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**AGENDA
COUNCIL MEETING
315 WESTFIELD AVE., CLARK, NJ 07066
September 18, 2017
7:30 PM**

ROLL CALL:

Councilman Barr _____	Councilman O'Connor _____
Councilman Hund _____	Councilman Smith _____
Councilman Mazzarella _____	Councilman Toal _____
	Council President Albanese _____

PLEDGE OF ALLEGIANCE TO THE FLAG: MOMENT OF SILENCE

This meeting is in compliance with the Open Public Meetings Act (Chapter 231, P.L.1975) as adequate notice of this meeting has been provided by mailing the Annual Schedule of meetings to the Star Ledger, Union County Local Source, and TAP into Clark, by posting such Annual Meeting Schedule on the bulletin board in Town Hall reserved for such announcements and the proper filing of said Notice. Formal action may be taken at this meeting.

Suspend regular order of business:

Mayor's Proclamation – Breast Cancer Awareness

Resume regular order of business

COMMUNICATIONS FROM THE MAYOR AND REPORTS OF TOWNSHIP OFFICERS:

Mayor:

Township Officers: Reports given this evening will be available in the Clerk's office and on the township website www.ourclark.com

REPORT OF COUNCIL COMMITTEES:

ORDINANCES, APPROPRIATIONS AND CLAIMS:

PUBLIC HEARING ON PROPOSED ORDINANCES:

(No objections have been received in connection with the proposed Ordinances)

1. CAPITAL ORDINANCE OF THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, NEW JERSEY AUTHORIZING MUNICIPAL IMPROVEMENTS AND ACQUISITION OF EQUIPMENT TO VARIOUS CLARK DEPARTMENTS, AND APPROPRIATING THE SUM OF \$85,000 AND PROVIDING THAT SUCH SUM SO APPROPRIATED SHALL BE RAISED FROM CAPITAL SURPLUS
2. AN ORDINANCE AMENDING CHAPTER 66 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED AFFORDABLE HOUSING

3. **AN ORDINANCE AMENDING CHAPTER 195, ENTITLED LAND USE AND DEVELOPMENT, ARTICLE XIX, AFFORDABLE HOUSING DEVELOPMENT FEES OF THE CODE OF THE TOWNSHIP OF CLARK**
4. **AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 195, ENTITLED LAND USE AND DEVELOPMENT, ARTICLE XXIII, DISTRICT REGULATIONS, OF THE CODE OF THE TOWNSHIP OF CLARK**

INTRODUCTION OF PROPOSED ORDINANCE:

5. **AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 248 OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED "PEDDLING AND SOLICITING"** P H October 16th

PAYMENT OF CLAIMS:

Councilman O'Connor, Chairman of Finance Committee will give a report on Current and Capital expenditures received and encumbered through September 12, 2017 in the amount of \$164,182.68

CITIZEN HEARING ON THE AGENDA:

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

The Public may speak on any agenda item that does not have its own public hearing

RESOLUTIONS:

6. Confirming Board of Adjustment appointments of William Helm to fill the unexpired term of John Moricz and Christopher Tierney to fill the unexpired term of William Helm, both terms expiring December 31, 2018
7. Affirming the renewal agreement with Liberty Power, supplier of electricity, for a 24-month period at a rate of 0.09111/kWh
8. Strongly urging the New Jersey Senate to reject Bill Nos. 1045 and 1046 amending the Open Public Records Act and the Open Public Meetings Act which would result in significant financial and administrative burdens on municipalities
9. **Council as ABC Board:** Approving the Person-to-Person Transfer of the Liquor License held by Rotondos Oak Ridge Liquors to BV Liquor LLC

CONSENT AGENDA - AFFORDABLE HOUSING RESOLUTIONS:

10. Endorsing the Housing Element and Fair Share Plan dated September 7, 2017 as adopted by the Clark Township Planning Board
11. Adopting the Affirmative Fair Housing Marketing Plan
12. Adopting the Affordable Housing Spending Plan
13. Award of a Professional Services contract to CGP&H as the Administrative Agent for the Township's Affordable Housing Program

14. Adopting the Affordability Assistance Program prepared by CGP&H and directing CGP&H to commence implementation
15. Authorization to Appropriate Funds or Bond to Fund for Shortfall in the Township's Affordable Housing Program

NEW BUSINESS ON THE CALENDAR:

PUBLIC COMMENTS:

Each person addressing the Council shall first give his/her name and address to the Clerk. All remarks shall be addressed to the Council as a body and shall not exceed 10 minutes in duration.

MAYOR, COUNCIL AND PROFESSIONAL COMMENTS:

ADJOURNMENT:

TOWNSHIP OF CLARK

Ordinance No. _____

Adopted _____

PH 1

Introduced: August 21, 2017 Public Hearing: September 18, 2017

Motion: Barr Motion: _____

Seconded: Smith Seconded: _____

CAPITAL ORDINANCE OF THE TOWNSHIP OF CLARK, IN THE COUNTY OF UNION, NEW JERSEY AUTHORIZING MUNICIPAL IMPROVEMENTS AND ACQUISITION OF EQUIPMENT TO VARIOUS CLARK DEPARTMENTS, AND APPROPRIATING THE SUM OF \$85,000 AND PROVIDING THAT SUCH SUM SO APPROPRIATED SHALL BE RAISED FROM CAPITAL SURPLUS

BE IT ORDAINED by the Township Council of the Township of Clark, in the County of Union, New Jersey, as follows:

Section 1. The Township of Clark, in the County of Union, New Jersey, (The Township) is hereby authorized to make municipal improvements and acquisition of equipment to various departments, including Curry Field; E-Ticket System; and rifles for Police, and any ancillary costs related thereto.

Section 2. The sum of \$85,000 is hereby appropriated for the municipal improvements and acquisition of equipment and ancillary costs related thereto, as described in section 1 hereof (hereinafter referred to as "capital purpose"). Said appropriation shall be funded from Capital Surplus of the Township of Clark for the payment of the cost of said capital purpose.

Section 3. Said purpose is a lawful capital purpose of the Township having a period of usefulness of at least five (5) years.

Section 4. The capital budget is hereby amended to conform with the provisions of this capital ordinance to the extent of any inconsistency therewith and the resolution promulgated by the Local Finance Board showing full detail of the amended capital budget and the capital program as approved by the Director, Division of Local Government Services.

Section 5. This Ordinance shall take effect at the time and in the manner provided by law.

Effective Date: October 11, 2017

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

SALVATORE BONACCORSO
Mayor

Ord17/8-21CapitalOutlay-\$85,000MunImprv
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

PH 2

TOWNSHIP OF CLARK
Ordinance No. _____
Adopted _____

Introduced: August 21, 2017 Public Hearing: September 18, 2017
Motion: Smith Motion: _____
Seconded: Barr Seconded: _____

**AN ORDINANCE AMENDING CHAPTER 66 OF
THE CODE OF THE TOWNSHIP OF CLARK
ENTITLED AFFORDABLE HOUSING**

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 66, entitled "Affordable Housing" of the Code of the Township of Clark is hereby amended in the following particulars:

SECTION 1: Chapter 66 is deleted in its entirety and replaced as follows:

§ 66-1. Affordable housing obligation.

- A. This chapter is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This chapter shall apply except where inconsistent with applicable law.
- B. The Clark Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:5513-1 et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Clark Township shall address its fair share for low- and moderate-income housing as determined by the Court and documented in the Housing Element.
- C. This chapter implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1 et. seq., as may be amended and supplemented.
- D. (1). On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, Clark shall provide annual reporting of 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. The reporting shall include an accounting of all 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) On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Township shall provide annual reporting of the status of all affordable housing activity within the municipality

through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

- (3) The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in this agreement. The Township shall 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 shall 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 any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.

(b). For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this agreement, and every third year thereafter, the Township shall 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 municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

- E. The following terms, when used in this chapter, shall have the meanings given in this section:

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

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

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

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

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

AFFORDABILITY AVERAGE - The average percentage of median income at which

restricted units in an affordable housing development are affordable to low- and moderate-income households.

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

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

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

AFFORDABLE HOUSING PROGRAM(S) - Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

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

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

AGE-RESTRICTED UNIT - A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

- A. All the residents of the development where the unit is situated are 62 years or older; or
- B. At least 80% of the units are occupied by one person that is 55 years or older; or
- C. 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 arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

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

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

A COURT OF COMPETENT JURISDICTION - The approving authority, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DCA - The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT - A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes components of a building as provided in the definition of "major system" below.

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

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

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

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

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

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

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

MEDIAN INCOME - The median income by household size for the applicable housing region.

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

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

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

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

REGIONAL ASSET LIMIT - The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by adopted Regional Income Limits published annually.

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

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

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

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

VERY-LOW-INCOME HOUSEHOLD - A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

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

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

§ 66-2. Applicability.

The provisions of this chapter 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 Clark pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.

§ 66-3. Affordable housing programs.

The Township of Clark has determined that it will use the following mechanisms to satisfy its affordable housing obligations:

A. A rehabilitation program.

- (1) The Township of Clark's rehabilitation program shall be designed to 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, and the Rehabilitation Subcode, N.J.A.C. 5:23-6. The Program is also guided by N.J.A.C. 5:93-5.2 and is subject to all applicable laws, regulations, ordinances and codes of the New Jersey Department of Community Affairs (DCA) and the Township of Clark. The Township program may include units rehabilitated under the Union County Home Improvement Program.

- (2) Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- (3) All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 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.
- (4) The Township of Clark shall dedicate an average of at least \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum average hard cost of rehabilitation for each unit.
- (5) The Township of Clark shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township of Clark.
- (6) The Township of Clark shall designate, subject to the approval of a Court of Competent Jurisdiction, one or more administrative agents to administer the rehabilitation program in accordance with N.J.A.C. 5:93-5.2. The administrative agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and for the rental-occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. The rehabilitation manual shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the administrative agent(s).
- (7) Units in a rehabilitation program shall be exempt from Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - (a) 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 UHAC.
 - (b) 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 UHAC.
 - (c) Rents in rehabilitated rental units may increase annually which will be updated regularly, either by DCA, or in its absence, via the formula approved by the Court of Jurisdiction and attached as an Appendix to the Township's Housing Rehabilitation Policies and Procedures Manual.
 - (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

B. Alternative Living Arrangements

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

- (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
- (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- (3) With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the court.
- (4) 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.

§ 66-4. New construction.

The following general guidelines apply to all newly constructed developments that contain very low, low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

A. Low/moderate split and bedroom distribution of affordable housing units:

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

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

B. Accessibility requirements:

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel on the first floor;
 - (d) An 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;
 - (e) If not all of the foregoing requirements in (a) through (d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but is all of the terms of paragraphs (a) through (d) directly above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit;
 - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311.a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township of Clark has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - [1] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - [2] To this end, the builder of restricted units shall deposit funds within the Township of Clark's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - [3] The funds deposited under Subsection B(2)(f)[2] above shall be used by the Township of Clark for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - [4] The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Code Official of the Township of Clark.

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

C. 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 Design.

- (1) In inclusionary developments, to the extent possible, very low, low and moderate income units shall be integrated with the market units.
- (2) 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.

D. Maximum rents and sales prices.

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH. If COAH is not functioning, Clark will utilize the procedures approved by the Court.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units. At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of regional median income, provided that at least 13% of all low and moderate income rental units shall be affordable to very low income households earning 30% or less of the regional median household income by household size, which very low income units shall be part of the low income requirement. The very low income units shall be distributed as evenly as possible among the bedroom types.
- (4) At least 13% of all low and moderate income rental units shall be affordable to very low income households earning 30% or less of the regional median household income by household size, which very low income units shall be part of the low income requirement. The very low income units shall be distributed as evenly as possible among the bedroom types.
- (5) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each

bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.

- (6) In determining the initial sales prices and rent levels for restricted units other than age-restricted units (including assisted living units), the following standards shall be used:
- (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four-and-one-half-person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (7) "In determining the initial sales prices and rent levels for age-restricted (including assisted living units), the following standards shall be used:
- (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

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

9. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

10. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

11. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast urban area. This increase shall not exceed 9% in any one year. Rent increases for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

12. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by HUD for its Section 8 program. Affordable units in an inclusionary development shall utilize the same type of heating source as the market units.

E. Phasing Requirements

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

§ 66-5. Affirmative marketing requirements.

- A. The Township of Clark shall adopt by resolution an affirmative marketing plan, subject to approval of a Court of Competent Jurisdiction, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 2 and covers the period of deed restriction. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 2 comprised of Essex, Morris, Union and Warren counties.
- C. The administrative agent designated by the Township of Clark shall assure the affirmative marketing of all affordable units consistent with the affirmative marketing plan for the municipality.
- D. In implementing the affirmative marketing plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law. Additionally, the administrative agent shall ensure that the following organizations are specifically notified of the availability of affordable units in the Township of Clark and provided with application forms:

FSHC (510 Park Blvd, Cherry Hill, NJ); the Latino Action Network (PO Box 943, Freehold, NJ 07728); East Orange NAACP (PO Box 1127, East Orange, NJ 07019); Newark NAACP (PO Box 1262, Newark, NJ 07101); Morris Co. NAACP (PO Box 2256, Morristown, NJ 07962); Elizabeth NAACP (PD Box 6732, Elizabeth, NJ 07206), and the Supportive Housing Association, 15 Alden St # 14, Cranford, NJ 07016

- E. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- F. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of Clark.

§ 66-6. Occupancy standards.

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

§ 66-7. Control periods for restricted ownership units and enforcement mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this chapter until the Township of Clark elects to release the unit from such requirements; however, and prior to such an election, 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, for at least 30 years.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- D. At the time of the first sale of the unit, the purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the requirements of this chapter, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this chapter shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

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

§ 66-8. 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 et seq., as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ 66-9. Buyer income eligibility.

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

that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

§ 66-10. Limitations on indebtedness secured by ownership unit; subordination.

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

§ 66-11 Capital improvements to ownership units.

- A. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 66-12. Control periods for restricted rental units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this chapter until the Township of Clark elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1 et seq., as may be amended and supplemented, and prior to such an election, a restricted

rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1 et seq., as may be amended and supplemented, for at least 30 years.

- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Union. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this chapter, despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 66-13. Price restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this chapter.
- D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units in the development are restricted affordable rental units in accordance with this Ordinance.

§ 66-14. Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median household income by household size.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median household income by household size.

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

§ 66-15. Administration.

- A. The position of Municipal Housing Liaison (MHL) for the Township of Clark is established by this chapter. The Township Council of the Township of Clark shall make the actual appointment of the MHL by means of a resolution.
- (1) The MHL must be either a full-time or part-time employee of the Township of Clark.
 - (2) The person appointed as the MHL and the qualifications of such person shall be approved by the Court.
 - (3) The MHL must meet all requirements for qualifications, including initial and periodic training.
 - (4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Clark, including the following responsibilities which may not be contracted out to the Administrative Agent:

- (a) Serving as the municipality's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 - (b) Overseeing the implementation of the Affirmative Marketing Plan and affordability controls by the Administrative Agent(s);
 - (c) When applicable, supervising any contracting administrative agent;
 - (d) Monitoring the status of all restricted units in the Township of Clark's Fair Share Plan;
 - (e) Compiling, verifying and submitting annual reports as required by this ordinance;
 - (f) Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
 - (g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered.
- B. The Township of Clark shall designate by resolution of the Township Council, subject to the approval of the Court, one or more Administrative Agents to administer and affirmatively market the affordable units constructed in Clark in accordance with this ordinance. The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).
- C. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to the approval of the Court. The Operating Manuals shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- D. Duties and responsibilities of the Administrative Agents.
- (1) The Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as are set forth in UHAC and which are described in full detail in the project or program Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
 - (a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH or the Affordable Housing Professionals of New Jersey (AHPNJ);
 - (b) Affirmative marketing;
 - (c) Household certification;
 - (d) Affordability controls;
 - (e) Records retention;
 - (f) Resale and re-rental;
 - (g) Processing requests from unit owners; and
 - (h) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.

- (i) Preparing monitoring reports for submission to the Municipal Housing Liaison in time to meet the deadlines for reporting set forth in this ordinance.
- (2) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (3) The fees and costs of the Administrative Agent(s) shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent(s) shall nevertheless report to and be responsible to the Township of Clark in the performance of their duties

§ 66-16. Enforcement of affordable housing regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the court to have violated any provision of the regulations governing affordable housing units, the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - (a) A fine of not more than \$500 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense.
 - (b) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Clark Affordable Housing Trust Fund of the gross amount of rent illegally collected.
 - (c) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 - (2) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.

- C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriffs sale.
- D. The proceeds of the Sheriffs sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriffs sale. In the event that the proceeds from the Sheriffs sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriffs 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 Sheriffs sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriffs sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriffs sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

§ 66-17. Appeals.

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

SECTION 2: **Inconsistent Ordinances:** Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3: **Effective Date:** This Ordinance shall take effect upon adoption and publication, according to law.

Effective Date: October 11, 2017

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

SALVATORE BONACCORSO
Mayor

Ord17/8-21ReplaceCh66AffordableHousing
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK

Ordinance No. _____

Adopted _____

PH 3

Introduced: August 21, 2017 Public Hearing: September 18, 2017

Motion: Smith Motion: _____

Seconded: Hund Seconded: _____

AN ORDINANCE AMENDING CHAPTER 195, ENTITLED LAND USE AND DEVELOPMENT, ARTICLE XIX, AFFORDABLE HOUSING DEVELOPMENT FEES OF THE CODE OF THE TOWNSHIP OF CLARK

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 195, entitled "Land Use and Development" Article XIX entitled "Development Fees Pursuant to COAH Rules" of the Code of the Township of Clark is hereby amended in the following particulars:

SECTION 1: Chapter 195 Land Use and Development, Article XIX previously entitled Development Fees Pursuant to COAH Rules is deleted in its entirety and replaced as follows:

ARTICLE XIX

AFFORDABLE HOUSING DEVELOPMENT FEES

Section 195-98 - Purpose

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

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

C. This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low- and moderate-income housing in accordance with a Court-approved Spending Plan.

Section 195-99 - Basic Requirements

A. This Ordinance shall not be effective until approved by the Court.

B. The Township of Clark shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

Section 195-100 - Definitions

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

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

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

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

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

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

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

Section 195-101 - Residential Development Fees

A. Imposition of Fees

(1) Within the Township of Clark, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted.

Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

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

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

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

(2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.

(3) Improvements or additions to existing one and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.

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

Section 195-102 - Non-Residential Development Fees

A. Imposition of Fees

- (1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

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

- (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and a half percent (2.5%) development fee, unless otherwise exempted below.
- (2) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
- (5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit

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

Section 195-103 - Collection procedures

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

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

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

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

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

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

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

H. Except as provided in Section 5.A.3) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

Section 195-104 - Appeal of Development Fees

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

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

Section 195-105 - Affordable Housing Trust Fund

A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Township of Clark for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

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

- (1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Clark;
- (2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
- (3) Rental income from municipally operated units;
- (4) Repayments from affordable housing program loans;
- (5) Recapture funds;
- (6) Proceeds from the sale of affordable units; and
- (7) Any other funds collected in connection with Clark's affordable housing program.

C. In the event of a failure by the Township of Clark to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable

required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Clark, or, if not practicable, then within the County or the Housing Region.

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

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

Section 195-106 - Use of Funds

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

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

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of the median income for Housing Region 3, in which Clark is located.

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

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

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

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

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

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

(2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

Section 195-107 - Monitoring

The Township of Clark shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance

or by Agreement with the Township), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Township owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Clark's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

Section 195-108 - Ongoing Collection of Fees

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

B. If the Township of Clark fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

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

SECTION 2: **Inconsistent Ordinances:** Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3: **Effective Date:** This Ordinance shall take effect upon adoption and publication, according to law.

Effective date: October 11, 2017

ATTEST:

EDITH L. MERKEL, RMC
Township Clerk

APPROVED:

ANGEL ALBANESE
Council President

SALVATORE BONACCORSO
Mayor

Ord17/8-21ReplaceCh195ArticleXIXDevelopmentFees

Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK

Ordinance No. _____

Adopted _____

PH 4

Introduced: August 21, 2017 Public Hearing: September 18, 2017

Motion: Smith Motion: _____

Seconded: Hund Seconded: _____

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 195, ENTITLED
LAND USE AND DEVELOPMENT, ARTICLE XXIII, DISTRICT REGULATIONS,
OF THE CODE OF THE TOWNSHIP OF CLARK**

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 195, entitled "Land Use and Development" Article XXIII entitled "District Regulations" of the Code of the Township of Clark is hereby amended and supplemented in the following particulars:

**SECTION 1: Section 195-130 R-SH Age-Restricted/Senior Housing Overlay
District is deleted and replaced as follows:**

§ 195-130 R-SH Age-Restricted/Senior Housing District.

A. Purpose of district. The purpose of the Age-Restricted/Senior Housing District is to permit construction of an age-restricted multifamily residential development with a twenty-percent affordable housing set-aside in accordance with the Township's adopted Housing Element and Fair Share Plan and the terms and conditions of the Township's Judgment of Compliance and Repose.

B. Permitted uses: age-restricted multifamily residential development containing a twenty-percent set-aside for low- and moderate-income households ages 55 years and older. The development may be constructed as multifamily dwellings, multiple-group dwellings, or garden apartments, townhouses or a townhouse/flat combination.

C. Development standards:

(1) **Minimum tract area:** 10 acres.

(2) **Minimum frontage:** a minimum of 250 feet on a paved public street.

- (3) **Density.** The maximum density shall be 32 units per acre for multifamily dwellings, multiple-group dwellings, or garden apartments, and 15 units per acre of gross site area for townhouses and townhouse/apartment/flat combinations.
- (4) **Low- and moderate-income housing requirements.** A minimum of 20% of the total age-restricted dwelling units shall be affordable to low- and moderate-income households as regulated by the Township's Court-approved Affordable Housing Ordinance (Chapter 66 of the Township Code).
- (5) **Building height.** Maximum building height shall be 45 feet and four stories.
- (6) **Design standards.** All development shall incorporate the following design standards. Waivers from these standards may be granted by the Board pursuant to N.J.S.A. 40:55D-51b.
 - (a) **Building design.** The objectives of the building design standards are to provide overall high-quality building with special emphasis on methods that reduce the visual impact of large buildings. The exterior appearances of buildings shall complement the character of existing development in the surrounding area.
 - (b) **Specific design features that reduce the visual impact of large buildings shall be used. These include but are not limited to:**
 - [1] Elements that draw focus, introduce scale and provide three-dimensional effects.
 - [2] Variations and articulation to overall building facades by changing the facade plane.
 - [3] Use of subdued wall coloration, patterning, texture and reveals.
 - [4] Extensive use of landscaping to shield and break up building planes.
 - (c) **Building mass.** Solid and unarticulated buildings are not permitted. The mass, scale and visual impact of buildings shall be reduced by staggered building walls. The staggered building walls shall incorporate a setback or bump-out that, in the opinion of the Board, provides an equivalent reduction in the mass, scale and visual impact of the buildings.
 - (d) **Architectural interest.** To provide architectural interest, create a three-dimensional effect and further reduce the visual scale and impact of a building, the following techniques shall also be used:

[1] Variations in building treatment shall be liberally used and shall include painted panels, awnings or canopies, wall openings, wall texture changes, changes in building height and variations in rooflines.

[2] Building entries and building corners shall be readily identifiable through the use of canopies, marquees, architectural treatment and the use of different materials.

[3] Extensive use of small-scale elements, such as planter walls and hedges, shall be provided particularly around building entrances.

[4] Landscaping shall be employed to further reduce the visual impact of building mass.

(e) Materials.

[1] The front and two side elevations of all buildings and structures shall be constructed of brick, architectural block, architectural precast concrete or tilt-up construction using similar materials of equally high quality and aesthetics. Utility standard concrete panels or masonry units may be used on rear elevations if the rear elevations are not visible from any public right-of-way after berming, fencing or landscaping treatment.

[2] Rooflines and parapets shall be designed to minimize the visual impact of rooftop-mounted equipment, such as vents and stacks, from public rights-of-way.

(f) Pedestrian circulation.

[1] On-site concrete or brick sidewalks, or such other material acceptable to the Board, shall be provided to create a continuous pedestrian network and to connect with existing sidewalks and neighborhoods.

[2] Vehicular and pedestrian circulation patterns shall be separated. A landscaped buffer shall provide a separation between pedestrian and vehicular ways.

[3] Pedestrian crossings shall be indicated by such techniques as changed pavement materials or texture, signals, signage, or painted stripes, as determined by the Board.

[4] Secure and convenient pedestrian walkway access shall be provided between parking lots, sidewalks and primary entrances to buildings. Sidewalks shall be barrier-free, a minimum of 5 feet in width and shall be set back a minimum of 5 feet from all buildings.

(7) Setbacks. The following setback standards shall apply:

(a) Buildings:

[1] Front yard: 45 feet or the height of the principal building, whichever is greater.

[2] Side yard: 40 feet.

[3] Rear yard: 40 feet.

(b) Accessory building:

[1] Front yard: 50 feet.

[2] Side yard: 25 feet.

[3] Rear yard: 25 feet.

(8) Building coverage. Buildings and accessory structures shall cover not more than 40% of the lot or parcel area. Accessory structures devoted to parking shall count towards total lot coverage.

(9) Total lot coverage. Not more than 70% of the lot or parcel area shall be covered by a combination of buildings, accessory structures, parking areas, driveways, and other impervious surfaces.

(10) Minimum open space. Not less than 30% of the parcel area shall be open space as defined in § 195-111.

(11) Parking. Off-street parking shall be provided in accordance with the Residential Site Improvement Standards, but in no event shall the parking ratio for one- and two-bedroom units be greater than 1.5 spaces per unit. No off-street parking shall be located less than 25 feet from any property line. A carport and adjacent driveway space shall be counted as two spaces; designated stacked parking spaces shall also be counted as two spaces. Parking spaces may be located at grade in the building footprint (garage), without limitation.

(12) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped and be arranged such that appropriate active and passive recreation opportunities will be provided on site for the residents of the development (e.g., walking paths, benches, gazebos, or ponds or water features); a suitable landscaped buffer strip of at least 25 feet in width shall be provided to the property boundaries to form a visual screen.

(13) Parking lot setback and landscaping. Parking areas shall be attractively landscaped in accordance with the following standards:

(a) Parking lots shall be set back a minimum of 25 feet from the right-of-way of a public street. The setback area shall be landscaped with shade trees and shrubs adaptable to the location and able to provide low-level screening of the view of the parking lot; at least one shade tree for each 40 feet of frontage shall be provided.

(b) In addition to landscaping required along public streets, the interior of the parking lot shall be landscaped with at least one tree for every 20 parking

spaces, which shall be planted in suitably prepared and protected landscaping islands.

(c) No more than 20% of the required parking shall be provided between the building line and the public right-of-way.

(14) Townhouse and townhouse/apartment combination building spacing. The minimum spacing between buildings shall be 50 feet between front and front/back, 35 feet front/back to side and 25 feet end to end. The minimum setbacks from driveways and parking areas shall be 15 feet from primary buildings, unless a garage is attached.

**SECTION 2: Section 195-131 DTV Downtown Village District is
deleted and replaced as follows:**

§ 195-131 DTV Downtown Village District.

A. Purpose of the district.

(1) The downtown of any community should be a mixed use center with many diverse retail shops and restaurants where the community can gather on nights and weekends. The Downtown Village District has been created in that area along Westfield Avenue between Washington Street and Broadway, from Denman Avenue and Benjamin Street to the Rahway border. The purpose of the DTV Downtown Village District is to permit construction of a multifamily residential development with a fifteen percent affordable housing set-aside in accordance with the Township's adopted Housing Element and Fair Share plan and the terms and conditions of the Township's Court-approved Affordable Housing Ordinance (Chapter 66 of the Township Code). The DTV Zone District is intended to encourage retail sales and personal services oriented to pedestrian shopping on the ground floor. Second floors may be commercial or residential, and shall have only one use, commercial or residential in any one building. Only residential uses are allowed on the third and fourth floors of any building.

(2) Authentic period (Colonial, Federal or Victorian) reproductions are encouraged to complement the established character of more recently constructed buildings. In any case, as a minimum, in order to assure compatibility of new building construction or alterations of existing buildings, the building design standards in this section shall be adhered to, except that the Planning Board may grant waivers of specific requirements on a showing by the developer of unavoidable hardship.

(3) Exterior walls shall be finished with face brick, integrally colored masonry units (not panels), or wood clapboards, cedar shingles or vertical boards. All exterior walls of buildings shall be finished with the same materials or combinations of materials. Exceptions require Board of Adjustment or Planning Board approval.

(4) Visible sections of roof areas shall be cedar shingle or textured asphalt shingle, in dark colors. Mansard roofs, when provided, shall be full canopies of textured asphalt shingle, or fiberglass in dark colors.

(5) All design features applied to building exteriors shall be functional, rather than superimposed for decorative purposes only, unless part of authentic period architecture. Shutters, when provided, shall be designed to fit the windows to which they are attached.

(6) No rooftop mechanical structures shall be permitted in the DTV Zone without Planning Board or Board of Adjustment approval. All mechanicals shall be adequately screened so as to conceal them.

(7) All development applications containing proposed new buildings and structures or alterations or modifications to existing structures shall conform to the Building site design standards set forth in Section 195-182 of the Land Use and Development Ordinance.

B. Principal uses and structures. The following principal uses and structures shall be permitted in the DTV Zone District:

(1) Business establishments devoted primarily to the retail sales of goods and personal services on the premises. Retail establishments that serve local needs may include the sale of baked goods, office supplies, flowers and the dispensing of pharmaceutical products;

(2) Taverns and restaurants and food establishments intended for food consumption on the premises or for takeout of food;

(3) Outdoor dining;

(4) Personal and consumer service establishments, such as hair salons;

(5) Banks and other financial institutions engaged in the business of accepting deposits from the public and/or extending credit to the public in the form of loans. Such business must be conducted on the premises and must be the principal activity of the use on the premises;

(6) Business, administrative and professional offices or other business establishments providing the following services:

- (a) Finance, insurance or real estate sales or services;
- (b) Business or professional services;
- (c) Health services;
- (d) Social services;
- (e) Consulting services;
- (f) Private clubs and service organizations;

(7) Museums, art galleries and indoor motion-picture theaters and theaters for conducting live entertainment or cultural performances; music and dance studios;

(8) Child care centers;

(9) Governmental buildings and municipal parking facilities;

(10) Public parks and playgrounds;

(11) Residential dwelling units limited to the second, third and fourth floors, which shall include a 15% set-aside for very low, low and moderate income housing, if the affordable units will be for rent, and a 20% set-aside for low and moderate income housing, if the affordable units will be for sale;

(12) Commercial parking lots.

C. Accessory uses and structures. The following accessory uses and structures shall be permitted in the DTV Zone District:

(1) Parking and parking facilities as regulated in Article **XXIV**.

(2) Signs, pursuant to the provisions of Article **XXV**, for the uses for which signs are permitted.

(3) Other accessory uses and structures customarily subordinate and incidental to permitted principal uses and permitted conditional uses.

D. Conditional uses and structures. The following conditional uses and structures shall be permitted in the DTV District only if they comply with the appropriate regulations for such uses or structures in Article **XXVIII**:

- (1) Nonprofit chartered membership organizations;
- (2) Residential-type public utility facilities; and
- (3) Certain telecommunications antennas as set forth in Article **XXVI**.

E. Prohibited uses and structures. Any use or structure, other than those uses or structures permitted in Subsections **B**, **C** and **D** above, are prohibited. In addition, and notwithstanding the above permitted uses, the following uses shall be specifically prohibited:

(1) Any business conducted outside the confines of a building, except those temporary activities permitted by special permission from the Township Mayor and Council or allowed elsewhere in the Ordinance;

(2) Gasoline filling stations, gasoline service stations, public garages, automobile body repair or painting shops;

(3) Lumberyards or building material yards;

(4) Sale, rental or repair of automobiles, motorcycles, boats, trailers, lawn mowers, small gasoline or other liquid-fuel engines;

(5) Dry-cleaning establishments where the dry cleaning is done on the premises;

(6) Warehouses or businesses which do not sell directly to the general public;

(7) Public or private schools;

(8) Funeral services, undertakers, crematories and morticians;

(9) Residential use of any kind, other than those uses as permitted in Subsection **B(11)** above. Existing nonconforming residential buildings or structures shall

not be extended or enlarged for use relating to a business, unless the first floor is used entirely for business use;

(10) All aboveground and underground bulk storage of liquefied petroleum gases, gasoline, diesel fuel, kerosene, No. 2 fuel, fuel oil, chemicals or similar hazardous, flammable or combustible liquids in any amount, except as permitted otherwise by permit. Aboveground or basement storage of up to 530 gallons of kerosene or No. 2 heating fuel in approved storage tanks and used exclusively for heating purposes on the premises is exempted from the above prohibition;

(11) Any building, structure or use which would create an undue hazard of fire, explosion or nuisance by reason of odor, noise, dust or smoke, or which in any way would be detrimental to the health, public morals and public safety of the community; and

(12) Private commercial parking lots as a principal use.

F. Area, yard and building dimensions. In any DTV District, the following dimensional requirements shall be applied, unless otherwise excepted:

(1) Minimum lot dimensions:

(a) Lot area: 7,500 square feet.

(b) Lot frontage: 75 feet.

(2) Minimum yards.

(a) Front yard. There shall be a minimum front yard of 15 feet, except that when abutting a residential district, the front yard requirement of such residential district shall apply to the abutting yard. No parking service shall be located closer than five feet to any street line.

(b) Side yard. There are no minimum single side yard requirements, except that when abutting a residential district, the side yard requirement of such residential district shall apply to the abutting yard. The total of both side yards should be a minimum of 20 feet.

(c) Rear yard: 20 feet for principal structures; five feet for accessory structures.

(3) Maximum building dimensions:

(a) Height: 45 feet and 4 stories.

(b) Building coverage: 80%.

- (c) Impervious cover: 90%.
- (d) Floor area ratio: 3.0.
- (e) Density: 32 units per acre.

(4) Open space. There shall be a minimum of 10% open space.

G. Streetscape standards. Private development within the DTV District shall include street improvements to enhance the downtown streetscape. Required streetscape improvements will include a specific architectural and site design theme similar to the streetscape improvements undertaken by the Township of Clark within this area during the period 2000 through 2001. Site improvements will include benches, trash receptacles, area lighting, street trees, brick pavers and planters. These improvements shall be consistent with plans and specifications on file with the Township Engineer. Architectural details and standards not included therein will be developed and adopted by the Township Engineer to encourage a unity among the diverse uses and structures that make up this village neighborhood. Building architectural features will involve facade and large window treatments, cornice lines that are visually connective with neighboring buildings, finishes and rooflines.

H. Integrated shopping units.

(1) Nothing in this section shall be construed to prevent the construction or erection of a series or row of attached stores, shops or offices on a single piece of property, or a composite of lots under one ownership, where such a grouping forms an integrated limited shopping unit. Such unit shall be constructed or erected in accordance with a plot plan and shall meet any applicable dimensional requirements set forth in this section for the DTV District. Each such integrated shopping unit shall consist of a group of individual shops or offices and shall have a uniform architectural design and appearance. Such design shall be consistent with the goals and objectives of the zone.

(2) Signs shall be in accordance with the provisions of Article XXV. In addition, such shopping unit is permitted one sign stating the name or designation of such shopping unit or listing the names or designations of stores, shops or offices therein. Such sign shall be no greater in area than 48 square feet and shall be no higher than the height of the principal building. Any illumination of such sign shall be non-flashing, uncolored and confined to the face of such sign.

I. Screening of commercial uses. Any lot used for commercial purposes which abuts any permitted dwellings, public buildings or institutional premises in the DTV District or

other district along any lot line, except a front lot line or side street line, shall be screened along such lot line. Such screen shall be a solid wall or a solid fence not less than four feet in height, together with a three-foot planting strip along the outside face of such wall or fence, planted in shrubs or evergreens. In lieu of such wall, fence and planting strip, a compact evergreen hedge of not less than three feet in height at the time of planting may be used. Such wall, fence, planting or hedge shall be maintained in good condition, and no advertising shall be placed thereon. Such screening shall be indicated on the site plan.

SECTION 3: Section 195-140.2 R-B - 16 Multiple-Family Residential District is added as new district and citation as follows:

§ 195-140.2 R-B - 16 Multiple-Family Residential District.

A. Purpose of district. The purpose of the R-B District is to allow for the construction of multifamily residential buildings, including townhouses and garden apartments, meeting the minimum density requirement for inclusionary housing and providing for the required set-aside of units within such developments affordable to low- and moderate-income families, complying with the obligation of the Township to provide a regional fair share of low- and moderate-income housing.

B. Permitted uses. The permitted uses are townhouses and garden apartments.

C. Development standards.

(1) Definition of uses. Garden apartments include multiple dwellings arranged in flats, up to 40 feet in height. Townhouses comprise single-family dwellings attached side by side, up to 2 1/2 stories in height. A half story is one within a gable roof, in which not over 1/2 of the floor area of the full story below has a full ceiling height.

(2) Density. The maximum density shall be sixteen (16) units per acre of site area.

(3) Affordable housing requirements. A minimum of 20% of the housing units shall be deed restricted so as to be affordable to and occupied only by qualified low and moderate income family households, including very low income households, if applicable, in full accordance with the Township's Court-approved Affordable Housing Ordinance (Chapter 66 of the Township's Code).

(4) Building requirements, garden apartments. Maximum building height shall be 40 feet, and maximum building length shall be 120 feet.

(5) Building requirements, townhouses. Maximum building height shall be 2 1/2 stories and 35 feet, and there shall not be more than six housing units per structure.

(6) Setbacks and spacing, garden apartments. The minimum setback from street and property lines shall be 50 feet, except that accessory garages, if provided, may be within 20 feet of side or rear lot lines. The minimum distance between buildings shall be 35 feet between fronts and backs, and 20 feet end to end. The minimum setback from parking areas and driveways shall be 10 feet.

(7) Setbacks and spacing, townhouses. The minimum setback from streets and property lines shall be 50 feet. The minimum separation between buildings shall be 50 feet between fronts and backs, and 25 feet end to end. The minimum setbacks from driveways and parking areas shall be 20 feet from building fronts and 25 feet from building rears, and 20 feet on building ends.

(8) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped and shall be arranged such that appropriate active and passive recreation facilities will be provided. Where the site adjoins other zones on the side or rear, a suitable landscaped buffer strip of at least five feet in width shall be provided to form a visual screen.

(9) Parking areas and access drives. A minimum of two parking spaces shall be provided for each dwelling unit. For townhouses, one of these spaces shall be provided within the unit or in a garage, except that this requirement shall not apply to lower-income units. All off-street parking areas shall be surfaced in accordance with Township standards. No off-street parking shall be located within front yards or within less than 10 feet from side and rear property lines.

(10) Other general design and site requirements. Other general design and site requirements shall be as required in the R-A Multiple-Family Apartment Residential District, in § 195-128 hereunder, as well as the standards below:

(a) Maximum impervious cover: 80%.

(b) There shall be a minimum of 20% open space.

D. Affordable housing requirements.

(1) Definitions

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

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

(c) **VERY-LOW-INCOME HOUSEHOLD** - A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

(2) Affordable units in this district shall not be age-restricted.

(3) Affordable units in this district shall be architecturally similar to the market rate units and shall be distributed among the market-rate units rather than isolated.

SECTION 4: Section 195-140.3 R-B - 20 Multiple-Family Residential District is added as new district and citation as follows:

§ 195-140.3 R-B - 20 Multiple-Family Residential District.

A. Purpose of district. The purpose of the R-B District is to allow for the construction of multifamily residential buildings, including townhouses and garden apartments, meeting the minimum density requirement for inclusionary housing and providing for the required set-aside of units within such developments affordable to low- and moderate-income families, complying with the obligation of the Township to provide a regional fair share of low- and moderate-income housing.

B. Permitted uses. The permitted uses are townhouses and garden apartments.

C. Development standards.

(1) **Definition of uses.** Garden apartments include multiple dwellings arranged in flats, up to 45 feet in height. Townhouses comprise single-family dwellings attached side by side, up to 2 1/2 stories in height. A half story is one within a gable roof, in which not over 1/2 of the floor area of the full story below has a full ceiling height.

(2) **Density.** The maximum density shall be twenty (20) units per acre of site area.

(3) **Lower-income housing requirements.** A minimum of 20% of the housing units shall be sold or rented and shall be maintained for a minimum period of 30 years so as to be affordable to families and persons of low and moderate income, under the lower-income housing requirements specified in Subsection **D** below.

(4) Building requirements, garden apartments. Maximum building height shall be 45 feet, and maximum building length shall be 120 feet.

(5) Building requirements, townhouses. Maximum building height shall be 2 1/2 stories and 35 feet, and there shall not be more than six housing units per structure.

(6) Setbacks and spacing, garden apartments. The minimum setback from street and property lines shall be 50 feet, except that accessory garages, if provided, may be within 20 feet of side or rear lot lines. The minimum distance between buildings shall be 35 feet between fronts and backs, and 20 feet end to end. The minimum setback from parking areas and driveways shall be 10 feet.

(7) Setbacks and spacing, townhouses. The minimum setback from streets and property lines shall be 50 feet. The minimum separation between buildings shall be 50 feet between fronts and backs, and 25 feet end to end. The minimum setbacks from driveways and parking areas shall be 20 feet from building fronts and 25 feet from building rears, and 20 feet on building ends.

(8) Landscaped areas, buffer areas, and recreation facilities. All areas not occupied by buildings, driveways, walkways, and parking areas shall be suitably landscaped and shall be arranged such that appropriate active and passive recreation facilities will be provided. Where the site adjoins other zones on the side or rear, a suitable landscaped buffer strip of at least five feet in width shall be provided to form a visual screen.

(9) Parking areas and access drives. A minimum of two parking spaces shall be provided for each dwelling unit. For townhouses, one of these spaces shall be provided within the unit or in a garage, except that this requirement shall not apply to lower-income units. All off-street parking areas shall be surfaced in accordance with Township standards. No off-street parking shall be located within front yards or within less than 10 feet from side and rear property lines.

(10) Other general design and site requirements. Other general design and site requirements shall be as required in the R-A Multiple-Family Apartment Residential District, in § 195-128 hereunder, as well as the standards below:

(a) Maximum impervious cover: 80%.

(b) There shall be a minimum of 20% open space.

D. Affordable housing requirements.

(1) Definitions

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

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

(c) **VERY-LOW-INCOME HOUSEHOLD** - A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

(2) Affordable units in this district shall not be age-restricted.

(3) Affordable units in this district shall be architecturally similar to the market rate units and shall be distributed among the market-rate units rather than isolated.

SECTION 5: **Inconsistent Ordinances:** Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6: **Effective Date:** This Ordinance shall take effect upon adoption and publication, according to law.

Effective Date: October 11, 2017

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

SALVATORE BONACCORSO
Mayor

Ord17/8-21ReplaceCh195ArticleXXIIIZoningDistricts
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK

Ordinance No. _____

Adopted _____

INTRO 5

Introduced: September 18, 2017 Public Hearing: October 16, 2017

Motion: _____ Motion: _____

Seconded: _____ Seconded: _____

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 248
OF THE CODE OF THE TOWNSHIP OF CLARK ENTITLED
"PEDDLING AND SOLICITING"**

BE IT ORDAINED by the Governing Body of the Township of Clark that Chapter 248, of the Code of the Township of Clark is hereby amended in the following particulars:

SECTION 1: Section 248-3, is amended as follows:

248-3 Fees

Delete the word "annual" in each sentence. All other text remains unchanged.

SECTION 2: Section 248-7, is amended as follows:

248-7 Issuance of license; nontransferability; term

Section 248-7, is amended as follows:

The second sentence is amended to read: "Such license shall not be transferable, shall be valid ~~only for a period of not more than 30 days~~ until December 31 of the year in which it was issued, regardless of the issue date and shall be valid only for the business stated in the application." All other text remains unchanged.

SECTION 3: Section 248-8, is amended as follows:

248-8 Term of license renewal

~~No license shall be issued for a period of more than 30 calendar days. All licenses expire on December 31 of the year in which they were issued, regardless of the issue date. Upon the expiration of the license, the holder thereof shall surrender it to the officer in charge of police headquarters the badge(s) to the issuing department. He or she may apply for the renewal of the same a new license upon the same terms and conditions as the original application set forth herein.~~

SECTION 4: The following sections are hereby deleted in their entirety and the remaining sections shall be re-numbered as appropriate:

Section 248-14 Eating of merchandise

Section 248-16 Inspection of vehicles

Section 248-18 Maintenance and inspection of equipment

SECTION 5:

Section 248-19, is amended as follows:

248-19 Duties of licensee; hours of sale

Sub-section B. the first sentence is amended to read: "Each licensee shall restrict his/her peddling or soliciting activities within the Township to the hours ~~between 9:00 a.m. and 5:00 p.m.~~ 10:00 a.m. to 7:00 p.m. from April 15 to October 15 and 10:00 a.m. to 5:00 p.m. from October 16 to April 14, prevailing time, on Mondays through Saturdays and shall notify the police officer on duty at least once in every week in which he/she plans to conduct his/her activities."

SECTION 6:

Section 248-20, is amended as follows:

248-20 Prohibited acts

Sub-section A. (10) is amended to read: "Canvass, solicit or distribute circulars or other matter or call from house to house in the Township to sell goods, either in bulk or by sample, or take orders for future delivery, with or without accepting advance payments for the goods, or engage in the business of a huckster, hawker or peddler, except ~~between the hours of 9:00 a.m. and 5:00 p.m. on weekdays~~ during the days and hours designated."

SECTION 7:

Inconsistent Ordinances: Any ordinances of the Township of Clark which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8:

Effective Date: This Ordinance shall take effect upon adoption and publication, according to law.

Effective Date:

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

SALVATORE BONACCORSO
Mayor

Ord17/9-18AmendCh248Solicitors
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK

Resolution _____

September 18, 2017

6

Motion _____ Second _____

WHEREAS John Moricz was appointed to the Board of Adjustment (the Board) on January 1, 2015; and

WHEREAS Mr. Moricz resigned from the Board on August 24, 2017; and

WHEREAS Mayor Sal Bonaccorso has appointed the following members to serve as indicated:

William Helm	Regular Member	Filling the unexpired term of John Moricz ending December 31, 2018
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Christopher Tierney	Alternate I Member	Filling the unexpired term of William Helm Ending December 31, 2018
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WHEREAS the appointments require the advice and consent of the Council.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, State of New Jersey that it hereby confirms the above mentioned appointments to the Board of Adjustment.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18AppointZoningBoardreplacements
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK

Resolution _____

September 18, 2017

7

Motion _____ Second _____

WHEREAS the Local Public Contracts Law provides exceptions to public bidding requirements whereby any contract, the amount of which exceeds the bid threshold, may be negotiated and awarded by Resolution of the Governing Body in specified areas of procurement; and

WHEREAS NJSA 40A:11-5(f) allows for the supplying of any product or the rendering of any service by a public utility which is subject to the jurisdiction of the Board of Public Utilities or the Federal Energy Regulatory Commission; and

WHEREAS the Township's current supplier of electricity, Liberty Power, has submitted a proposal for a 24-month contract at a renewal rate of 0.09111/kWh.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Township of Clark hereby affirms the New Jersey Energy Services Enrollment Agreement with Liberty Power for a 24-month period ending December 2019.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18LibertyPower

Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK
Resolution _____

8

Motion _____ Second _____

**RESOLUTION EXPRESSING OPPOSITION TO LEGISLATIVE PROPOSALS
REGARDING THE OPEN PUBLIC MEETINGS ACT
AND OPEN PUBLIC RECORDS ACT**

WHEREAS, the New Jersey Senate Budget and Appropriations Committee took action on Senate Bill Nos. 1045 and 1046, which amend the Open Public Meetings Act and Open Public Records Act, respectively, on June 29, 2017; and

WHEREAS, the Committee released the bills to the full Senate without recommendation because the bills are unnecessary, unpopular with the public, and would result in significant financial and administrative burdens on municipalities; and

WHEREAS, the bills fail to adequately protect taxpayers, municipalities and, especially, municipal clerks from abusive, harassing, and purposefully confrontational individuals who submit voluminous requests for no legitimate reason; and

WHEREAS, the legislation would expand the Open Public Meeting Act to create impractical and burdensome requirements with respect to subcommittees and working groups established by the entire governing body, which would effectively limit the ability of small groups of local officials discussing issues of public concern for the purposes of informing the governing body; and

WHEREAS, under the bills, the responsibilities of municipal clerks, who the Legislature has already loaded with responsibilities beyond the scope of their office, would be stretched even further than current law requires without a single dollar of additional resources provided to, or authorized to be collected by, municipalities; and

WHEREAS, the bills would impose a financial burden on municipalities that would not be offset by a revenue source other than the property tax, making the bills unfunded mandates prohibited by the New Jersey Constitution; and

WHEREAS, some municipalities are more equipped than others to meet the burdens that would be imposed by Senate Bill Nos. 1045 and 1046, however, without assistance of any kind from the States or the courts, every municipality would be on its own to meet the myriad new requirements of the law.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Clark, that the Legislature is strongly urged to reject Senate Bill Nos. 1045 and 1046 and draft new legislation to modernize OPRA and OPMA while providing municipalities and clerks with the resources to effectuate these changes for the benefit of the public.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be filed with the legislative sponsors of Senate Bill Nos. 1045 and 1046 and Assembly Bill Nos. 2697 and 2699, the Speaker of the General Assembly, the President of the Senate, and the Governor, and all parties are urged to listen to the concerns of local officials and prevent Senate Bill Nos. 1045 and 1046 from becoming law.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18OpposeOPMA-OPRALegislation
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK
Resolution _____
September 18, 2017

9

Motion _____ Second _____

WHEREAS an application has been filed for a Person-to-Person transfer of Plenary Retail Distribution License Number 2002-44-008-005, heretofore issued to Rotondos Oak Ridge Liquors, Inc.; and

WHEREAS the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term 2017-2018; and

WHEREAS the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

WHEREAS the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business.

NOW, THEREFORE BE IT RESOLVED that the Governing Body of the Township of Clark does hereby approve, effective September 18, 2017 the transfer of the aforesaid Plenary Retail Distribution License to BV Liquor LLC, 1040 Lake Avenue, Clark, NJ 07066 and does hereby direct the Township Clerk to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to BV Liquor LLC, effective September 18, 2017."

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18ABCPER-PerRotondos-BVLiquor
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK

Resolution _____

September 18, 2017

CA 10

Motion _____ Second _____

**Resolution Endorsing the Housing Element and Fair Share Plan of the
Township of Clark, Union County, New Jersey**

WHEREAS, the Planning Board of the Township of Clark, Union County, State of New Jersey, adopted a revised Housing Element and Fair Share Plan of the Township's Master Plan dated September 7, 2017; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element and Fair Share Plan is attached pursuant to N.J.S.A. 40:55D-28; and

WHEREAS, the Planning Board adopted the Housing Element and Fair Share Plan at its duly noticed public hearing on September 7, 2017; and

WHEREAS, the Governing Body of the Township of Clark, in consultation with its legal counsel and planning consultant, has reviewed the above-referenced plan and believes that said Housing Element and Fair Share Plan is in the best interest of the Township of Clark and consistent with the goal of meeting its constitutional obligation to provide its fair share of affordable housing of low and moderate income persons.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Township of Clark, Union County, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan dated September 7, 2017 as adopted by the Clark Township Planning Board; and

BE IT FURTHER RESOLVED that the Township of Clark Master Plan Map be revised to reflect the above adoption of the Housing Element and Fair Share Plan; and

BE IT FURTHER RESOLVED that the Governing Body of the Township of Clark, directs that a certified copy of this Resolution be provided to the Township Attorney, Planning Consultant, the Honorable Karen Cassidy, Assignment Judge, Superior Court of New Jersey, Union County, and Special Master, Elizabeth McKenzie together with all other parties in interest as may appear on the service list filed IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF CLARK, A MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY Docket No: UNN-L-002441-15

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18EndorsingHousingElement-FairSharePlan
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK

Resolution _____

September 18, 2017

CA 11

Motion _____ Second _____

RESOLUTION

ADOPTING THE AFFIRMATIVE FAIR HOUSING MARKETING PLAN FOR
THE TOWNSHIP OF CLARK, COUNTY OF UNION, NEW JERSEY

WHEREAS, in accordance with the Fair Housing Act and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26-1, *et seq.*), the Township of Clark is required to adopt by resolution an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created within the Township of Clark are affirmatively marketed to low and moderate income households, particularly those living and/or working within Housing Region 2, the Housing Region encompassing the Township of Clark.

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the Township of Clark, County of Union, State of New Jersey, does hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

All affordable housing units in the Township of Clark shall be marketed in accordance with the provisions herein unless otherwise provided by law or regulation of the State of New Jersey.

This Affirmative Marketing Plan shall apply to all developments that contain or will contain very low, low and moderate income units, including those that are part of the Township's prior round Fair Share Plan and its current Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan.

The Affirmative Marketing Plan shall be implemented by an Administrative Agent designated by and/or under contract to the Township of Clark. All the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developers/sellers/owners of the affordable unit(s).

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 or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Township of Clark is in Housing Region 2, consisting of Essex, Morris, Union and Warren Counties.

The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all available units have been leased or sold.

The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, with the advertisement subject to the review and approval of the Administrative Agent and paid for by the owner/developer/landlord.

Advertisements will be published in the following newspaper covering the entire Housing Region 2: The Star Ledger of Newark and the Express Times of Easton.

Advertisements will be published in at least three locally oriented weekly newspapers within the region, one of which shall be circulated primarily within Union County and the other two of which shall be circulated primarily outside of Union County but within the housing region. In addition, information should be posted in the publications, Tap into Clark: Worrall Community Newspapers of Essex County and New Jersey Hills Media Group of Morris County.

Advertisements will be broadcast on the following regional cable television station: TV 36 Clark and TV 35 Cranford.

Advertisements will be placed on the following websites: Town of Clark Website <http://www.ourclark.com/>, NJ Housing Resource Center at <http://www.njhrc.gov/>.

The advertisement shall include a description of the:

1. Street address(es) of the units;
2. Directions to the units;
3. Range of prices for the units;
4. Numbers of bedrooms in units (bedroom mix);
5. Maximum income permitted to qualify for the units;
6. Location of applications;
7. Application fees, if any;
8. Number of units currently available; and
9. Anticipated dates of availability.

The Administrative Agent shall develop, maintain and regularly update a list of community contact person(s) and/or organizations(s) in Essex, Morris, Union and Warren Counties that will aid in Clark's affirmative marketing program. The list shall include as many contacts that will reach out to groups that are least likely to apply for housing within the region. Information shall be sent quarterly to every entity on the Township's affirmative marketing list: Please see Appendix I at the end of this Resolution for a list of all current community contacts, including reaching those least likely to apply, major employers, institutions, public entities, etc. In addition, specific notice of the availability of affordable units, along with application forms, shall be sent to the following entities listed in the Settlement Agreement: FSHC (510 Park Blvd, Cherry Hill, NJ); the Latino Action Network (PO Box 943, Freehold, NJ 07728); East Orange NAACP (PO Box 1127, East Orange, NJ 07019); Newark NAACP (PO Box 1262, Newark, NJ 07101); Morris Co. NAACP (PO Box 2256, Morristown, NJ 07962); Elizabeth NAACP (PO Box 6732, Elizabeth, NJ 07206), and the Supportive Housing Association, 15 Alden St # 14, Cranford, NJ 07016.

Preliminary Applications

Locations of applications, brochures, and flyers to affirmatively market the program are listed in Appendix II. Preliminary applications or links to online preliminary applications shall be provided by the Administrative Agent, the Developer, and the Municipal Housing Liaison to prospective applicants upon request. When on-line preliminary applications are utilized, if prospective applicants do not have internet access they will be given a phone number to call the Administrative Agent, who will then enter all pre-application information online during the phone call, and mail them a confirmation and details. If applicant prefers completing a paper copy themselves, a paper copy will be sent by mail to the prospective applicant.

Random Selection

Whenever necessary, a random selection method to select occupants of low and moderate income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (I). The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2 comprised of Essex, Morris, Union and Warren Counties.

Administration of Affirmative Marketing Plan

The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to provide for the initial occupancy of low and moderate income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26-1, et seq.

Whenever appropriate, the Administrative Agent shall provide or direct qualified low and moderate income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law. The Administrative Agent shall develop, maintain and update a list of entities and lenders willing and able to perform such services.

All developers/owners of low and moderate income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.

The implementation of the Affirmative Marketing Plan for a new development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all affordable housing units are initially occupied and for as long as affordable units exist that remain deed restricted and for which the occupancy or re-occupancy of units continues to be necessary. Please note that in addition to complying with this Township-wide Affirmative Marketing Plan that the Administrative Agent shall also review and approve a separate Affirmative Marketing Plan for every new affordable development in Clark that is subject to N.J.A.C. 5:80-26.1 et seq. That document shall be completed by the owner/developer and will be compliant with the Township's Affirmative Marketing Plan as presented herein, and incorporate development

specific details and permitted options, all subject to the Administrative Agent's review and approval. The development specific affirmative marketing plans will use the standard form for Region 2, included at the end of this document as Appendix III.

The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C. 5:80-26-1, et seq.

I hereby certify that this is a true copy of a resolution duly adopted by the Governing Body of the Township of Clark at a Council meeting held on September 18, 2017.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18AffordableHousingMarketingPlan
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

CA 12

TOWNSHIP OF CLARK

Resolution _____

September 18, 2017

Motion _____ Second _____

**RESOLUTION ADOPTING THE
AFFORDABLE HOUSING SPENDING PLAN**

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and any other funds collected in connection with the Township of Clark's affordable housing program; and

WHEREAS, a municipality with an affordable housing trust fund is required to adopt a spending plan prior to spending any of the funds in its housing trust fund; and

WHEREAS, a spending plan is required to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity; and
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned; and
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues; and
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9; and
5. A schedule for the expenditure of all affordable housing trust funds; and
6. If applicable, a schedule for the creation or rehabilitation of housing units; and
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and

8. A plan to spend the trust fund balance existing as of the Court's approval of the Spending Plan within four years of the Court's approval of the spending plan; and
9. A plan to spend and/or contractually commit all future development fees and payments in lieu of construction within four years of the receipt of such funds; and
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation; and

WHEREAS, The Township of Clark has prepared a spending plan consistent with the foregoing and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Township of Clark does hereby adopt the Affordable Housing Spending Plan dated September 18, 2017.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18AffordableHousingSpendingPlan
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

CA 13

TOWNSHIP OF CLARK
Resolution _____
September 18, 2017

Motion _____ Second _____

WHEREAS Chapter 66, Section 14B of the Code of the Township of Clark requires the designation by resolution of one or more Administrative Agents to administer newly constructed affordable housing and rehabilitation units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and the Uniform Housing Affordability Controls (UHAC) set forth in N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS two proposals were solicited from qualified firms to perform the Professional Services as required by the Code; and

WHEREAS the proposal submitted by CGP&H of Cranbury, New Jersey meets the needs and criteria of the Township as determined by the RFP Review Committee.

NOW, THEREFORE BE IT RESOLVED by the Governing Body of the Township of Clark, County of Union, New Jersey that it hereby awards a Professional Services contract to CGP&H as the Administrative Agent responsible for the administration of affordable units; and

BE IT FURTHER RESOLVED that the Business Administrator is hereby authorized and directed to enter into a contract with CGP&H for a one-year period beginning March 6, 2017 in an amount not to exceed \$31,850.00.

BE IT FURTHER RESOLVED that, each year, the Governing Body of the Township of Clark, County of Union, New Jersey will award a contract, either to CGP&H or to another qualified Administrative Agent, as approved by the Court, for that year.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18AffordableHousingAdminAgentCGP&H
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

TOWNSHIP OF CLARK
Resolution _____
September 18, 2017

CA 14

Motion _____ Second _____

RESOLUTION ADOPTING AFFORDABILITY ASSISTANCE PROGRAM

WHEREAS, the Township of Clark is required to allocate at least 30 percent of all development fees collected and interest earned to provide affordability assistance to low- and moderate-income households in affordable units; and

WHEREAS, of the required affordability assistance funds, at least one third are required to be reserved for assistance to very low income households; and

WHEREAS, the Township has retained CGP&H to prepare an Affordability Assistance Manual that complies with applicable law; and

WHEREAS, CGP&H has prepared all the documents necessary to implement a fully compliant Affordability Assistance Program (see Exhibit A); and

WHEREAS, the Township has reviewed the documents CGP&H has prepared and finds them to be appropriate and wishes for CGP&H to commence implementation immediately; and

WHEREAS, the Township of Clark anticipates that it will fund the Affordability Assistance Program through development fees.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Township of Clark that it hereby formally approves the Affordability Assistance Program prepared by CGP&H and hereby directs CGP&H to commence implementation.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18AffordabilityAssistanceProgram
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____

Motion _____ Second _____

**RESOLUTION OF INTENT TO APPROPRIATE FUNDS OR BOND TO FUND FOR SHORTFALL IN
THE TOWNSHIP'S AFFORDABLE HOUSING PROGRAM**

WHEREAS Clark Township has submitted to the Court of Competent Jurisdiction for substantive certification its adopted Housing Element and Fair Share Plan; and

WHEREAS the plan submitted allocates funds for:

1. Housing Rehabilitation Program; and
2. Affordability Assistance Program; and

WHEREAS Clark Township anticipates that funding will come from the following sources to satisfy these obligations:

1. Development Fee Ordinance; and
2. In-lieu of payments; and
3. Interest; and

WHEREAS in the event that the above funding sources prove inadequate to fund the Housing Rehabilitation Program included in Clark Housing Element and Fair Share Plan, Clark Township shall provide sufficient funding to address any shortfalls.

NOW, THEREFORE BE IT RESOLVED by the Township Council of Clark Township, Union County, State of New Jersey, that the Township Council does hereby agree to appropriate funds or authorize the issuance of debt to fund any shortfall in its affordable housing program that may arise whether due to inadequate funding from other sources or for any other reason; and

BE IT FURTHER RESOLVED that Clark Township may repay such debt through future collections of development fees, as such funds become available.

ATTEST:

APPROVED:

EDITH L. MERKEL, RMC
Township Clerk

ANGEL ALBANESE
Council President

Res17/9-18AffordableHousingFundShortfall
Aye Nay Abstain Absent

Barr	_____
Hund	_____
Mazzarella	_____
O'Connor	_____
Smith	_____
Toal	_____
Albanese	_____