIN IMPROVEMENTS IN CONNECTION WITH THE PRESERVATION OF THE FORMER MARLBORO STATE HOSPITAL SITE, at a fee not to exceed \$86,944.00 for such Professional Services, as further described and set forth in CME's Proposals dated September 16 October 1, 2019, be and is hereby authorized.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein.

BE IT FURTHER RESOLVED that this Professional Services Contract is amended without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$86,944.00 for such additional Professional Services for the Project as described in the Proposal.

BE IT FURTHER RESOLVED that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk.

BE IT FURTHER RESOLVED, that notice of award of the amendment to the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Township Business Administrator
- c. Township Chief Financial Officer

RESOLUTION # 2019-325

A RESOLUTION AUTHORIZING AN AMENDMENT TO A  
PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES  
AND THE TOWNSHIP OF MARLBORO FOR PROFESSIONAL  
ENGINEERING SERVICES IN CONNECTION WITH VARIOUS WATER  
UTILITY SYSTEM IMPROVEMENTS

WHEREAS, the Township of Marlboro authorized various Water Utility System improvements including projects 2017-500-23 (Pressure Reducing Valves), 2018-500-30 (Interconnection Evaluation), 2019-500-5 (Lloyd Rd Water Main/Bridge), 2019-500-11 (Well No.2 Redrill) and 2019-500-6.3 (Brookside Circle Water Main) ("Project"); and

WHEREAS, the Township is in need of professional engineering services in connection with the Project ("Professional Services"); and

WHEREAS, CME Associates has a provided proposals dated November 5, 2019 (the "Proposals") for the required professional services; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project by way of its Township Engineers at a fee not to exceed \$170,907.00 for such Professional Services, as further described and set forth in CME's Proposals, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds in the amount of \$170,907.00 are available in Water

Capital Accounts 06-215-17-03B-500288, 06-215-18-02G-500288 and 06-215-19-02F-500288 for this purpose; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposals; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include Professional Services in connection with various Water Utility system improvements by way of its Township Engineers, at a fee not to exceed \$170,907.00 for such Professional Services, as further described and set forth in CME's Proposals dated November 5, 2019, be and is hereby authorized.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, an amendment to the Professional Services Contract described herein.

BE IT FURTHER RESOLVED that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$170,907.00 for such additional Professional Services for the Project as described in the Proposals.

BE IT FURTHER RESOLVED that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk.



BE IT FURTHER RESOLVED, that notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. CME Associates
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. Township Director of Public Works

RESOLUTION # 2019-326

A RESOLUTION CONFIRMING EMERGENCY CONTRACTS WITH LUCAS CONSTRUCTION GROUP, INC. FOR THE PROVISION OF EMERGENCY WATER MAIN REPAIRS AND WATER WORKS SUPPLY CO., INC. FOR THE SUPPLY OF EMERGENCY WATER DISTRIBUTION PRODUCTS PURSUANT TO N.J.S.A. 40A:11-6 FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS WATER UTILITY DIVISION

WHEREAS, during 2019 the Department of Public Works Water Utility Division has reported water emergencies in various areas of the Township designated as EM 1909, 1910, 1911, 1913, 1914, 1916, 1918, 1919 and 1920; and

WHEREAS, N.J.S.A. 40A:11-6 states that "Any contract may be ... awarded for a contracting unit without public advertising for bids and bidding therefor ... when an emergency affecting the public health, safety or welfare requires the immediate ... performance of services ... ."; and

WHEREAS, N.J.S.A. 40A:11-6(b) states that "Upon the furnishing of such goods or services ... the contractor furnishing such goods or services shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment ..."; and

WHEREAS, the condition posed a serious threat to the public health, safety and welfare, constituting an emergency under the terms of N.J.S.A. 40A:11-6; and

WHEREAS, pursuant to N.J.S.A. 40A:11-6, the Water Utility contacted its existing emergency water main repair contractor, LUCAS CONSTRUCTION GROUP, INC., 173 Amboy Road, Morganville, NJ 07751 to provide the emergency repairs related to the above mentioned emergencies in an amount of \$340,331.57; and

WHEREAS, pursuant to N.J.S.A. 40A:11-6, the Township contacted its existing water distribution product supplier, WATER WORKS SUPPLY CO., INC., 660 State Highway 23 P.O. Box 306,

Pompton Plains, New Jersey 07444 to provide the necessary emergency water distribution products, for the above mentioned emergencies in an amount not to exceed \$57,920.31; and

WHEREAS, the Chief Financial Officer has certified the availability of funds in an amount not to exceed \$398,251.88 from various water operating and capital accounts.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the emergency contracts be confirmed pursuant to N.J.S.A. 40A:11-6 with LUCAS CONSTRUCTION GROUP, INC. for the provision of emergency water main repairs and WATER WORKS SUPPLY CO., INC. for emergency water distribution products.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Township Business Administrator
- b. Township Chief Financial Officer
- c. Township Director of Public Works

RESOLUTION # 2019-327

A RESOLUTION AUTHORIZING CONTRACT WITH AURORA ENVIRONMENTAL, INC. FOR REMOVAL OF EXISTING UNDERGROUND FUEL STORAGE TANK, FURNISH AND INSTALL ABOVE-GROUND FUEL STORAGE TANK AT THE TENNENT ROAD PUMP STATION FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS UNDER NJ STATE CONTRACT #42274

WHEREAS, the Department of Public Works submitted its 2019 capital plan which included a request (500-3) for the removal of existing underground fuel storage tank, furnish and install above-ground storage tank located at Tennent Road Pump Station; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, in a memo dated November 7, 2019 the Director of Public Works has reviewed the information received and has recommended that AURORA ENVIRONMENTAL, INC. be awarded the contract based upon the quotations received; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Director of Public Works

to award the contract as set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to contract with AURORA ENVIRONMENTAL, INC. whose address is 1102 UNION AVENUE, NJ 07735 for the REMOVAL OF EXISTING UNDERGROUND FUEL STORAGE TANK, FURNISH AND INSTALL ABOVE-GROUND FUEL STORAGE TANK AT THE TENNENT ROAD PUMP STATION under NJ State Contract #42274 in an amount not to exceed \$165,690.00.

BE IT FURTHER RESOLVED that the Chief Financial Officer has certified that sufficient funds in the amount of \$165,690.00 are available for the aforesaid contract in Water Capital Account 06-215-19-02A-500288.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Aurora Environmental, Inc.
- b. Township Business Administration
- c. Township Director of Public Works
- d. Township Chief Financial Officer

RESOLUTION # 2019-328

A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT TO GOLD TYPE BUSINESS MACHINES, INC. ("GTBM, INC.") FOR ELECTRONIC TICKETING SOLUTION FOR THE TOWNSHIP OF MARLBORO DIVISION OF POLICE

WHEREAS, an Electronic Ticketing or E-Ticketing system captures data from a Division of Motor Vehicles lookup and auto-populates an electronic ticket inside a police vehicle and automatically uploads the information to the State of New Jersey's Automated Traffic System; and

WHEREAS, the E-Ticketing system is utilized in many jurisdictions reducing the amount of time per stop and eliminating the need for manual data entry by court personnel; and

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the PROVISION OF ELECTRONIC TICKETING, and on November 5, 2019, received two (2) bids, summarized as follows:

	GTBM	Tyler Technologies
	351 Paterson Avenue	526 University Drive East
	East Rutherford, NJ 07073	College Station, TX 77840
BASE BID		
Start Up Fee	\$4,800.00	\$71,516.00
Per Ticket Up To 6,500	\$0.29	\$0.00
Per Ticket Excess	\$0.29	\$0.00
Annual Maintenance Fee	\$0.00	\$8,995.00

; and

WHEREAS, in a memo dated November 7, 2019 the Chief of Police has reported that GOLD TYPE BUSINESS MACHINES, INC. ("GTBM, INC.") is responsive and has recommended that a contract be awarded to GOLD TYPE BUSINESS MACHINES, INC. ("GTBM, INC."), for the PROVISION OF ELECTRONIC TICKETING; and

WHEREAS, pursuant to NJSA 40A:11-15(5) the contract period is for a five (5) year term, beginning January 1,2020 and ending December 31, 2025; and

WHEREAS, the Mayor and Township Council have indicated their desire to accept the recommendation of the Chief of Police as set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that a contract be awarded to GOLD TYPE BUSINESS MACHINES, INC. ("GTBM, INC."), in an amount not to exceed \$4,800.00.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute, and the Township Clerk to witness, a contract with GOLD TYPE BUSINESS MACHINES, INC. ("GTBM, INC."), with an address of 351 Paterson Avenue, East Rutherford, NJ 07073 in an amount not to exceed \$4,800.00 for the PROVISION OF ELECTRONIC TICKETING.

BE IT FURTHER RESOLVED that funds for the 2020 portion of the contract will be certified at the time of adoption of the 2020 budget.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Gold Type Business Machines, INC. ("GTBM, INC.")
- b. Township Business Administrator
- c. Township Chief of Police
- d. Township Chief Financial Officer
- e.

RESOLUTION # 2019-329

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$83,197.22 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that the amount of \$83,197.22 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
2016-117	360/25.18	Fig Capital Investments NJ13 PO Box 54472 New Orleans, LA 70154 Assessed Owner: King, Glenn & Phyllis	4,714.64
2015-067	226/2	US Bank Cust for BV001 Trust 50 South 16 <sup>th</sup> Street, Suite 2050 Philadelphia, PA 19102 Assessed Owner: Homeland Funding, LLC	78,482.58

At 7:45 p.m., Councilwoman Marder moved that the meeting be adjourned. This was seconded by Councilman Cantor, and as there was no objection, the Clerk was asked to cast one ballot.

OFFERED BY: MAZZOLA

AYES: 3

SECONDED BY: MARDER

NAYS: 0

ABSENT: CANTOR, SCALEA

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ALIDA MANCO,  
MUNICIPAL CLERK

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SCOTT METZGER,  
COUNCIL PRESIDENT