

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-39

INTRODUCTION

August 13, 2019

PUBLIC HEARING & ADOPTION

September 10, 2019

AGENDA ITEM NUMBER

10.1

**TOWNSHIP OF HOWELL
ORDINANCE NO O-19-39**

**AN ORDINANCE SETTING FORTH AND AMENDING AND SUPPLEMENTING THE
SALARY RANGE SCHEDULE FOR THE SALARIES OF CERTAIN OFFICERS AND
EMPLOYEES OF THE TOWNSHIP OF HOWELL**

WHEREAS, pursuant to N.J.S.A. 40A:9-165, the Township Council shall set forth the salaries, wages or compensation of the officers and employees of the Township, who, by law, are entitled to salaries, wages or compensation, subject to any respective collective bargaining agreement applicable to such positions;

NOTE: All additions are shown in ***bold italics with underlines***. All deletions are shown in ***bold italics with strikeouts***. All other sections shall remain unchanged and are in normal typeface.

WHEREAS, the offices and positions under the Municipal Government of the Township of Howell shall be compensated at the amount fixed in this ordinance, providing funding is available in each budget.

WHEREAS, the Township Chief Financial Officer is hereby authorized to transfer such sums of money from the Municipal Current Account and other such accounts that may cover periodic payrolls in the amounts fixed by this Ordinance.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of Howell in the County of Monmouth and State of New Jersey, the following positions which are not assigned to a pay grade shall be compensated in the year 2018 and 2019 as follows:

SECTION 1.

<u>TITLE</u>	<u>MINIMUM RANGE</u>	<u>MAXIMUM RANGE</u>
Assistant Finance Officer	\$50,000	\$65,867 <u>68,000</u>

SECTION 2. Every person hereafter appointed to any position listed in Section 1 on a full-time basis, shall receive the salary established for such positions and as provided for in Section 1 of this Ordinance. Newly appointed employees may be appointed at increments above the minimum if possessing comparable experience.

SECTION 3. All provisions set forth herein are subject to the provisions of the personnel policy of the Township of Howell and other Township policies and regulations, the same being subject to modification and amendment. This ordinance is not intended to set forth all the benefits of employment, but only selected items thereof.

SECTION 4. In addition to the salary noted in Section 1, educational pay and any additional compensation will be paid to all Titles in Section 1 in accordance with personnel ordinances.

SECTION 5. All salary or compensation provided for by this Ordinance shall be effective from January 1, 2019 unless otherwise stipulated by the Township Council or specific contract. Employees no longer employed by the Township at the time this Ordinance is adopted shall not be eligible for retroactive pay.

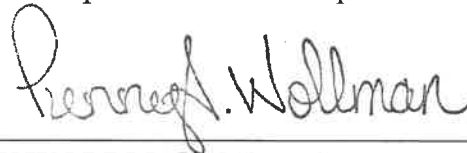
SECTION 6. All Ordinances or parts of Ordinances adopted prior to this date, inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 7. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudicated and the remainder of this ordinance shall be deemed valid and effective.

SECTION 8. This Ordinance shall take effect after its passage and publication according to law.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on August 13, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on September 10, 2019 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.



PENNY WOLLMAN, MUNICIPAL CLERK

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-40

INTRODUCTION

August 13, 2019

PUBLIC HEARING & ADOPTION

September 10, 2019

AGENDA ITEM NUMBER

10.2

**TOWNSHIP OF HOWELL
COUNTY OF MONMOUTH**

BOND ORDINANCE NO. O-19-40

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS AND THE ACQUISITION OF VARIOUS CAPITAL EQUIPMENT, APPROPRIATING \$4,696,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$4,395,000 BONDS AND NOTES TO FINANCE A PORTION OF THE COSTS THEREOF, AUTHORIZED IN AND BY THE TOWNSHIP OF HOWELL, IN THE COUNTY OF MONMOUTH, NEW JERSEY

BE IT ORDAINED by the TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The improvements described in Section 3 of this bond ordinance are hereby authorized as general improvements to be undertaken in and by the Township of Howell, in the County of Monmouth, New Jersey (the "Township"). For the improvements or purposes described in Section 3, there is hereby appropriated the sum of \$4,696,000, said sum being inclusive of all appropriations heretofore made therefor, including \$66,000 from the Township's Open Space Trust Fund, and the sum of \$235,000 as the down payment for said purposes as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in the Capital Improvement Fund of one or more previously adopted budgets.

Section 2. In order to finance the costs of said improvements or purposes not provided for by the application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount not to exceed \$4,395,000, pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvements hereby authorized and the purposes for which the obligations are to be issued consist of (i) improvements to Township buildings, including, but not limited to, tile replacement and a message board sign for Town Hall; (ii) acquisition of mowers for open space property maintenance; and (iii) various road improvements, including, but not limited to, driveway improvements and milling and overlay, together with all purposes necessary, incidental or appurtenant thereto, all as shown on and in accordance with contracts, plans, specifications or requisitions therefor on file with or through the Township Clerk, as finally approved by the governing body of the Township.

(b) The estimated maximum amount of bonds or notes to be issued for the improvements or purposes described in Section 3(a) hereof is \$4,395,000, as stated in Section 2 hereof.

(c) The estimated cost of the improvements or purposes described in Section 3(a) hereof is \$4,696,000, which is equal to the amount of the appropriation herein made therefor. The excess of the appropriation of \$4,696,000 over the estimated maximum amount of bonds or notes

to be issued therefor being the amount of said \$235,000 down payment for said purposes, and the \$66,000 from the Township's Open Space Trust Fund for said acquisition of mowers for open space property maintenance.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Township, provided that no note shall mature later than one (1) year from its date. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer, who shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of such notes occurs, such report shall include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not a current expense and are improvements or purposes that the Township may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the improvements or purposes, within the limitations of the Local Bond Law and taking into consideration the amount of the obligations authorized for said purposes, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 9.91 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Township Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such Statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$4,395,000 and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$590,000 for interest on said obligations, costs of issuing said obligations, engineering costs, legal fees and other items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included as part of the cost of said improvements and is included in the estimated cost indicated herein for said improvements.

(e) To the extent that moneys of the Township are used to finance, on an interim basis, costs of said improvements or purposes, the Township reasonably expects such costs to be paid or reimbursed with the proceeds of obligations issued pursuant hereto.

Section 6. The capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Township Clerk and is available there for public inspection.

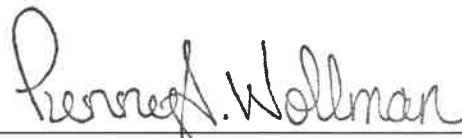
Section 7. Any grant or similar moneys from time to time received by the Township for the improvements or purposes described in Section 3 hereof, shall be applied either to direct payment of the cost of the improvements within the appropriation herein authorized or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are received and so used.

Section 8. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and, unless paid from other sources, the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation as to rate or amount.

Section 9. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on August 13, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on September 10, 2019 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.



PENNY WOLLMAN, MUNICIPAL CLERK

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-41

INTRODUCTION

August 13, 2019

PUBLIC HEARING & ADOPTION

September 10, 2019

AGENDA ITEM NUMBER

10.3

**TOWNSHIP OF HOWELL
COUNTY OF MONMOUTH**

CAPITAL ORDINANCE NO. O-19-41

**CAPITAL ORDINANCE PROVIDING FOR THE REHABILITATION OF THE
ARDENA PUMP STATION, AND APPROPRIATING \$350,000 THEREFOR,
AUTHORIZED IN AND BY THE TOWNSHIP OF HOWELL, IN THE COUNTY OF
MONMOUTH, NEW JERSEY**

WHEREAS, the Township Council of the Township of Howell, in the County of Monmouth, New Jersey (the "Township") has determined to provide for the rehabilitation of the Ardena Pump Station, and

WHEREAS, the Township has available \$350,000 in the Township's Capital Improvement Fund.

NOW, THEREFORE, BE IT ORDAINED by the TOWNSHIP COUNCIL OF THE TOWNSHIP OF HOWELL, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. The improvements described in Section 2 of this ordinance are hereby authorized as Sewer Utility improvements to be undertaken in and by the Township. For the improvements or purposes described in Section 2, there is hereby appropriated \$350,000, said sum being inclusive of \$350,000 from the Township's Capital Improvement Fund.

Section 2. The improvements hereby authorized to be undertaken consist of the rehabilitation of the Ardena Pump Station, together with all purposes necessary, incidental or appurtenant thereto, all as shown on and in accordance with contracts, plans, specifications or requisitions therefor on file with or through the Township Clerk, as finally approved by the governing body of the Township.

Section 3. The 2019 capital budget of the Township will conform to the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Township Clerk and is available there for public inspection.

Section 4. An aggregate amount not exceeding \$70,000 for interest on said obligations, costs of issuing said obligations, engineering costs, legal fees and other items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included as part of the cost of said improvements and is included in the estimated cost indicated herein for said improvements.

Section 5. The Township Attorney and other Township officials and representatives are hereby authorized to do all things necessary to accomplish the purposes of the appropriation made herein.

Section 6. This ordinance shall take effect as provided by law.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on August 13, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on September 10, 2019 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

A handwritten signature in cursive script that reads "Penny Wollman". The signature is written in black ink and is positioned above a horizontal line.

PENNY WOLLMAN, MUNICIPAL CLERK

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-42

INTRODUCTION

August 13, 2019

PUBLIC HEARING & ADOPTION

September 10, 2019

AGENDA ITEM NUMBER

10.4

**ORDINANCE NO. 2019-42
TOWNSHIP OF HOWELL
COUNTY OF MONMOUTH**

**AN ORDINANCE AMENDING CHAPTER 8 OF THE TOWNSHIP
CODE ENTITLED “AFFORDABLE HOUSING” REPEALING AND
REPLACING ARTICLE I ENTITLED “AFFORDABLE HOUSING
MANAGEMENT SERVICES” AND ARTICLE II ENTITLED
“MUNICIPAL HOUSING LIAISON” AND CREATING A NEW
ARTICLE ENTITLED “AFFORDABLE HOUSING REGULATIONS”**

WHEREAS, the Township of Howell (“Township”) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Township of Application of the Township of Howell, Docket No. MON-L-2525-15 following the New Jersey Supreme Court’s decision in Mt. Laurel IV; and

WHEREAS, the Township entered into a Settlement Agreement with Fair Share Housing Center on or about October 9, 2018 and an Amended Settlement Agreement on November 20, 2018 (collectively referred to as the “Settlement Agreements”) establishing the Township’s Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Township will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Court conducted a Fairness Hearing on February 27, 2019 and entered an order on April 5, 2019 approving the Settlement Agreements by and between the Township and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to low and moderate-income households; and

WHEREAS, the Court Order approving the Settlement Agreements requires the Township to incorporate state affordable housing law into the Township Code; and

WHEREAS, the Township Council find it is in the best interest of the Township to comply with the Court’s Order and implement the terms and conditions of the Settlement Agreements which includes adoption of an Ordinance incorporating State regulations regarding the administration of affordable housing units in Howell Township; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Howell, County of Monmouth, and State of New Jersey that Chapter 8 of the Township Code entitled “Affordable Housing” repealing and replacing Articles I and II of Chapter as follows:

Section 1. Chapter 8 (Affordable Housing Regulations) of the Code of the Township of Howell, Articles I and II is hereby repealed and replaced in their entirety to read as follows:

Affordable Housing Regulations

Section 8-1

A. Purpose.

1. This Section is intended to assure that very-low, low-, and moderate-income units ("affordable units") are created with controls on affordability and that very-low, low-, and moderate-income households shall occupy these units. This Section shall apply except where inconsistent with applicable law.
2. The Township of Howell Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. (hereinafter "Fair Share Plan"). The Fair Share Plan was endorsed by the Township Council. The Fair Share Plan describes how the Township of Howell shall address its fair share of very-low, low-, and moderate-income housing as documented in the Fair Share Plan itself, the Settlement Agreement entered into between the Township and Fair Share Housing Center ("FSHC") on October 9, 2018 as amended on November 20, 2018 (hereinafter "FSHC Settlement Agreement"), and the Superior Court Order approving same, which was entered by the Court on April 5, 2019 after a properly noticed Fairness Hearing was held on February 27, 2019.
3. The Township of Howell shall track the status of the implementation of the Fair Share Plan.

B. Monitoring and Reporting Requirements.

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

1. Beginning one year after the entry of the Township's Round Three Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Township shall provide an annual report of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The report shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

2. Beginning one year after the entry of the Township’s Round Three Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Township agrees to provide an annual report of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH, or any other forms endorsed by the Superior Court Appointed Special Master and FSHC.
3. The Fair Housing Act includes two provisions regarding action to be taken by the Township during its ten (10) year repose period. The Township will comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the Township, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Superior Court regarding these issues.
 - b. For the review of very-low-income housing requirements required by N.J.S.A. 52:27D-329.1, within thirty (30) days of the third anniversary of the entry of the Township’s Judgment of Compliance and Repose, and every third year thereafter, the Township will post on its municipal website, with a copy 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 and Fair Share Housing Center on the issue of whether the Township has complied with its very-low-income housing obligation under the terms of this settlement.
 - c. In addition to the foregoing postings, the Township may also elect to file copies of its reports with COAH or its successor agency at the State level.

C. Definitions.

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

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.) as has been subsequently amended.

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

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

“Administrative agent” means the entity designated by the Township responsible for the administration of affordable units in accordance with this ordinance, applicable COAH regulations and the Uniform Housing Affordability Controls (UHAC)(N.J.A.C. 5:80-26.1 et seq.)

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

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

“Affordable” means a sales price or rent within the means of a low- or moderate-income household as defined by COAH in its applicable regulations or an equivalent controlling New Jersey state agency; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Township’s Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

“Affordable housing program(s)” means any mechanism in the Township’s Fair Share Plan prepared or implemented to address the Township’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to applicable COAH regulations, the FSHC Settlement Agreement, or an order of the Superior Court.

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

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

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

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

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

“Certified household” means a household that has been certified by an Administrative Agent as a very-low-income household, low-income household or moderate-income household.

“COAH” means the New Jersey Council on Affordable Housing.

“The Department” means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

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

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

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

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

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

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

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

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

“Median-income” means the median income by household size for the applicable county, as adopted annually by the Department.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

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

“Municipal Housing Liaison” means the employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Howell.

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

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

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department’s adopted Regional Income Limits published annually by COAH, a successor entity or established by the Court.

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

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

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

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

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

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

D. Applicability.

1. The provisions of this Section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Howell pursuant to the Township's 2019 adopted Housing Element and Fair Share Plan.
2. This Section shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

E. Rehabilitation Programs.

1. The Township of Howell and FSHC have agreed that the Township's Round 3 (1999-2025) indigenous need Rehabilitation Obligation is ninety-seven (97) units. The Township has a contract with Community Grants and Planning to administer the affordable units within the Township, in addition the Township is participating in the Monmouth County Rehabilitation Program to rehabilitate units within the Township. Any such rehabilitation programs will update and renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.

- a. All rehabilitated rental and owner-occupied units shall remain affordable to low and moderate-income households for a period of ten (10) years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
- b. The Township of Howell shall dedicate an average of at least ten thousand dollars (\$10,000) for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
- c. Units in the rehabilitation programs shall be exempt from N.J.A.C. 5:93-9 and UHAC requirements, but shall be administered in accordance with the following:
 - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
 - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9 or the standards issued by a New Jersey administrative agency with proper authority to issue such standards.
 - iv. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

F. Alternative Living Arrangements.

- 1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Superior Court;
 - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- 2. With the exception of units established with capital funding through a twenty (20) year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty (30) year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Superior Court.

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

G. Phasing Schedule for Inclusionary Developments.

In inclusionary developments the following schedule shall be followed:

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

H. New Construction.

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - a. The fair share obligation shall be divided equally between low and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least thirteen percent (13%) of all restricted rental units shall be very-low-income units (affordable to a household earning thirty percent (30%) or less of regional median income by household size). The very-low-income units shall be counted as part of the required number of low-income units within the development. At least fifty percent (50%) of the very-low-income units must be available to families.
 - b. In each affordable development, at least fifty percent (50) of the restricted units within each bedroom distribution shall be very-low or low-income units.
 - c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one (1) bedroom units shall be no greater than twenty percent (20%) of the total low and moderate-income units;
 - ii. At least thirty percent (30%) of all low and moderate-income units shall be two (2) bedroom units;
 - iii. At least twenty percent (20%) of all low and moderate-income units shall be three (3) bedroom units; and

- iv. The remaining units may be allocated among two (2) and three (3) bedroom units at the discretion of the developer and the Township.
 - d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low and moderate-income units within the inclusionary development. This standard may be met by having all one (1) bedroom units or by having a two (2) 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 Sub Code, 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 (1) other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor; and
 - ii. An adaptable kitchen on the first floor; and
 - iii. An interior accessible route of travel on the first floor; and
 - iv. 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
 - v. If all of the foregoing requirements in paragraphs b.i. through b.iv. above cannot 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.i. through b.iv. above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - vi. 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 Howell has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:
 - (1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (2) To this end, the builder of restricted units shall deposit funds into the Township of Howell's Affordable Housing Trust Fund sufficient to install

accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.

- (3) The funds deposited under Paragraph vi. above shall be used by the Township of Howell for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Howell for the conversion of adaptable to accessible entrances.
 - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

3. Design:

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

4. Maximum Rents and Sales Prices:

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty percent (60%) of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty-two percent (52%) of median income.

- c. The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen percent (13%) of all low and moderate-income rental units shall be affordable to very-low-income households, which very-low-income units shall be part of the low-income requirement.
- d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income, and each affordable development must achieve an affordability average of fifty-five percent (55%) for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three (3) different sales prices for each bedroom type, and low-income ownership units must be available for at least two (2) 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:
 - i. A studio shall be affordable to a one (1) person household;
 - ii. A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household;
 - iii. A two (2) bedroom unit shall be affordable to a three (3) person household;
 - iv. A three (3) bedroom unit shall be affordable to a four and one-half (4.5) person household; and
 - v. A four (4) bedroom unit shall be affordable to a six (6) person household.
- d. 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:
 - i. A studio shall be affordable to a one (1) person household;
 - ii. A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household; and
 - iii. A two (2) bedroom unit shall be affordable to a two (2) person household or to two (2) one (1) person households.
- e. 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 ninety-five percent (95%) of the purchase price and the

Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed twenty-eight percent (28%) of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

- f. The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty percent (30%) 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.
- g. Income limits for all units that are part of the Township's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Township annually within thirty (30) days of the publication of determinations of median income by HUD as follows:
 - i. The income limit for a moderate-income unit for a household of four shall be eighty percent (80%) of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a low-income unit for a household of four shall be fifty percent (50%) of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a very low income unit for a household of four shall be thirty percent (30%) of the HUD determination of the median income for COAH Region 4 for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than the previous year.
 - ii. The income limits are based on carrying out the process in Paragraph i. based on HUD determination of median income for the current Fiscal Year, and shall be utilized by the Township until new income limits are available.
- h. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the Council:
 - i. The price of owner-occupied very-low, low and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to Paragraph g. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

- ii. The rents of very-low-, low and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Central New Jersey Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent (9%) in any one (1) 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.

I. Utilities.

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the NJDCA for its Section 8 program.

J. Occupancy Standards.

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

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

K. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

1. 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 Section for a period of at least thirty (30) years, until Howell Township takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall determine the restricted price for the unit and shall also determine the non-restricted,

fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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 Section, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
5. The affordability controls set forth in this Section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

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

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

1. The initial purchase price for a restricted ownership unit shall be approved by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer.
2. The Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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, unless the master deed for the inclusionary project was executed prior to the enactment of UHAC.
4. The owners of restricted ownership units may apply to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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.

M. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to fifty percent (50%) of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty percent (80%) of median income.
2. 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 thirty-three percent (33%) of the household's eligible monthly income.

N. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall issue such determination prior to the owner incurring such indebtedness.
2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed ninety-five percent (95%) of the maximum allowable resale price of the unit, as such price is determined by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, in accordance with N.J.A.C. 5:80-26.6(b).

O. Capital Improvements To Ownership Units.

1. The owners of restricted ownership units may apply to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a

reasonable price that has been approved by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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 ten (10) year, straight-line depreciation, has been approved by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer. Unless otherwise approved by the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, 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.

P. Control Periods for Restricted Rental Units.

1. 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 Section for a period of at least thirty (30) years, until Howell Township takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. A copy of the filed document shall be provided to the Township's Administrative Agent within thirty (30) days of the receipt of a Certificate of Occupancy.
3. A restricted rental unit shall remain subject to the affordability controls described in this Section despite the occurrence of any of the following events:
 - a. Sublease or assignment of the lease of the unit;
 - b. Sale or other voluntary transfer of the ownership of the unit; or
 - c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

Q. Rent Restrictions for Rental Units; Leases.

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer.

2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer.
3. Application fees (including the charge for any credit check) shall not exceed five percent (5%) of the monthly rent of the applicable restricted unit and shall be payable to the Developer and/or Landlord or to the Township's Administrative Agent appointed by a particular developer. If the fees are paid to the Township's Administrative Agent or an Administrative Agent appointed by a particular developer they are to be applied to the costs of administering the controls applicable to the unit as set forth in this Section.
4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least fifteen percent (15%) of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

R. Tenant Income Eligibility.

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - a. Very-low-income rental units shall be reserved for households with a gross household income less than or equal to thirty percent (30%) of the regional median household income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty percent (50%) of the regional median household income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than eighty percent (80%) of the regional median household income by household size.
2. The Township's Administrative Agent, or a qualified Administrative Agent appointed by a particular developer, 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 thirty-five percent (35%)(forty percent (40%) for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

- b. The household has consistently paid more than thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 2.a. through 2.e. above with the Township's Administrative Agent, or an Administrative Agent appointed by a particular developer, who shall counsel the household on budgeting.

S. Municipal Housing Liaison.

1. The position of Municipal Housing Liaison (MHL) for the Township of Howell is established by this Section. The Township shall make the actual appointment of the MHL by means of a resolution.
 - a. The MHL must be either a full-time or part-time employee of Howell.
 - b. The person appointed as the MHL must be reported to the Superior Court and thereafter posted on the Township's website.
 - c. The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
 - d. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Howell, including the following responsibilities which may not be contracted out to the Administrative Agent, or the Administrative Agent appointed by a specific developer:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls;
 - iii. When applicable, supervising any contracting Administrative Agent;
 - iv. Monitoring the status of all restricted units in the Township's Fair Share Plan;

- v. Compiling, verifying and submitting annual reports as required;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.
2. Subject to the approval of the Superior Court, the Township of Howell shall designate one (1) or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Township in accordance with UHAC and this Section.

T. Administrative Agent.

An Administrative Agent may be either an independent entity serving under contract to and reporting to the Township, or reporting to a specific individual developer. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Township Administrative Agent shall monitor and work with any individual Administrative Agents appointed by individual developers. The Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:
 - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Howell and the provisions of N.J.A.C. 5:80-26.15; and
 - b. Providing counseling or contracting to provide counseling services to low and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
2. Household Certification:
 - a. Soliciting, scheduling, conducting and following up on interviews with interested households;
 - b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low or moderate-income unit;
 - c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

- d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
 - f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Howell when referring households for certification to affordable units; and
 - g. Notifying the following entities of the availability of affordable housing units in the Township of Howell: FSHC, 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
3. Affordability Controls:
- a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or the Monmouth County Clerk's office after the termination of the affordability controls for each restricted unit;
 - d. Communicating with lenders regarding foreclosures; and
 - e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
4. Resales and Re-rentals:
- a. Instituting and maintaining an effective means of communicating information between owners and the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, regarding the availability of restricted units for resale or re-rental; and
 - b. Instituting and maintaining an effective means of communicating information to very-low, low and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Requests from Unit Owners:

- a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Section;
- b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- c. Notifying the Township of an owner's intent to sell a restricted unit; and
- d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

- a. Securing annually from the 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;
- b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer;
- c. Posting annually, in all rental properties (including two (2) family homes), a notice as to the maximum permitted rent together with the telephone number of the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, where complaints of excess rent or other charges can be made;
- d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- e. Establishing a program for diverting unlawful rent payments to the Township's Affordable Housing Trust Fund; and
- f. Creating and publishing a written operating manual for each affordable housing program administered by the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, to be approved by the Township Committee and the Superior Court, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

- a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Section. The Township's Administrative Agent will be responsible for collecting monitoring information from any Administrative Agents appointed by specific developers.
- c. The Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

U. Affirmative Marketing Requirements.

1. The Township of Howell shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.
4. 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 re-sales and re-rentals. The Township's Administrative Agent designated by the Township of Howell, or any Administrative Agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. In implementing the Affirmative Marketing Plan, the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall provide a list of counseling services to very-low, low, and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Township's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least one hundred and twenty days (120) prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; and the municipal building in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

V. Enforcement of Affordable Housing Regulations.

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the 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, recoupment of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Township may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:
 - a. 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 Superior Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one (1) or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than two thousand dollars (\$2,000.00) per day or imprisonment for a period not to exceed ninety (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;

- ii. In the case of an Owner who has rented a very-low, low or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Howell Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented a very-low, low or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- b. The 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.
 - i. 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.
 - ii. 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 (2) 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 (2) 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.
 - iii. 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 very-low, 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.

- iv. 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 very-low, 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 very-low, 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.
- v. Failure of the very-low, 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 very-low, low and moderate-income unit as permitted by the regulations governing affordable housing units.
- vi. 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.

W. Appeals.

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

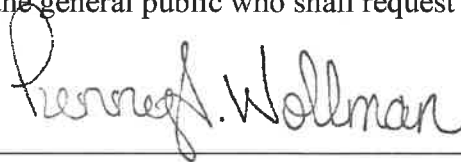
Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Howell, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Howell are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on August 13, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on September 10, 2019 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.



PENNY WOLLMAN, MUNICIPAL CLERK

EXPLANATORY STATEMENT

The Township entered into a Settlement Agreement with Fair Share Housing Center on or about October 9, 2018 and an Amended Settlement Agreement on November 20, 2018. The Court Order approving the Settlement Agreements requires the Township to incorporate state affordable housing law into the Township Code, which is achieved by this Ordinance.

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-43

INTRODUCTION

August 13, 2019

PUBLIC HEARING & ADOPTION

September 10, 2019

AGENDA ITEM NUMBER

10.5

**ORDINANCE NO. O-19-43
TOWNSHIP OF HOWELL
COUNTY OF MONMOUTH**

**AN ORDINANCE AMENDING ARTICLE X THE TOWNSHIP CODE
ENTITLED “ZONES” CREATING A NEW SECTION 188-84.2
ENTITLED “MODERATE AND LOW-INCOME HOUSING ZONE
TWELVE (12)” TO BE KNOWN AS ML-12**

WHEREAS, in accordance with “In the Matter of Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015)” (“Mount Laurel IV”), the Township of Howell filed an action for declaratory judgment entitled In the matter of the Township of Howell, Docket No. L-2525-15 (“The DJ Matter”) requesting that the court declare Howell Township in compliance with its Third Round constitutional obligation to provide a realistic opportunity for the development of affordable housing for low and moderate income families and individuals; and

WHEREAS, the DJ Matter was settled and the agreement settling the DJ Matter was reviewed and approved by the court after a Fairness Hearing, which review and approval has been memorialized in an Order of Fairness and Preliminary Compliance entered and filed by the court on April 5, 2019 (the “Settlement Approval Agreement”) which Settlement Approval Agreement required among other things that Howell Township adopt various implementing Land Development Ordinances for further review at a Compliance Hearing; and

WHEREAS, one of the implementing ordinances that the Township of Howell is required to adopt is an amendment to the Land Use Ordinance of the Township of Howell to allow for the development of the property known as Block 110, Lots 166, 181, 182 and Block 135, Lot 2 (said property referred to herein as the **FP Howell** site) as an inclusionary residential development with 227 for sale residential, market-rate lots/units and 92 multifamily for sale affordable housing units for a total of 319 residential lots/units. Of the 227 market rate lots/units, 155 will be townhouse units of up to four bedrooms each, in either fee simple or condominium ownership in developer’s discretion; and 72 will be single family detached houses of up to four bedrooms on the second floor with an optional fifth bedroom on the first floor each in fee simple. The market rate lots/units shall have basements in the developer’s discretion. The 92 for sale affordable dwelling units shall be two bedroom and three bedroom condo flat style units.

WHEREAS, FP Howell LLC and the Township of Howell have entered into a Developer’s Agreement for purposes of identifying the standards of development of the FP Howell site; and

WHEREAS, the Developer’s Agreement contemplated the revision of the Township of Howell’s zoning ordinances and zoning map to provide for a scope of development that would allow as a permitted use a for sale residential development of 319 residential lots/units as more fully described above; and as described in the Developer’s Agreement.

NOW, THEREFORE, BE IT THEREFORE ORDAINED by the Township Council of the Township of Howell, County of Monmouth, State of New Jersey as follows:

Section I. The Land Use Ordinance, Article X, Section 188-84.2 entitled "Moderate and Low-Income Housing Zone 12 (ML-12) Zone" shall be amended to read as follows:

Bulk and Lot Regulations. The development of the FP Howell property shall be consistent with the attached Exhibit A entitled "Concept Plan Drawing" which includes conceptual building footprints, building orientation, and building locations. Said plan is entitled "Overall Plan Qualifying Map" prepared by Challoner Associates, LLC by Stuart Challoner, P.E. dated May 26, 2017, last revised November 19, 2018 as Sheet 2 of 4.

A. Purpose and Intent:

The intent of the ML-12 district is to provide for inclusionary affordable and market rate housing development consistent with the Settlement Agreements by and between the Township and Fair Share Housing Center dated October 18, 2018 and November 20, 2018, the Township is obligated to create an affordable housing inclusionary zoning district on certain lands in the Township in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.

B. Permitted Uses:

1) Principal uses:

- i. Single Family Detached Dwellings
- ii. Townhouse Dwellings
- iii. Multi-family Dwellings

2) Accessory Uses:

- i. Parking
- ii. Utilities
- iii. Patios, decks & porches
- iv. Parks and playgrounds
- v. Fences and Walls
- vi. Any use which is customarily incidental and subordinate to the principal use.

C. Minimum Tract Area:

- 1) 100 acres

D. Overall Tract Requirements:

- 1) There shall be a building setback of at least 50 feet along the perimeter of the tract. Within this 50 foot perimeter setback, a vegetative buffer with a minimum width of 25 feet shall be provided.

E. Minimum Front Yard Setbacks for Principal Structures:

- 1) Single Family Detached Dwellings: 25 feet
- 2) Townhouses: 28 feet from the edge of pavement to the face of principal structure
- 3) Multifamily Dwellings: 15 feet
- 4) Chimneys, bay windows, or oriel overhangs are permitted to encroach into a front yard setback by a maximum of 3 feet.
- 5) Porches or stoops are permitted to encroach into a front yard setback by a maximum of 6 feet. A covered porch which encroaches into a front yard setback shall have a maximum height of 12 feet.

F. Minimum Side Yard and Rear Yard for Principal Structures:

- 1) Single Family Detached Dwellings: Side setback – 8 feet; rear setback - 25 feet
- 2) Townhouses: Side clearance - 25 feet between buildings; rear clearance – 50 feet between back of structures
- 3) Multifamily Dwellings: Side setback – 25 feet between buildings; rear setback – 50 feet between buildings
- 4) Chimneys, bay windows, or oriel overhangs are permitted to encroach into a side yard or rear yard setback by a maximum of 3 feet.
- 5) Decks and patios are permitted as follows:
 - i. Single Family Detached Dwellings: Follow Chapter 188-15 Entitled “Decks” of the Township Ordinance.
 - ii. Townhouses: Deck or patio may extend a maximum of 12’ off the rear of the main structure and no more than 75% of the total width of the unit.
 - iii. Multifamily Dwellings: No decks or patios are permitted.

G. Maximum Density: 319 residential units/lots

- H. Maximum Building Height:
 - 1) Single Family Detached Dwellings: 38 feet or 3.5 stories
 - 2) Townhouses: 45 feet or 4 stories
 - 3) Multifamily Dwellings: 45 feet or 4 stories

- I. Minimum Lot Area and Width:
 - 1) Single Family Detached Dwellings: lot area – 6,000 s.f; lot width – 60 feet; however lots which front on a curved portion of a street or a cul-de-sac may have a minimum lot frontage of 50 feet.

- J. Maximum Impervious Coverage:
 - 1) Overall tract: 55 percent of gross tract
 - 2) Single Family Dwellings: 55 percent

- K. Maximum Number of Dwelling Units Per Building:
 - 1) Townhouses: 8 dwelling units per building
 - 2) Multifamily Dwellings: 16 units per building

- L. Additional Requirements:
 - 1) Common recreation facilities, consisting of any of the following: walking trails, playgrounds, athletic fields, courts or other such grounds shall be provided within the development at a ratio of 10 square feet per market rate dwelling unit.
 - 2) Off-street parking stalls shall have a minimum width of 9 feet and a minimum depth of 18 feet.
 - 3) All parking, garages and circulation shall be designed in accordance with the New Jersey Residential Site Improvement Standards (RSIS).
 - 4) Waiver of Cost Generative Measures pursuant to N.J.A.C. 5:93-10.1, et seq. In order to permit the intended, agreed upon development of the Property, the Township agrees to abide by the COAH Regulations against cost generative measures as set forth at N.J.A.C. 5:93-10.1(b). Specifically:

- i. Any inclusionary development within the ML-12 zone shall be exempt from the Township Tree Replacement Regulations set forth at §188-194, et seq., within the Township code. It is understood that any costs that may have accrued, but are waived for any inclusionary development within the ML-12 zone pursuant to the Tree Replacement Regulations may be paid to the Township from the Township's Affordable Housing Trust Fund in Accordance with the approved Spending Plan.
- ii. There shall be no affordable housing fees assessed against the market rate units.
- iii. Any inclusionary development within the ML-12 zone shall be subject to the provisions of N.J.A.C. 5:93-10.2 which set forth limitations on application requirements and provide a standard of review for the Planning Board for necessary variances or deviations necessary to accomplish the intent of this district.

M. Affordable Housing Requirements:

- 1) A minimum of ninety-two (92) of the dwelling units must be made affordable to low and moderate income households in accordance with Superior Court's April 5, 2019 Order entered In the Matter of the Application of the Township of Howell, County Monmouth, Docket No. L-2525-15 and in accordance with the Developer's Agreement between FP Howell, LLC, and Howell Township dated November 18, 2018.
- 2) Ninety-two (92) of the residential dwelling units shall be restricted in accordance with the provisions of the Uniform Housing Affordability Controls N.J.A.C. 5:80-26.1, et seq. (UHAC), which shall govern the number of bedrooms of the affordable units.
- 3) All Affordable Units shall comply with the regulations of UHAC and/or the New Jersey Council on Affordable Housing ("COAH"), as may be applicable, including, but not limited to those concerning (a) income qualification, (b) controls on affordability for a period of thirty (30) years, (c) deed restrictions, (d) bedroom distribution, (e) low/moderate income split, (f) affirmative marketing and (g) handicap accessibility.
- 4) All Affordable Units shall be subject to deed restrictions on income limits for a period not less than thirty (30) years.
- 5) The affordable dwelling units shall be split equally between moderate income units and low income units.
- 6) In the event that an equal split of the affordable dwelling units between moderate and low income units results in a fraction of a unit, the additional unit shall be reserved for low income households.
- 7) Any phasing of development of market rate units in comparison to affordable units shall include the construction of affordable units in accordance with the schedule established by N.J.A.C. 5:93-5.6(d), and

in accordance with the phasing requirements of the Township's Affordable Housing Ordinance, found in Chapter 8. However aside from phasing requirements for the construction of market rate units to affordable units, the Developer may phase any portion of the remaining development at its own discretion to be approved by the Planning Board.

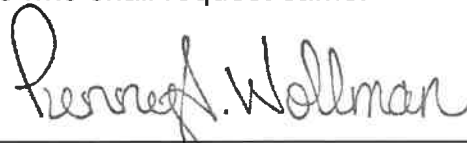
Section II. All Howell Township existing Ordinances or parts of existing Ordinances that are in conflict or inconsistent with the requirements of this Ordinance are hereby expressly repealed to the extent that they are in conflict or inconsistent with this Ordinance.

Section III. In the event that any Section or provision of this Ordinance is found or determined to be unenforceable or invalid by a competent Court of Jurisdiction, such holding of the competent Court of Jurisdiction shall be deemed not to affect the validity of the Ordinance as a whole, or any part thereof, other than the parts specifically so held to be unenforceable or invalid by said Court of Competent Jurisdiction.

Section IV. This Ordinance shall not be effective until approved by the Superior Court of New Jersey after a compliance hearing and after the proper adoption of the Ordinance including first and second reading and publication, in accordance with New Jersey law.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on August 13, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on September 10, 2019 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.



PENNY WOLLMAN, MUNICIPAL CLERK

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-44

INTRODUCTION

August 13, 2019

PUBLIC HEARING & ADOPTION

September 10, 2019

AGENDA ITEM NUMBER

10.6

**ORDINANCE NO. O-19-44
TOWNSHIP OF HOWELL
COUNTY OF MONMOUTH**

**AN ORDINANCE AMENDING ARTICLE X THE TOWNSHIP CODE
ENTITLED “ZONES” CREATING A NEW SECTION 188-84.3
ENTITLED “MODERATE AND LOW-INCOME HOUSING ZONE
THIRTEEN (13)” TO BE KNOWN AS ML-13**

WHEREAS, the Township of Howell (“Township”) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Township of Application of the Township of Howell, Docket No. MON-L-2525-15 following the New Jersey Supreme Court’s decision in Mt. Laurel IV; and

WHEREAS, the Township entered into a Settlement Agreement with Fair Share Housing Center on or about October 9, 2018 and an Amended Settlement Agreement on November 20, 2018 (collectively referred to as the “Settlement Agreements”) establishing the Township’s Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Township will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Court conducted a Fairness Hearing on February 27, 2019 and entered an order on April 5, 2019 approving the Settlement Agreements by and between the Township and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to low and moderate-income households; and

WHEREAS, the Court Order approving the Settlement Agreements requires the Township to adopt zoning for the inclusionary project referenced as **Zaback Properties** for the properties identified on the Howell Township Tax Map as Block 137, Lots 22-26 so as to meet its obligation to create a realistic opportunity to provide for the Township’s fair share of affordable housing; and

WHEREAS, the Township Council find it is in the best interest of the Township to comply with the Court’s Order and implement the terms and conditions of the Settlement Agreements which includes the creation of the Moderate and Low-Income Housing Zone 13 (“ML-13”).

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Howell, County of Monmouth, and State of New Jersey that Article X of the Township Code entitled “Zones” is hereby amended to create a new Section 188-84.3 entitled “Moderate and Low-Income Housing Zone 13 (ML-13)” as follows:

188-84.3 Moderate and Low-Income Housing Zone 13 (ML-13)

A. **Purpose and Intent.**

In accordance with the executed Settlement Agreements by and between the Township and Fair Share Housing Center dated October 18, 2018 and November 20, 2018, the Township is obligated to create an affordable housing inclusionary zoning district on certain lands in the Township in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.

B. **Permitted uses.** The following shall be permitted in the ML-13 District:

(1) Principal uses.

- (a) Townhouse.
- (b) Dwelling, multiple.

(2) Conditional uses: None.

(3) Accessory uses: The following accessory uses are permitted:

- (a) Any use which is customarily incidental and subordinate to the principal use including sheds, decks, fences, utilities, signs and entry features (including gate house) located in a manner that is consistent with a plan approved by the Planning Board at the time the development receives its development approvals which authorizes specific locations or typical locations for each dwelling type. Sheds may only be for the storage of equipment, supplies, tools, materials, etc., as required for the maintenance of the property by the property owner and shall not be used as additional storage for a tenant of any particular unit. Accessory structures shall be depicted on the site plans for review by the Planning Board and its professionals.
- (b) Recreation facilities, structures, buildings and parks for the use of the residents of the community including a swimming pool. Such open space and community facilities must be owned, operated and maintained by the property owner. Any community building may be used to provide services and activities primarily for the benefit and enjoyment of the residents of the community.
- (c) Sales and construction offices and storage of materials and equipment associated with and necessitated by the development of the tract for the uses approved by the Planning Board in conformance with any phasing requirements set forth by the Board.
- (d) Garages and parking and loading areas consistent with New Jersey's Residential Site Improvement Standards.

C. **Area, yard, bulk, and architectural requirements.** The following tract requirements shall apply:

- (1) The following intensity and design ratios are applicable to the entire tract and shall not be applied to any individual lot or lots which may be created as part of the overall plan of development:
 - (a) Maximum number of dwellings: 360
 - (b) Thirty percent (30%) of the total number of units constructed shall be reserved for low and moderate income households in conformance with Section C(7) below.
 - (c) Maximum building coverage: 30%
 - (d) Maximum impervious coverage: 70%
- (2) **Perimeter Setback.** A fifty (50) foot perimeter residential building setback shall be provided along the sides and rear boundary of the property. Within the 50 foot setback, the applicant shall provide a 6 foot high “pedestrian level” visual buffer between any proposed residential buildings and adjacent properties. The buffer may contain one or more of the following in order to create the required buffer: existing wooded areas, supplemental landscaping, berming, solid fences and walls. Within the 50 foot setback, the following structures and activities are permitted as per Site Plan approval from the Planning Board: clearing, grading, driveways, landscaping, sidewalks, lighting, benches, walkways, utilities, stormwater basins, fire lanes, walls, fences, sheds, and access roads. A maximum of fifty percent (50%) of the area within the perimeter setback may be disturbed to allow for the structures and activities listed herein. After a CO has been issued for the property and construction is completed no disturbances within any buffer are permitted except those specifically shown on the Site Plan as approved by the Planning Board.
- (3) **Setbacks applicable to buildings:**
 - (a) For residential buildings: Longest building side shall be known as the primary side (including two sides of the building if applicable); shortest building side shall be known as the secondary side (including two sides of the building if applicable). Where a façade faces a parking area it shall be treated as a practical front facade.
 - (1) Minimum distance from any residential building to any cartway: 12 feet.
 - (2) Minimum distance from secondary side to secondary side of building: 30 feet.

- (3) Minimum distance from primary side to secondary side of building: 40 feet.
 - (4) Minimum distance from primary side to primary side of building: 50 feet.
 - (5) Minimum distance from parking area shall be 10 feet.
- (b) For non-residential structures and buildings:
- (1) Sheds - A maximum of 4 shed structures shall be permitted within the district. Each shed shall conform to the requirements of §188-11 of the Township Land Use Ordinance regarding accessory structures and sheds.
 - (2) Recreation facilities, structures, buildings - Minimum distance from parking area shall be 10 feet. Minimum distance to any cartway shall be 12 feet.
 - (3) Entry features – Minimum distance to any cartway: 5 feet.
 - (4) Gatehouses – Minimum distance from any public right-of-way shall be 5 feet. No minimum distance shall be required from any internal roadway or cartway.

D. **Recreational requirements.**

- (1) Recreational facilities including sidewalks and pedestrian pathways, small parks and gathering areas with seating, picnic areas with graded grass areas for spontaneous activities and other recreational amenities may be located within the development at the discretion of the applicant, subject to Planning Board approval, but in no event within 25 feet of a residential building.
- (2) Provision for long-term maintenance of all open lands and recreational uses must be provided in a manner satisfactory to the Planning Board, and the responsibility for the cost of such maintenance shall be borne by the applicant.
- (3) Active recreational opportunities provided within the residential community may be restricted against use by nonresidents of the community if owned and maintained by the property owner and shall be accessible to residents in perpetuity.

E. **Additional Site requirements.**

- (1) Maximum height building height: 45 feet. Four stories inclusive of any garage level.

- (2) Maximum height building height (accessory building or non-residential structure): 15 feet.
- (3) All multi-family structures constructed within the district shall be exempt from the standards found within §188-138, look alike design standards.
- (4) Cartway width 24 feet (two-way traffic). Cartway width 18 feet (one-way traffic).
- (5) Mechanical equipment, roof top antenna or other utility hardware on roofs, the ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
- (6) Parking stalls shall have minimum dimensions of 9 feet in width and 18 feet in depth.
- (7) All other parking areas, loading areas, and garages shall be constructed in accordance with the New Jersey Residential Site Improvement Standards (RSIS).

F. **Additional requirements and exceptions from other requirements.**

- (1) Waiver of Cost Generative Measures Pursuant to N.J.A.C. 5:93-10.1, et seq. In order to permit the intended, agreed upon development of the Property, the Township agrees to abide by the COAH regulations against cost generative measures as set forth at N.J.A.C. 5:93-10.1(b). Specifically:
 - (a) Any inclusionary development within the ML-13 zone shall be exempt from the Township Tree Replace Regulations set forth at §188-194, et seq., within the Township code. It is understood that any costs that may have accrued, but are waived for any inclusionary development within the ML-13 zone pursuant to the Tree Replacement Regulations may be paid to the Township from the Township's Affordable Housing Trust Fund in accordance with the approved Spending Plan.;
 - (b) Any inclusionary development within the ML-13 zone shall be subject to the provisions of N.J.A.C. 5:93-10.2 which set forth limitations on application requirements and provide a standard of review for the Planning Board for necessary variances or deviations necessary to accomplish the intent of this district.

G. **Affordable Housing Requirements**

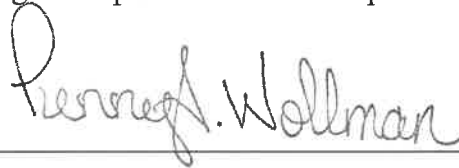
- (1) Thirty percent (30%) of the units constructed within the ML-13 zone are to be affordable to low and moderate income households ("Affordable Units") in accordance with the Superior Court's April 5, 2019 Order entered In the Matter of the Application of the Township of Howell, County Monmouth, Docket No. L-

2525-15 and in accordance with the Developer's Agreement between Kenneth Zaback and Howell Township dated November 20, 2018.

- (2) Thirty percent (30%) of the residential units shall be deed restricted in accordance with the provisions of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), which shall govern the number of bedrooms and rents for the Affordable Units.
- (3) Phasing for construction of the market rate units in comparison to Affordable Units shall be in accordance with COAH's phasing schedule established by N.J.A.C. 5:93-5.6(d).
- (4) All Affordable Units shall comply with the regulations of UHAC and/or the New Jersey Council on Affordable Housing ("COAH"), as may be applicable, including, but not limited to those concerning (a) income qualification, (b) controls on affordability for a period of thirty (30) years, (c) deed restrictions, (d) bedroom distribution, (e) low/moderate income split, (f) affirmative marketing and (g) handicap accessibility.
- (5) All Affordable Units shall be subject to deed restrictions on income limits for a period not less than thirty (30) years.
- (6) The affordable dwelling units shall be split equally between moderate income units and low income units.
- (7) In the event that an equal split of the affordable dwelling units between moderate and low income units results in a fraction of a unit, the additional unit shall be reserved for low income households.
- (8) At minimum, 13 percent (13%) of all the affordable dwelling units shall be made available to very-low income households.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on August 13, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on September 10, 2019 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

A handwritten signature in cursive script that reads "Penny Wollman". The signature is written in dark ink and is positioned above a horizontal line.

PENNY WOLLMAN, MUNICIPAL CLERK

TOWNSHIP OF HOWELL

ORDINANCE COVER PAGE

Ordinance No. O-19-45

INTRODUCTION

August 13, 2019

PUBLIC HEARING & ADOPTION

September 10, 2019

AGENDA ITEM NUMBER

10.7

**ORDINANCE NO. O-19-45
TOWNSHIP OF HOWELL
COUNTY OF MONMOUTH**

**AN ORDINANCE AMENDING ARTICLE X THE TOWNSHIP CODE
ENTITLED “ZONES” CREATING A NEW SECTION 188-84.4
ENTITLED “MODERATE AND LOW-INCOME HOUSING ZONE
FOURTEEN (14)” TO BE KNOWN AS ML-14**

WHEREAS, the Township of Howell (“Township”) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division, bearing the caption In the Matter of the Township of Application of the Township of Howell, Docket No. MON-L-2525-15 following the New Jersey Supreme Court’s decision in Mt. Laurel IV; and

WHEREAS, the Township entered into a Settlement Agreement with Fair Share Housing Center on or about October 9, 2018 and an Amended Settlement Agreement on November 20, 2018 (collectively referred to as the “Settlement Agreements”) establishing the Township’s Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Township will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Court conducted a Fairness Hearing on February 27, 2019 and entered an order on April 5, 2019 approving the Settlement Agreements by and between the Township and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to low- and moderate-income households; and

WHEREAS, the Court Order approving the Settlement Agreements requires the Township to adopt zoning for the inclusionary project referenced as the **Tyrpak Road Group, LLC**, for the properties identified on the Howell Township Tax Map as Block 143, Lots 6 and 6.01 (“North Parcel”); and Block 144, Lots 14, 15, 20, 35, 111, 112, 142, 145-150, 160-165, 165.01, 167, 177, 178, 178.01, and 178.02 (“South Parcel”) so as to meet its obligation to create a realistic opportunity to provide for the Township’s fair share of affordable housing; and

WHEREAS, the Township Council find it is in the best interest of the Township to comply with the Court’s Order and implement the terms and conditions of the Settlement Agreements which includes the creation of the Moderate and Low-Income Housing Zone 14 (“ML-14”).

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Howell, County of Monmouth, and State of New Jersey that Article X of the Township Code entitled “Zones” is hereby amended to create a new Section 188-84.4 entitled “Moderate and Low-Income Housing Zone 14” as follows:

188-84.4 Moderate and Low-Income Housing Zone 14 (ML-14)

Purpose and intent.

- A. In accordance with the executed Settlement Agreements by and between the Township and Fair Share Housing Center dated October 18, 2018 and November 20, 2018, the Township is obligated to create an affordable housing inclusionary zoning district on certain lands in the Township in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.

The Moderate and Low Income Housing Zone 14 (ML-14) District is intended to assist the Township in complying with its affordable housing obligation. The following properties shall be included within the ML-14 District: Block 143, Lots 6 and 6.01 (“North Parcel”); and Block 144, Lots 14, 15, 20, 35, 111, 112, 142, 145-150, 160-165, 165.01, 167, 177, 178, 178.01 and 178.02 (“South Parcel”).

- B. Permitted uses. The following shall be permitted in the ML-14 District:

(1) Principal uses.

- a) Single-family dwelling
- b) Townhouse dwelling
- c) Multiple dwelling

(2) Conditional uses: none.

(3) Accessory uses. The following accessory uses are permitted:

- a) Sheds, decks, patios, porches, swimming pools, signs, fences, walls, gatehouses and landscaping features, such as benches, trellises, and gazebos, that are customarily incidental to residential uses, located in a manner approved by the Planning Board at the time the development receives its development approvals which authorizes specific locations or typical locations for each dwelling type.
- b) Active and passive recreational facilities for the use of the residents of the community, including fitness centers, swimming pools, playgrounds, landscaped trails and parks, and clubhouses. Such facilities must be owned, operated and maintained by the property owner. Any community building may be used to provide services and activities primarily for the benefit and enjoyment of the residents of the community.
- c) Home occupations as per §188-64.
- d) Utilities and related services, such as transformers, pumping stations, treatment facilities, meters, etc., necessary for the proper distribution and monitoring of these services.
- e) Sales and construction offices and storage of materials and equipment associated with and necessitated by the development of the tract for the uses approved by the Planning Board in conformance with any phasing requirements set forth by the Board.
- f) Garages and off-street parking areas.

g) Any other uses that are customarily incidental and subordinate to a principal use.

C. Area, yard, bulk and site design requirements.

(1) The following intensity and design ratios are applicable to the North Parcel in its entirety and shall not be applied to any individual lot or lots which may be created as part of the overall plan of development.

- a) Maximum number of dwelling units: 58.
- b) Minimum number of low and moderate income dwelling units: 58.
- c) Maximum building coverage: 30%.
- d) Maximum impervious coverage: 60%.

(2) The following intensity and design ratios are applicable to the South Parcel in its entirety and shall not be applied to any individual lot or lots which may be created as part of the overall plan of development.

- a) Maximum number of dwelling units: 400.
- b) Minimum number of low and moderate income dwelling units: 80.
- c) Maximum building coverage: 20%.
- d) Maximum impervious coverage: 40%.

(3) Perimeter landscape buffer. A landscaped buffer of a minimum width of 50 feet shall be provided along any tract boundary, except where such boundary abuts public open space or lands to be dedicated as public or private open space, in which instance the required buffer shall not be less than 25 feet. The buffer shall be designed in accordance with Ordinance Section 188-63.

(4) Requirements for single family detached houses.

- a) No single family detached dwelling shall exceed 35 feet in height and 2 ½ stories.
- b) Setback and building requirements:

Standard	Requirement
Minimum lot area	6,000 square feet
Minimum lot frontage	60 feet
Minimum front yard setback	25 feet
Minimum rear yard setback	25 feet
Minimum side yard setback	8 feet
Minimum side or rear yard setback for accessory structure or use	5 feet

(5) Townhouse requirements.

- a) No townhouse shall exceed 45 feet in height and 3 stories.

b) Setback and building requirements:

Standard	Requirement
Maximum number of units per building	8
Maximum building length	200 feet
Minimum setback from right-of-way	75 feet
Minimum setback from all other property lines	50 feet
Minimum setback from off-street parking areas	10 feet
Minimum setback from internal streets	25 feet
Minimum distance between buildings	
Front to front	60 feet
Side to side	25 feet
Side to front/rear	35 feet
Rear to rear	50 feet

(6) Requirements for multi-family dwellings.

a) No building containing multi-family dwelling units shall exceed 45 feet in height and 4 stories.

b) Setback and building requirements:

Standard	Requirement
Maximum number of units per building	24 units
Maximum building length	250 feet
Minimum setback from right-of-way	100 feet
Minimum setback from all other property lines	75 feet
Minimum setback from internal streets	25 feet
Minimum setback from off-street parking areas	10 feet
Minimum distance between buildings	40 feet

(7) Internal streets and off-street parking shall be provided and designed in accordance with the New Jersey Residential Site Improvement Standards set forth at N.J.A.C. 5:21-1.1 et seq.

(8) Recreational requirements.

a) Recreational facilities such as sidewalks and pedestrian pathways, small parks and gathering areas with seating, picnic areas with graded grass areas for spontaneous activities and other recreational amenities shall be located within the development a minimum ratio of 10 square feet per market rate dwelling unit.

b) Provision for long-term maintenance of recreational facilities must be provided in a manner satisfactory to the Planning Board, and the responsibility for the cost of such maintenance shall be borne by the applicant.

- c) Active recreational opportunities provided within the residential community may be restricted against use by nonresidents of the community if owned and maintained by the property owner and shall be accessible to residents in perpetuity.
- (9) Additional requirements and exceptions from other requirements.
- a) Waiver of cost generation measures pursuant to N.J.A.C. 5:93-10.1, et seq. In order to permit the intended, agreed upon development of the property, the Township agrees to abide by the COAH regulations against cost generative measures as set forth at N.J.A.C. 5:93-10.1(b). in conformance with the specific provisions of the Developer's Agreement between the Township and Tyrpak Road Group, LLC. Specifically:
 - 1) Any inclusionary development within the within the ML-14 zone shall be exempt from the Township Tree Replacement regulations set forth at §188-194, et seq., within the Township code. It is understood that any costs that may have accrued, but are waived for any inclusionary development within the ML-14 zone pursuant to the Tree Replacement regulations may be paid to the Township from the Townships Affordable Housing Trust Fund in accordance with the approved spending plan.
 - 2) Any inclusionary development within the ML-14 zone shall be subject to the provisions N.J.A.C. 5:93-10.2 which set forth limitations on application requirements and provide a standard of review for the Planning Board for necessary variances or deviations necessary to accomplish the intent of this district.
 - b) Any off-site improvements or payments in lieu thereof related to the provision of potable water and sanitary service provision shall be imposed on a fair share basis strictly in accordance with N.J.S.A. 40:55D-42.
 - c) All multifamily dwellings shall be exempt from the standards found within §188-138, regarding look alike standards for residential construction.
 - d) Mechanical equipment or other utility hardware on roofs, the ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
 - e) Environmentally sensitive features on the tract, including wetlands and steep slopes areas shall be maintained and conserved either through dedication to Howell Township or by private covenant or deed restriction. The area of such dedicated or restricted environmentally sensitive areas shall continue to be considered as part of the tract area for purposes of compliance with the bulk regulations set forth in this section.

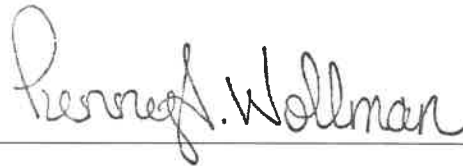
- f) Open space lands may be maintained by the owner, a tenant association or a homeowner's association, or may be dedicated to Howell Township as determined by the Planning Board. The area of such dedicated open space shall continue to be considered as part of the tract area for purposes of compliance with the bulk regulations as set forth in this section.

(10) Affordable Housing Requirements.

- a) The total affordable housing obligation is 138 units, a minimum of 58 of which shall be affordable family rental units.
- b) Thirty percent (30%) or 138, whichever is greater, of the units constructed within the ML-14 District are to be affordable to low and moderate income households ("Affordable Units") in accordance with the Superior Court's April 5, 2019 Order entered In the Matter of the Application of the Township of Howell, County Monmouth, Docket No. L-2525-15.
- c) Thirty percent (30%) of the residential units shall be deed restricted in accordance with the provisions of the Uniform Housing Affordability Controls, (N.J.A.C. 5:80-26.1, et seq.) ("UHAC"), which shall govern the number of bedrooms and rents for the Affordable Units.
- d) The affordable dwelling units shall be split equally between moderate income units and low income units.
- e) In the event that an equal split of the affordable dwelling units results in a fraction of a unit, the additional unit shall be made available to low income households.
- f) A minimum of thirteen percent (13%) of the total number of affordable dwelling units shall be made available to households categorized as "very low income" households.
- g) Phasing for construction of the Affordable Units shall be in accordance with COAH's phasing schedule established by N.J.S.A. 5:93-5.6(d).
- h) All Affordable Units shall comply with the regulations of UHAC and/or the New Jersey Council on Affordable Housing ("COAH"), as may be applicable, including, but not limited to those concerning (a) income qualifications, (b) controls on affordability for a period of thirty (30) years, (c) deed restrictions, (d) bedroom distribution, (e) low/moderate income split, (f) affirmative marketing and (g) handicap accessibility. Notwithstanding the foregoing, it is understood and agreed that the Affordable Units may be constructed in buildings separate and apart from buildings containing market rate units.
- i) All Affordable Units shall be subject to deed restrictions on income limits for a period not less than thirty (30) years.

NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on August 13, 2019 and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on September 10, 2019 at 7:30 p.m. or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

A handwritten signature in cursive script that reads "Penny Wollman". The signature is written in black ink and is positioned above a horizontal line.

PENNY WOLLMAN, MUNICIPAL CLERK