

**REGULAR MEETING**  
**Mayor and Council**  
**Borough of Harrington Park, New Jersey**  
**June 17, 2019**

**(PAH) Call Meeting to Order**                      **Time: 7:00pm**

**Mayor's Announcement:**

In compliance with Chapter 231, Public Law 1975, adequate notice of the meeting was made. It is included in the Annual Meetings posted on the bulletin board in the Municipal Center. Copies have been emailed to the BERGEN RECORD, SUBURBANITE and THE NORTHERN VALLEY PRESS. A copy has been filed with the Borough Clerk, and copies have been provided to individuals requesting the same.

**(ALB) Roll Call:**

	PRESENT	ABSENT
NAPOLITANO(AN)	x	
EVANELLA (GE)	x	
WALKER (DW)		x
BROCKMAN (JB)	x	
PEDERSEN (JP)	x	
CHUNG (JC)	x	

**Also present:**

- Ms. Ann H. Bistriz, Borough Clerk (ALB)**
- Mr. Kunjesh Trivedi, CFO CTC (KJT)**
- Mr. John Dineen, Borough Attorney (JRD)**

**(PAH) Flag Salute**

**(PAH) Suspend the Regular Order of Business**

- Motion GE**
- Second JP**
- Vote AIF**

**(PAH) Harrington Park Police Department-Speeding on Lohs Place**

Chief Maalouf refreshed Council with a discussion of several years ago regarding the speeding issue on Lohs Place. Drivers disregard any efforts to curb speeding, and he has asked Officer Flyge to look into options.

Officer Flyge suggested two options to help with speeding in the area of question. One is to use portable speed bumps at about \$600-\$800 per bump, however, they tend to damage the road and can be an issue with new pavement. This type of speed bump also is required to be removed each winter season to enable plowing. The second option is to pave bumps into the road and apply the appropriate signage and striping. A third option, is to paint the optical illusion of a speed bump, however, drivers disregard this one quicker than any other means of slowing driving speeds.

Mark Kiernan recommends the paved speed bumps since they have a much longer life and as long as they are marked appropriately, plowing issues are minimal. Officer Flyge recommends two speed bumps along Lohs Place which have been quickly estimated by Neglia Engineering as costing approximately \$5000 per speed bump. AN noted the cost differential between the two options. He questioned if the removable ones were used, perhaps, that would initiate a change in habit. GE noted that the Council has this discussion with the residents on Highland Avenue, however, they requested stop signs to slow the traffic which are placed about half way down the roadway.

KJT explained that this addition to the upcoming paving project has not been budgeted or bonded for, and at this time there is no extra funds to pay for this request.

KJT and Officer Flyge will reach out to D & L Paving to discuss this request and see how it may or may not be resolved.

JRD noted that Neglia Engineering needs to be involved to ensure they are properly constructed.

KJT stated that requests like this need to be submitted to his office at the beginning of a project, as well as at the beginning of the year so it can be budgeted accordingly.

The last time Lohs Place was paved was approximately 15 years ago and the traffic flow has increased.

Discussion followed regarding the issuing of tickets in the area, and possibly addressing the speeding any way possible for the short term. PAH requested police presence in the area whenever feasibly possible.

Laurie Lynn O'Neil, First Street-Her street is the only bus stop in Harrington Park for the HP School, and she has witnessed drivers of all ages speeding in that area. It's a serious accident waiting to happen. She supports the installation of speed bumps on Lohs Place and is grateful that the street will be paved this summer.

Adam Fingerth, Resident

Inquired into the housing project on Old Hook Road and its ability to provide first responders for its residents. He had concerns that the development would overload our volunteer services. ALB noted that Allegro was providing ambulance and security services. AN added that the Fire Department, Ambulance Corps, Police and OEM had many discussion directly with the developer to ensure all needs are met for each department.

Jesse Barragato, Schraalenburgh Road (Planning Board/Fire Department)

Confirmed that Allegro will provide their own ambulance services and security, and will use the Borough services as a backup if necessary. Agreement was made with the Fire Department to have certain recommended equipment on the grounds of the development.

**(PAH) Return to the Regular Order of Business**

**Motion GE**

**Second JP**

**Vote AIF**

**(PAH) Minutes Approval**

**May 20, 2019**

**Motion GE**

**Second AN**

**Discussion none**

**Vote AIF (Abstention JB, JC)**

**June 10, 2019**

**Motion AN**

**Second JC**

**Discussion none**

**Vote AIF (Abstention JP)**

**(PAH) Consent Agenda-Resolutions-**

**All matters listed under this section are considered to be routine by the Borough Council and will be enacted by one motion as listed below. There will not be separate discussion of these items. Should discussion be desired, that item will be removed from the Consent Agenda and will be considered separately under New or Old Business on the Agenda.**

**Consent Approval (A-D)**

A 2019-98 Escape New York, Charity Bicycle Ride

B 2019-99 Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the LaRoche Avenue Roadway Improvements project.

C 2019-100 Field Usage Speed Soccer Camp

D 2019-101 Payment of Claims

**Motion GE**

**Second JP**

**Roll Call AIF**

**(PAH) Consent Correspondence "AA"**

**Motion JP**

**Second JC**

**Vote AIF**

## **Individual Committee Reports**

### **(PAH) Mayor Hoelscher**

#### **(AN) Planning Bd., Bd. of Adjustment, Construction, Fire, Ambulance**

Building Department-\$11580.00 in permits

Ambulance-12 local calls and 7 mutual aid

Fire Department will forward at a later date

#### **(GE) Police, Municipal Court, Personnel**

512 calls, 164 traffic details, 6 motor vehicle accidents

No DUI- 2 YTD

4388 miles driven the month of May-YTD 23,618 (almost the circumference of the Earth at the Equator; not from North to South poles since the Earth is an Oblate Spheroid)

359 Summons

OT \$20,000.00 YTD

O/E \$26,000 YTD

1 IA still ongoing

#### **(DW) DPW, Building & Grounds, Sanitation/Recycling**

#### **(JB) Board of Health, Environmental Commission**

Municipal Bee Hives are doing well and have been supplemented so there may be honey to sell this Fall at the Farmers Market

Green Team worked with the school to refurbish their gardens

Cleatus Farms will be working with the EC and the Borough to plant in the late Summer/Fall.

Plastic bans have been put in place in Paramus and Glen Rock, so there is a possibility that Harrington Park EC will recommend to follow suit.

#### **(JP) Finance, Admin. & Exec., Grants**

Bond estopple period ends July 1, 2019 when resolutions will be emailed for approval so contracts can be signed for Riverside Cooperative paving project. Same for bid packages for NJDOT Hackensack Avenue paving.

Audit is almost complete.

New Bond on the agenda for the purchase of Fire Trucks and some equipment for the Police Department and the Court.

Portico has been ordered

New Plumbing Inspector will begin June 24, 2019

#### **(JC) Recreation Commission, Liaison to Board of Education, Public Information**

BOE budget is \$14,152,812.00 and for the average home will be approximately \$208 per year increase.

School will be bond free in 2 years.

School discussions have commenced for the Safe Street Grant for next year's award.

Recreation:

Soccer registration opens this week.

Trust account has been established for soccer

Baseball/softball finishes the week of June 22

Fishing Derby-June 16 was a huge success. Thank you for Lucas Bogosian, professional Angler who provided prizes and brought his fishing boat for the all the see.

Discussion perused regarding dog waste in the parks. JC requested residents to be notified that this is unacceptable. Perhaps Police can remind and warn residents of their responsibility.

**(ALB) Borough Clerk/Administrator**

**Signage for Allegro Project on Old Hook Road**-JRD recommends that Allegro return to Planning Board to discuss.

**Attendance for July Meetings-July 8<sup>th</sup> and July 15<sup>th</sup>. July meeting will be cancelled.**

**Old Business**

**New Business**

(AN) Requested that ALB reach out to DPW to have them remove the spray paint from the George St. Sign

Also inquired about the missing flag pole from the Post Office. JRD noted the building is a federal/private business and this is not municipal property. GE added that in the past the Borough had reached out to owner to repair sidewalks, which notably have not been done. JRD requested the address of the new owner and he inform them of their responsibility.

(JB) The Farmers Market is considering holding the Fall dates at Highland Field for better exposure. Borough Hall lot was chosen with the hopes that the church traffic would bring in customers. Highland Field will bring better exposure to those driving by and may be better for all the vendors. Depending on the response to the Fall Market, the early dates may be discontinued next year.

**(PAH) Mayor's Report**

All may notice the that Suez building has been torn down with only the stairwell remaining. Project should take 18-24 months to complete.

Congratulations to JC for bringing incredible musical talent to Ridgewood, as President of the Ministry she is a member of.

Thank you to JC and all those who worked on the Fishing Derby-it was a great event.

Residents are still complaining about the deer population, neighboring municipalities and the County are still trying to figure things out.

Assemblywoman Shepisi is working to reach out to CSX to address our local issues with the railways.

Dino's Restaurant has sold, after 31 years, and we welcome the new owners of Donatella's to our community.

**Ordinances**

**(GE) Second Reading of Ordinance #733 by Title -Addendum E  
Amendment to Ordinance #331-5 Vehicles and Traffic-Interpretation of Terms**

**Motion GE**

**Second JP**

GE noted that this ordinance prohibits residents that have moved out of town, and still have a parking pass on their vehicle, can no longer park in our designated areas without paying the annual fee.

**(PAH) Meeting Open to the Public for Discussion of Ordinance #733 Only**

**Motion GE**

**Second JP**

**Vote AIF**

**(PAH) Meeting Closed to Public Discussion of Ordinance #733**

**Motion GE**

**Second JP**

**Vote AIF**

**Council Discussion #733 NONE**

**Roll Call Vote AIF**

**(AN) Second Reading of Ordinance #734 by Title-Addendum F**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 85  
"AFFORDABLE HOUSING" OF PART II, GENERAL LEGISLATION, OF THE  
CODE OF THE BOROUGH OF HARRINGTON PARK, TO ADDRESS THE  
REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM  
HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING  
COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING  
OBLIGATIONS**

**Motion AN**

**Second JC**

**(PAH) Meeting Open to the Public for Discussion of Ordinance #734 Only**

**Motion GE**

**Second JP**

**Vote AIF**

**(PAH) Meeting Closed to Public Discussion of Ordinance #734**

**Motion HE**

**Second JC**

**Vote AIF**

**Council Discussion #734 NONE**

**Roll Call Vote AIF**

**Second Reading of Ordinance #735 by Title-Addendum G  
AMENDMENT TO ZONING ORDINANCE Permitting Overlay Zoning for  
Affordable Housing May, 2019**

**Motion AN**

**Second JB**

**(PAH) Meeting Open to the Public for Discussion of Ordinance #735 Only**

**Motion GE**

**Second JP**

**Vote AIF**

**(PAH) Meeting Closed to Public Discussion of Ordinance #735**

**Motion GE**

**Second JP**

**Vote AIF**

**Council Discussion of Ordinance #735 NONE**

**Roll Call Vote AIF**

**(JP) Introduction Bond Ordinance #736 by title only-Addendum H  
BOND ORDINANCE PROVIDING FOR THE ACQUISITION  
OF TWO (2) FIRE TRUCKS AND OTHER MISCELLANEOUS  
EQUIPMENT, BY AND IN THE BOROUGH OF HARRINGTON  
PARK, IN THE COUNTY OF BERGEN, STATE OF NEW  
JERSEY; APPROPRIATING \$1,403,000 THEREFOR AND  
AUTHORIZING THE ISSUANCE OF \$1,336,190 BONDS OR  
NOTES OF THE BOROUGH TO FINANCE PART OF THE  
COST THEREOF**

**Motion JP**

**Second AN**

**Roll Call Vote AIF**

~~**(PAH) Motion for Closed Session Time:**~~

~~\_\_\_\_\_ **Second**~~

~~\_\_\_\_\_ **Vote**~~

**RESOLUTION**

~~WHEREAS, N.J.S.A. 10:4-12 permits a public body to conduct business in Closed Session during a public meeting; and~~

~~WHEREAS, the Mayor and Council deem it necessary to discuss certain matters in Closed Session as permitted by the aforesaid statute.~~

~~BE IT FURTHER RESOLVED that discussion of the aforementioned subjects may be made public at such time as disclosure of the discussion will not detrimentally affect the interest and Borough as to said discussion.~~

~~Return to Open Session  
Adjournment-Time: 8:01PM  
Motion: GE  
Second: JP  
Vote: AIF~~

**Addendum A  
RESOLUTION  
2019-98**

**Escape New York, Charity Bicycle Ride**

WHEREAS, the New York Bicycle Club has applied for permission to use roadways within Harrington Park to conduct their Escape New York Charity Bicycle Ride on September 25, 2019 between the hours of 11am-4pm; and

WHEREAS, the proceeds raised by the event will be used to support I Challenge Myself and Recycle-a-Bicycle's Kids Ride Club; and

WHEREAS, the New York Bicycle Club will encompass many towns in Bergen County commencing and ending in Manhattan, New York, and

WHEREAS, the bike tour will pass through the Borough of Harrington Park involving at least 1000 riders; and

BE IT RESOLVED, that the Harrington Park Police Department, the Harrington Park Volunteer Fire Department and the Harrington Park Volunteer Ambulance Corps be notified of the event and proper insurance be filed with the Borough; and

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Harrington Park that there is no objection to the conducting of the New York Bicycle Club's Escape New York, Charity Bicycle Ride, as hereinbefore mentioned

**Addendum B  
RESOLUTION**

**2019-99**

**Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the LaRoche Avenue Roadway Improvements project.**

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Harrington Park formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2020-LaRoche Avenue Roadway Improvements-00171 to the New Jersey Department of Transportation on behalf of the Borough of Harrington Park.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Harrington Park and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Hackensack Avenue Roadway Improvements project.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Harrington Park formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2020-Hackensack Avenue Roadway Improvements-00170 to the New Jersey Department of Transportation on behalf of the Borough of Harrington Park.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Harrington Park and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

**Addendum C  
Resolution**

**2019-100**

**Field Usage Speed Soccer Camp**

**WHEREAS**, Mark Torrie DBA Speed Soccer, LLC has requested to lease the lower front field Highland Field for the sole purpose of operating a soccer camp for the following date:

**2019 Speed Soccer Camps at Highland Field**

August 5-August 9, 2019

**WHEREAS**, Speed Soccer Camp has agreed to pay a fee of \$750 (\$150/per day) per session for use of the facility of the specified dates, whether the field is used or not; and

**WHEREAS**, said fee shall be paid by the end of the rental period payable to “The Borough of Harrington Park-Recreation Trust”; and

**WHEREAS**, the Borough has determined that Speed Soccer, LLC is a responsible company.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Harrington Park hereby authorizes the Speed Soccer, LLC to rent Highland Field in accordance to Harrington Park Recreation Field Use Agreement during the weeks noted above at the fee of \$750 per week to be paid pursuant to the Agreement

**Addendum D  
RESOLUTION**

**2019-101**

**WHEREAS**, claims have been submitted to the Borough of Harrington Park in the following amounts under various funds of the town:

Current Appropriations (2018)	\$
Current Appropriations (2019)	\$ 116,350.37
General Capital Fund	\$ 14,346.21
Animal Trust	\$ 537.20
Miscellaneous Trust	\$ 10,735.90
Affordable Housing Trust	\$
Open Space Trust Fund	\$
Grants	\$ 1,426.18
<b>Total</b>	<b>\$ 143,395.86</b>

**WHEREAS**, above claims have been listed and summarized in the attached Bills List Report, and the corresponding vouchers have been reviewed and approved by the department head, Borough Council, and the chief financial officer; and

**WHEREAS**, the Chief Financial Officer has determined that the funds have been properly appropriated for such purposes and are available in the Borough of Harrington Park and that the claims specified on the schedule attached hereto, following examination and approval by the Council and Chief Financial Officer and Department Head be paid and checks issued

accordingly; and

**WHEREAS**, claims have already been paid in the following amounts for the purpose specified below:

Payroll- Salaries/Wages	\$ 118,437.90
Payroll- Salaries/Wages	\$ 120,604.76
Local School-	\$2,023,312.00
Regional School – April 2019	\$ 676,166.25
Health Benefits- June 2019	\$ 43,846.12
Pensions- 2019	\$
Debt Services Principle (bond)	\$
Debt Services Interest	\$
Debt Service Loan/Interest (NJEIT)	\$
<b>TOTAL</b>	<b>\$ 2,982,367.03</b>

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Harrington Park that the claims totaling **\$3,125,762.89** be approved and ratified respectively.

**Addendum E**  
**Proposed Ordinance Amendment #733**  
**AMENDMENT TO ORDINANCE §331-5 VEHICLES AND TRAFFIC-**  
**INTERPRETATION OF TERMS**

WHEREAS the Mayor and Council have determined that nonresidents are obtaining “residential parking permits” and using the municipal parking areas. The Mayor & Council have determined to stop this practice.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council that the INTERPRETATION OF TERMS as defined in § 331-5 (D) is hereby amended as follows;

The following language shall be added after the last sentence “Residential parking permits shall be issued by the Chief of Police for use only by bona fide residents of the Borough. When a resident moves from Harrington Park, the permit will be forfeited and void. Any vehicle, displaying a residential permit for a vehicle not registered to a property owner in Harrington Park or vehicle customarily used by a Harrington Park resident will in addition to all such other penalties contained in this ordinance, “Vehicles and Traffic” will be subject to a fine of not more than \$100 for each day of parking in any such designated municipal area and displaying such invalid “Permit”.

**Addendum F**  
**Proposed Ordinance #734**

**WHEREAS**, on July 8, 2015, the Borough of Harrington Park had filed and served on all interested parties a Complaint for Declaratory Judgment with respect to the Borough of Harrington Park’s affordable housing obligation; and

**WHEREAS**, the Borough of Harrington Park and Fair Share Housing Council, in consultation with the Court-appointed Master and the Borough’s Planner, entered into a proposed settlement agreement on November 6, 2017; and

**WHEREAS**, following a fairness hearing on January 25, 2018, the Court approved the aforesaid proposed settlement agreement; and

**WHEREAS**, the purpose of the within ordinance is to address the Borough of Harrington Park’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that very low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy those units. This Ordinance shall apply, except where inconsistent with applicable law.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Harrington Park, Bergen County, New Jersey, as follows:

**SECTION 1.** Chapter 85 “Affordable Housing” of Part II, General Legislation, of the Code of the Borough of Harrington Park is hereby amended to read in full as follows:

## **Chapter 85**

### **Affordable Housing**

#### **§85-1. General Program Purposes, Procedure.**

##### **A. Affordable Housing Obligation.**

- (1) This Chapter sets forth regulations regarding the low- and moderate-income housing units in the Borough of Harrington Park consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing,” the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq., and the Borough’s constitutional obligation to provide a fair share of affordable housing for low- and moderate-income households. In addition, this Chapter applies requirements for very low-income housing established in P.L. 2008, c.46 (the “Roberts Bill”).
- (2) 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.
- (3) The Borough of Harrington Park Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Harrington Park Borough shall address its fair share for low- and

moderate-income housing as determined by the Superior Court and documented in the Housing Element.

- (4) This Chapter implements and incorporates the Fair Share Plan and addresses the requirements of the Act and regulations thereunder, as may be amended and supplemented.
- (5) The Borough shall file monitoring reports with the Superior Court and place the reports on its municipal website. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by the Special Master shall be available to the public at the Borough of Harrington Park Municipal Building, 85 Harriot Avenue, Harrington Park, New Jersey.

#### B. Definitions.

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

**“Accessory Apartment”** means a second dwelling unit on a lot containing a single-family dwelling, which existed at the time of the adoption of this article, which second unit may be located within a principal structure, added to a principal structure or located in a separate accessory building. The creation of such a dwelling unit shall be clearly incidental to the primary use of the property as a single-family dwelling and shall in no way confer upon the property owner any future rights to subdivide the existing lot in order to place each unit on a separate lot unless such a subdivision and the structures involved could conform to all municipal zoning standards. Accessory apartments shall conform to the requirements of the New Jersey Council on Affordable Housing.

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

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

**“Administrative agent”** means the entity responsible for the administration of affordable units in accordance with this Chapter, N.J.A.C. 5:80-26.1 et seq.

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

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

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

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

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

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

**“Affordable unit”** means a housing unit proposed or created pursuant to the Act, and/or funded through an affordable housing trust fund.

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

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

**“Alternative living arrangement”** a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternate living arrangements 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”** means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**“Borough”** means the Borough of Harrington Park, Bergen County, New Jersey.

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

**“COAH”** means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

**“Construction”** means new construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under the State Uniform Construction Code promulgated pursuant to the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.).

**“Commissioner”** means the Commissioner of Community Affairs.

**“Council”** means the Council on Affordable Housing, established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

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

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

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

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

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

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

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

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

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

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

**“Median income household”** means the median income by household size for the applicable county, as adopted annually by COAH or approved by the New Jersey Superior Court.

**“Mixed use development”** means any development which includes both a non-residential development component and a residential development component, and shall include developments for which: (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this

definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including but not limited to lots separated by a street, a river, or another geographical feature.

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

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

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

**“Non-residential development”** means: (1) any building or structure, or portion thereof, including but not limited to any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code promulgated to effectuate the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.), including any subsequent amendments or revisions thereto; (2) hotels, motels, vacation timeshares, and child-care facilities; and (3) the entirety of all continuing care facilities within a continuing care retirement community which is subject to the “Continuing Care Retirement Community Regulation and Financial Disclosure Act,” P.L.1986, c.103 (C.52:27D-330 et seq.).

**“Non-residential development fee”** means the fee authorized to be imposed pursuant to Sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7).

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

**“Recreational facilities and community center”** means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including but not limited to ball fields, meeting halls, and classrooms, accommodating either organized or informal activity; and “senior center” means any recreational facility or community center with activities and services oriented towards serving senior citizens.

**“Regional asset limit”** means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by/approved regional income limits.

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

**“Relating to the provision of housing”** shall be liberally construed to include the construction, maintenance, or operation of housing, including but not limited to the provision of services to such housing and the funding of any of the above.

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

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

**“Spending plan”** means a method of allocating funds collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) for the purpose of meeting the housing needs of low and moderate income individuals.

**“Special Master”** means an expert appointed by a judge to make sure that judicial orders are followed. A master’s function is essentially investigative, compiling evidence or documents to inform some future action by the court.

**“Treasurer”** means the Treasurer of the state of New Jersey.

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

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

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

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

#### C. Accessory Apartment Program.

(1) All accessory apartments shall comply with the following:

- (a) Accessory apartments shall be a permitted accessory use in the R-1, R-2 and R-3 Zones.
- (b) Accessory apartments shall conform to the bulk requirements of the zone in which they are located, except for minimum lot size. For the purposes of this article, detached accessory apartments shall be considered structures, and accessory apartments attached to a principal dwelling shall be considered a principal structure.
- (c) The minimum lot size for accessory apartments in all zones shall be 7,500 square feet, except that where a property which is less than 7,500 square feet already contains an existing accessory structure which can be converted into an accessory apartment

without increase in its building footprint, such a unit can be counted as a qualifying accessory apartment, subject to all of the provisions and limitations specified herein.

- (d) Accessory apartments shall comply with all applicable codes and standards of the State of New Jersey and the Borough of Harrington Park. Each apartment shall contain at least 500 square feet of gross floor area, a minimum of two rooms and shall also contain a bathroom and kitchen facilities. Accessory apartments shall also have a separate entrance and, where attached to a principal structure, shall not have direct internal access.
  - (e) Accessory apartments shall be rented only to a household which is either a low- or moderate- income household in accordance with the rules of the New Jersey Council on Affordable Housing (COAH) at the time of initial occupancy. Rents shall be affordable to low- and moderate-income households and include appropriate utility allowances, in accordance with COAH regulations. One- half of the accessory apartments created shall be for low-income households; the other half shall be for moderate-income households.
  - (f) Properties containing accessory apartments shall be deed restricted to ensure that the accessory apartment shall be rented only to a low- or moderate-income household for a period of at least 10 years. Said deed restriction shall run with the land and shall be assignable to all successors or heirs.
  - (g) Each accessory apartment shall be connected to adequate potable water and sewage disposal systems.
  - (h) Accessory apartments shall be affirmatively marketed in accordance with COAH regulations within the housing region of the Borough of Harrington Park.
  - (i) The maximum height of any detached accessory structure containing an accessory apartment shall not exceed the maximum height permitted for principal structures in the zone.
  - (j) In no case shall a detached accessory structure containing an accessory apartment be located closer to a public street than the principal structure, except in the case of an existing accessory structure where no expansion is required.
  - (k) A minimum of one off-street parking space shall be provided for an accessory apartment, in addition to the off-street parking already provided on site for the principal structure.
  - (l) No accessory apartment created as a result of this Section or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.
- (2) Administrative requirements for Accessory Apartment Program.
- (a) The Borough of Harrington Park shall designate an administrative entity to administer the accessory apartment program.
    - [1.]The Borough or its assignee shall administer the accessory apartment program, including advertising, income-qualifying prospective renters, setting rents and

annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the accessory apartment program.

[2.]The Borough shall only deny an application for an accessory apartment if the project is not in conformance with COAH regulations, the municipal development ordinances or this Section.

[3.]In accordance with N.J.A.C. 5:93-5.9 of the COAH regulations, the Borough shall provide \$10,000 to subsidize the physical creation of an accessory apartment conforming to the requirements of this article and all other COAH requirements. Prior to the grant of such a subsidy and prior to the issuance of a building permit, the owner shall enter into a written agreement with the Borough of Harrington Park ensuring that:

- i. The subsidy will be used to create the accessory apartment; and
- ii. The apartment shall meet the requirements of this Section and COAH regulations.

(b) Applicants seeking to create an accessory apartment shall submit the following prior to the issuance of a building permit:

[1.] A sketch showing floor plans depicting the size and location of the rooms within the accessory structure and its relationship to the principal structure.

[2.] A site plan on a current survey depicting the location of all existing and proposed structures on site, parking and driveways, and clearly indicating all dimensions.

[3.] Building elevations showing all exterior building modifications proposed, including specifying materials, colors and window locations.

(c) The Borough hereby appoints the Harrington Park Affordable Housing Commission as the agency responsible for the administration, marketing, advertising and implementation of this Section pursuant to COAH regulations.

(3) Sunset clause for Accessory Apartment Program.

(a) The provisions of this article permitting accessory apartments shall become null and void, having no further force or effect upon the issuance of a certificate of occupancy for the sixth accessory apartment in the Borough of Harrington Park. The administrative provisions shall remain in full force and effect, unless otherwise modified by COAH regulations, until the last deed restriction expires.

#### D. Borough-wide Mandatory Set-Aside

(1) A multi-family or single-family development providing a minimum of five (5) new housing units created through any future development application, municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan is required to include an affordable housing set-aside of 20 percent if the affordable units

will be for sale and 15 percent if the affordable units will be for rent. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Harrington Park Borough to grant such rezoning, variance or other relief. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.

- (2) The requirement of Section 85-1 D(1) above shall not apply to any sites or specific zones otherwise identified in the Borough's Settlement Agreement with Fair Share Housing Center dated November 6, 2017, or in the Borough's Housing Element and Fair Share Plan, adopted by the Borough Planning Board and endorsed by the Borough Council, for which density and set-aside standards shall be governed by the specific standards set forth therein.

E. New Construction.

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

- (1) Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low- and moderate-income units.

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

- (2) Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (3) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- (4) Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
  - (b) 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.
  - (c) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
  - (d) Within rental developments, of the total number of affordable rental units, at least 13 percent shall be affordable to very low-income households.

- (e) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - [4.] The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
  - [5.] At least 30 percent of all low- and moderate-income units shall be two bedroom units;
  - [6.] At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
  - [7.] The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
- (f) 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.

(5) Accessibility Requirements.

- (a) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
- (b) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - [1.] An adaptable toilet and bathing facility on the first floor;
  - [2.] An adaptable kitchen on the first floor;
  - [3.] An interior accessible route of travel on the first floor;
  - [4.] An interior accessible route of travel shall not be required between stories within an individual unit;
  - [5.] An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
  - [6.] An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
    - [a] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
    - [b] To this end, the builder of restricted units shall deposit funds within the Borough's affordable housing trust fund sufficient to install accessible

entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

- [c] The funds deposited under subsection [b] above shall be used by the Borough 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.
- [d] 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 Official of Harrington Park Borough.
- [e] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to Harrington Park'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.
- [f] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is 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.

(6) Maximum Rents and Sales Prices.

- (a) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.
- (b) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
- (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units. At least 13 percent of all low- and moderate-income rental units shall be affordable to households earning no more than 30 percent of median income.
- (d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.

- (e) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
  - [1.] A studio shall be affordable to a one-person household;
  - [2.] A one-bedroom unit shall be affordable to a one and one-half person household;
  - [3.] A two-bedroom unit shall be affordable to a three-person household;
  - [4.] A three-bedroom unit shall be affordable to a four and one-half person household; and
  - [5.] A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
  - [1.] A studio shall be affordable to a one-person household;
  - [2.] A one-bedroom unit shall be affordable to a one and one-half person household; and
  - [3.] A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (g) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (h) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate 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.
- (i) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (j) The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9 percent in any one year. Rents for units constructed

pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

- (k) 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 DCA for its Section 8 program.

F. Condominium and Homeowners Associates Fees.

For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100 percent of the market rate fee.

**§85-2. Administration.**

A. Municipal Housing Liaison.

- (1) The position of Municipal Housing Liaison (MHL) for Harrington Park Borough is established by this Section. The MHL shall be appointed by the Borough Manager.
- (2) The MHL must be either a full-time or part-time employee of Harrington Park Borough.
- (3) The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training, as required by state law or regulation.
- (4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Harrington Park Borough, 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) The implementation of the Affirmative Marketing Plan and affordability controls.
  - (c) When applicable, supervising any contracting Administrative Agent.
  - (d) Monitoring the status of all restricted units in Harrington Park's Fair Share Plan;
  - (e) Compiling, verifying and submitting annual reports as required by the Superior Court;
  - (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 or approved by the Superior Court.

B. Administrative Agent.

- (1) The Borough shall designate by resolution of the Borough Committee one or more Administrative Agents to administer newly constructed affordable units in accordance with State law or regulation and UHAC.

- (2) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, 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 the Superior Court;
  - (b) Affirmative Marketing and conducting an outreach process to ensure affirmative marketing of affordable housing units in accordance with the affirmative marketing plan of the Borough and the provisions of N.J.A.C. 5:80-26.15.
  - (c) Household Certification.
    - [1.] Soliciting, scheduling, conducting and following up on interviews with interested households;
    - [2.] Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
    - [3.] Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
    - [4.] Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
    - [5.] Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
    - [6.] Employing the random selection process as provided in the affirmative marketing plan of the Borough when referring households for certification to affordable units.
  - (d) Affordability Controls.
    - [1.] Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
    - [2.] Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
    - [3.] Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
    - [4.] Communicating with lenders regarding foreclosure; and
    - [5.] Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10;

- (e) Records retention.
- (f) Resale and re-rental.
  - [1.] Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
  - [2.] Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (g) Processing requests from unit owners.
  - [1.] Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
  - [2.] Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
  - [3.] Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- (h) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
  - [1.] Ensure that all restricted units are identified as affordable within the tax assessors' office and upon notification to the administrative agent of change in billing address, payment delinquency of two consecutive billing cycles, transfer of title, or institution of a writ of foreclosure on all affordable units, notifying all such owners that they must either move back to their unit or sell it;
  - [2.] Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgment of the requirement that no restricted unit can be offered, or in any other way committed to any person, other than a household duly certified to the unit by the administrative agent;
  - [3.] The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made;
  - [4.] Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
  - [5.] Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;

- [6.] Establishing a rent-to-equity program;
  - [7.] Creating and publishing a written operating manual setting forth procedures for administering such affordability controls; and
  - [8.] Proving annual reports as required.
- (i) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

C. Enforcement of Affordable Housing Regulations.

- (1) 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.
- (2) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the 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.
- (a) 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.
- [1.] 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;
  - [2.] 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 Harrington Park Borough Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - [3.] 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.
- (b) 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.

- (3) 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 Sheriff's sale.
- (4) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for 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.
- (5) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (6) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

- (7) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (8) 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.

D. The Borough may contract with or authorize a consultant, authority, government or any agency charged by the Borough council, which entity shall have the responsibility of administering the affordable housing program of the Borough. If the Borough contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and affirmative marketing plan, the municipal housing liaison shall supervise the contracting administrative agent. The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

E. The cost for administering the affordable housing program for Harrington Park Borough, including affirmative marketing, household certification, affordability controls, resale and rentals, communicating with unit owners and enforcement, shall be the responsibility of developers or owners of affordable housing units in accordance with the following fee schedule, as may be amended from time to time.

Annual fee for consulting, list maintenance and responding to inquiries	\$50.00 per affordable unit
Re-Sales of existing affordable housing units (payable by seller upon transfer of title)	\$1,000 per re-sale certification
Re-rentals of existing affordable housing units (payable by landlord upon occupancy of new tenant)	\$550 pre re-occupancy certification
Sale of new affordable housing units	\$200 per unit setup, plus \$1000 per unit certification fee, plus \$3,000 minimum project fee (payable at least 180 days prior to the issuance of a temporary or permanent certificate of occupancy, which first occurs)

Rental of new affordable housing units	\$400 per unit setup, plus \$500 per unit certification fee, plus \$3,000 minimum project fee (payable at least 180 days prior to the issuance of a temporary or permanent certificate of occupancy, whichever first occurs)
Refinancing	\$200 to be paid by unit owner
Lien satisfaction	no charge
Other programs	The cost to provide compliance services for programs, such as accessory apartments, market to affordable, etc., are subject to the number of units and the scope of services required for each.
Additional Services	In the event additional services are requested or required to comply with the affirmative marketing requirements, the rate for such services shall be determined prior to implementation.
Reimbursement of expenses	In addition to the foregoing fees, cost of postage, printing of notices, copying costs, and advertising shall be paid by the developer or owner.

**§85-3. Affirmative Marketing within Inclusionary Development.**

A. Adoption of an Affirmative Marketing Plan.

- (1) Harington Park Borough hereby adopts the within an Affirmative Marketing Plan in compliance with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (2) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual

orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is 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 COAH Housing Region 1 and covers the period of deed restriction.

B. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1 comprised of Bergen, Hudson, Passaic, and Sussex Counties.

C. The Administrative Agent designated by Harrington Park Borough shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.

(1) All newspaper articles, announcements and requests for applications for low- and moderate-income units will appear in the following newspapers/publications: The Star-Ledger, The Record, Northern Valley Suburbanite, Bergen News, and Avance (Spanish).

(2) The primary marketing will take the form of at least one press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an as-needed basis.

(3) The advertisement will include:

(a) The street address and location of units;

(b) Directions to the housing units;

(c) The size, as measured in the number of bedrooms, of the housing units;

(d) A range of prices/rents for the housing units;

(e) The maximum income permitted to qualify for the housing units

(f) The location of applications for the housing units;

(g) The business hours when interested households may obtain an application for a housing unit.

(h) The name of the rental manager and/or sales agent for the housing units.

(4) All newspaper articles, announcements and requests for applications for low- and moderate-income housing will appear in publications circulated within the housing region that are likely to be read by low and moderate income households, such as neighborhood oriented weekly newspaper, religious publications and organizational newsletters.

(5) Regional radio and/or cable television station(s) will also be used.

(6) Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program will be provided to specific employment centers within the region and to the municipal clerks of all municipalities in the region.

(7) Applications for low and moderate income housing shall be available in several convenient locations within the Borough of Harrington Park, including, at a minimum, Borough Hall, the Harrington Park Public Library, and the developer's sales/rental office. The following is a listing of community contact persons and/or organizations in Harrington Park that will administer the program and will aid in the

affirmative marketing program, with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region: the Fair Share Housing Center, New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Urban League of Bergen County, Bergen County Housing Coalition, and Supportive Housing Association.

(8) Quarterly flyers and applications will be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Bergen, Hudson, Passaic and Sussex Counties.

(9) Applications will be mailed to prospective applicants upon request. Additionally, quarterly informational circulars and applications will be sent to the chief administrative employees of each of the following agencies in the counties the Borough of Harrington Park's region: Welfare or Social Service Board, Rental Assistance Office (local office of DCA), Office on Aging, libraries and housing agency or authority.

(10) The affirmative marketing program will meet the following requirements:

- (a) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (b) A random selection method will be used to select occupants of low- and moderate-income housing.
- (c) Low- and moderate-income households who live or work in the housing region in which the Borough of Harrington Park is located shall be given preference for sales and rental units constructed within the Borough of Harrington Park. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced.
- (d) Low- and moderate-income households residing or working within the Borough of Harrington Park shall be provided a preference for low- and moderate-income units created within the Borough of Harrington Park that respond to Harrington Park's rehabilitation component.
- (e) All developers of low- and moderate-income housing units will be required to assist in the marketing of the affordable units in their respective developments.
- (f) The cost of advertising and administering low- and moderate-income units shall be the responsibility of the developer and/or owner of low and moderate income housing units within the Borough of Harrington Park.
- (g) The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all low- and moderate-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.
- (h) Households that apply for low- and moderate-income housing shall be screened for preliminary income eligibility by comparing their total income to the low and moderate income limits pursuant to State law and regulations. Applicants shall be notified as to their eligibility status.

- (i) Having screened applicants for preliminary income eligibility, the Borough may analyze the income and household sizes of applicants to determine which applicants have the assets and/or income necessary to purchase or rent each available low- or moderate-income unit.
- (j) The Borough shall conduct a process and interview each applicant to verify the applicant's income and household size; determine the applicant's asset availability; and review the applicant's credit history. Applicants shall be required to submit income verification for each household member 18 years or older. This process shall be utilized in establishing the final certified applicant group.
- (k) The process described in (j) through (l) above may begin no sooner than one month after the advertising program begins. Households shall be selected to proceed through the process described in (j) through (l) above through a method of random selection. Households shall be certified for low- and moderate-income units. The process described in (j) through (l) shall be continued until all the low- and moderate-income units are occupied.
- (l) Continuing marketing activities shall be undertaken after the completion of initial occupancy of sales and rental units in order to fill vacancies resulting from normal turnover which shall include:
  - [1.] Insuring a sufficient supply of income eligible applicants by continuing to implement the marketing plan throughout the housing region. At a minimum, the Borough shall maintain a current pool of at least five income eligible applicants for each low and moderate income unit.
  - [2.] Contacting each income eligible applicant annually to request updated information regarding income and family size.
  - [3.] As units become available, the municipal entity shall select eligible applicants for the units until the units are occupied by low and moderate income households.

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.

E. 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 Harrington Park Borough.

**§85-4. Affordable Unit Controls and Requirements.**

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

A. Occupancy Standards.

- (1) 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:
  - (a) Provide an occupant for each bedroom;
  - (b) Provide children of different genders with separate bedrooms; and
  - (c) Prevent more than two persons from occupying a single bedroom.

B. Selection of Occupants of Affordable Housing Units.

- (1) The administrative agent shall use a random selection process to select occupants of low- and moderate-income housing.
- (2) A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 et seq.

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

- (1) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Section until Harrington Park Borough 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.
- (2) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (3) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- (4) 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 non-exempt sale after the unit's release from the requirements of this Section, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (5) The affordability controls set forth in this Section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (6) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title 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.

- (7) Deeds of all real property that include restricted ownership units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy. The deed restriction shall be subject to the approval of the Administrative Agent and shall be substantially in the form set forth in Schedule B, annexed hereto and made part of this Chapter.

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

- (1) Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:
  - (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
  - (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
  - (c) The 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.

E. Buyer Income Eligibility.

- (1) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (2) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

F. Limitations on indebtedness secured by ownership unit; subordination.

- (1) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this Section.
- (2) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent 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).

#### G. Control Periods for Restricted Rental Units.

- (1) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Section until the Borough of Harrington Park elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, 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, as may be amended and supplemented, for at least 30 years.
- (2) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy. The deed restriction shall be subject to the approval of the Administrative Agent and shall be substantially in the form set forth in Schedule B, annexed hereto and made part of this Chapter.
- (3) A restricted rental unit shall remain subject to the affordability controls of this Section, despite the occurrence of any of the following events:
  - (a) Sublease or assignment of the lease of the unit;
  - (b) Sale or other voluntary transfer of the ownership of the unit; or
  - (c) The entry and enforcement of any judgment of foreclosure.

#### H. Price Restrictions for Rental Units; Leases.

- (1) 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.
- (2) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (3) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the

Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Section.

I. Tenant Income Eligibility.

- (1) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - (a) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
  - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
  - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - (a) The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - (b) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - (c) The household is currently in substandard or overcrowded living conditions;
  - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (e) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances in (2)(a) through (e) above with the Administrative Agent, who shall counsel the household on budgeting.

**§85-5 Affordable Housing Development Fees**

A. Purpose.

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 COAH

developing rules as amended from time to time and/or in accordance with the enacted legislation and/or in accordance with directives from the Courts. The purpose of this Section is to establish standards for the collection, maintenance and expenditure of development fees pursuant to the above. Fees collected pursuant to this Section shall be used for the sole purpose of providing low- and moderate-income housing.

## B. Development Fees.

### (1) Residential Development Fees.

- (a) Within all zone districts, unless invalidated by State Statute or Court Order, developers of residential housing, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half percent of the equalized assessed value for residential development, when no increased density is permitted.
- (b) When an increase in residential density has been permitted pursuant to N.J.S.A. 40:55D-70d (known as a "d" variance) or pursuant to Zoning Amendment or pursuant to the adoption of a Redevelopment Plan pursuant to New Jersey Local Redevelopment and Housing Law (NJSA 40A-12-1 et. seq.), developers shall be required to pay a residential development fee of a maximum of six percent of the equalized assessed value for each additional unit that may be realized.
- (c) Affordable housing developments and residential developments where the developer is providing for the construction of affordable units elsewhere in the municipality shall be exempt from residential development fees.
- (d) Residential Developments that have received preliminary or final site plan approval prior to the adoption of a municipal residential development fee shall be exempt from residential development fees, unless the developer seeks a substantial change in the approval or the developer has accepted responsibility to pay a residential development fee. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. A development fee shall be based on the percentage that applies on the date that a building permit is issued, regardless of the time of collection of the fee.
- (e) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a residential development fee.
- (f) Residential development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (g) A developer of an addition to an existing single family residential unit which constitutes less than a 50 percent increase in the gross floor area of the unit shall be exempt from the development fee.

### (2) Nonresidential development fees.

- (a) Within all zoning districts, unless invalidated by State Statute or Court Order, nonresidential developers, except for developers of the types of development

specifically exempted, shall pay a nonresidential development fee equal to two and one-half percent of the equalized assessed value of the land and improvements for all new nonresidential construction.

- (b) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a nonresidential development fee equal to two and one-half percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. Whenever non-residential development is situated on real property that has been previously developed with a building, structure, or other improvement, the non-residential development fee shall be equal to two and one-half percent of the equalized assessed value of the land and improvements on the property where the non-residential development is situated at the time the final certificate of occupancy is issued, less the equalized assessed value of the land and improvements on the property where the non-residential development is situated, as determined by the tax assessor of the municipality at the time the developer or owner, including any previous owners, first sought approval for a construction permit, including, but not limited to, demolition permits, pursuant to the State Uniform Construction Code, or approval under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.). If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.
- (d) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the two and one-half percent development fee, unless otherwise exempted below.
- (e) The two and one-half percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (f) All non-residential construction of buildings or structures on property used by churches, synagogues, mosques, and other houses of worship, and property used for educational purposes, which is tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the imposition of a non-residential development fee pursuant to this Section, provided that the property continues to maintain its tax exempt status under that statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a non-residential development fee:

[1.] Parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, such as an office building, or whether the parking lot is developed as an independent non-residential development;

[2.] Any non-residential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities,

community centers, and senior centers, which are developed in conjunction with or funded by a non-residential developer;

[3.] Non-residential construction resulting from a relocation of or an on-site improvement to a nonprofit hospital or a nursing home facility;

[4.] Projects that are located within a specifically delineated urban transit hub, as defined pursuant to Section 2 of P.L.2007, c.346 (C.34:1B-208);

[5.] Projects that are located within an eligible municipality, as defined under Section 2 of P.L.2007, c.346 (C.34:1B-208), when a majority of the project is located within a one-half mile radius of the midpoint of a platform area for a light rail system; and

[6.] Projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the Department of Transportation.

[7.] Any exemption claimed by a developer shall be substantiated by that developer.

- (g) A developer of a nonresidential development exempted from the nonresidential development fee, shall be subject to it at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
  - (h) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of Harrington Park as a lien against the real property of the owner.
- (3) Collection procedures.
- (a) Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.
  - (b) For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF, State of New Jersey Nonresidential Development Certification/Exemption, to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- (c) The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
  - (d) Within 90 days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
  - (e) The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
  - (f) Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development, calculate the development fee and thereafter notify the developer of the amount of the fee.
  - (g) Should the Borough of Harrington Park 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 (N.J.S.A. 40:55D-8.6). Upon tender of the estimated non-residential development fee, provided the developer is in full compliance with all other applicable laws, the municipality shall issue a final certificate of occupancy for the subject property.
  - (h) A developer of a mixed use development shall be required to pay the Statewide non-residential development fee relating to the non-residential development component of a mixed use development subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).
  - (i) Non-residential construction which is connected with the relocation of the facilities of a for-profit hospital shall be subject to the fee authorized to be imposed under this Section to the extent of the increase in equalized assessed valuation in accordance with regulations to be promulgated by the Director of the Division of Taxation, Department of the Treasury.
  - (j) The payment of non-residential development fees required pursuant to Sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7) shall be made prior to the issuance of a certificate of occupancy for such development. A final certificate of occupancy shall not be issued for any non-residential development until such time as the fee imposed pursuant to this Section has been paid by the developer. A non-residential developer may deposit with the appropriate entity the development fees as calculated by the municipality under protest, and the local code enforcement official shall thereafter issue the certificate of occupancy provided that the construction is otherwise eligible for a certificate of occupancy.
- (4) 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 Borough of Harrington Park. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  - (b) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Harrington Park. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- (5) Retention of Fees. Any fees collected prior to the adoption or amendment of this Section shall be retained by the Borough of Harrington Park.

#### C. Housing trust fund.

- (1) There is hereby created a separate interest-bearing housing trust fund to be maintained by the Borough's Chief Financial Officer and proceeds from the sale of units with extinguished controls.
- (2) The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:
  - (a) Developer-contributed funds to make 10 percent of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - (b) Rental income from municipally operated units;
  - (c) Repayments from affordable housing program loans;
  - (d) Recapture funds;
  - (e) Proceeds from the sale of affordable units; and
  - (f) Any other funds collected in connection with the Borough of Harrington Park's affordable housing program.
- (3) Use of funds.
  - (a) Money deposited in a housing trust fund may be used for any activity approved for addressing the Borough of Harrington Park's low- and moderate-income housing obligation in accordance with Harrington Park's Housing Element and Fair Share Plan, Spending Plan or any directives from the Courts. Such activities may include, but are not necessarily limited to: housing rehabilitation; new construction; the

purchase of land for low- and moderate-income housing; preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, including the extension of controls, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income households; and administrative costs necessary to implement the Borough of Harrington Park's Housing Element. The expenditure of all money shall conform to a spending plan approved by the Courts.

- (b) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Housing Element and 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 median income by region.

- [1.] Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.

- [2.] Affordability assistance to households earning 30 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.

- [3.] Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough of Harrington Park may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.

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

- F. Funds shall not be expended to reimburse the Borough of Harrington Park for housing activities carried out prior to the establishment of the Affordable Housing Trust Fund.
- G. Monitoring. The Borough of Harrington Park shall complete and return to the Courts all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Harrington Park’s housing program, as well as to the expenditure of revenues and implementation of the plan certified the Courts. All monitoring reports shall be completed on forms designed by the Courts.
- H. This Section is intended to be interpreted and applied consistent with the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 et seq.). In the event of any inconsistency, this Section shall be read so as to comply with the Act.

**SECTION 2.** Inconsistency. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 3.** Severability. If any sentence, section, clause, or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or repeal the remainder of this ordinance.

**SECTION 4.** Effective Date. This ordinance shall take effect twenty (20) days following passage and publication, or as otherwise required by law, and upon filing with the Planning Board of the County of Bergen.

\_\_\_\_\_  
Paul Hoelscher, Mayor

ATTEST:

\_\_\_\_\_  
Ann H. Bistriz, Borough Clerk

Introduced: \_\_\_\_\_

Adopted: \_\_\_\_\_

SCHEDULE A - MANDATORY DEED RESTRICTION FOR RENTAL PROJECTS

Deed Restriction

**DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY**  
**WITH RESTRICTIONS ON RESALE AND REFINANCING**

To Rental Property  
With Covenants Restricting Rentals, Conveyance and Improvements  
And Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the [Administrative Agent] ("Administrative Agent"), or its successor, acting on behalf of \_\_\_\_\_ [Municipality], with offices at \_\_\_\_\_, and \_\_\_\_\_ a New Jersey [Corporation / Partnership / Limited Partnership] having offices at \_\_\_\_\_ the developer/sponsor (the "Owner") of a residential low- or moderate-income rental project (the "Project"):

**WITNESSETH**

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

[If the project is a 100 percent affordable development, use the following:]

The Property consists of all of the land, and improvements thereon, that is located in the municipality of

\_\_\_\_\_, County of \_\_\_\_\_, State of New Jersey, and described more specifically as Block No. \_\_\_\_\_ Lot No. \_\_\_\_\_, and known by the street address:

---

---

[Where restrictions are limited to specific units within the project, use the following:]

The Property consists of all of the land, and a portion of the improvements thereon, that is located in the municipality of \_\_\_\_\_, County of \_\_\_\_\_, State of New Jersey, and described more specifically as Block No. \_\_\_\_\_ Lot No. \_\_\_\_\_, and known by the street address:

---

---

More specifically designated as:

(List specific affordable units by address or apartment number.)

Article 3. Affordable Housing Covenants

The following covenants (the “Covenants”) shall run with the land for the period of time (the “Control Period”), determined separately with respect for each dwelling unit, commencing upon the earlier of the date hereof or the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the “Control Period,” until the municipality in which the unit is located elects to release

the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that:

1. Units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years; and
  2. **Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant or contract.**
- 
- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq*, the “Uniform Controls”).
  - B. The Property shall be used solely for the purpose of providing rental dwelling units for low- or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent.
  - C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent.
  - D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
  - E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

#### Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
  
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

[THE ADMINISTRATIVE AGENT]

BY: \_\_\_\_\_

XXXXXXXXXXXXXX

Title

[THE OWNER]

BY: \_\_\_\_\_

XXXXXXXXXXXXXX

*Title*

APPROVED BY \_\_\_\_\_ [Municipality]

BY: \_\_\_\_\_

XXXXXXXXXXXXXX

ACKNOWLEDGEMENTS

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me came \_\_\_\_\_, to me known and known to me to be the Administrative Agent for \_\_\_\_\_ [Municipality], who states that (s)he has signed said Agreement on behalf of said Municipality for the purposes stated therein.

\_\_\_\_\_  
NOTARY PUBLIC

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me came \_\_\_\_\_, to me known and known to me to be \_\_\_\_\_, the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.

\_\_\_\_\_  
NOTARY PUBLIC

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me came \_\_\_\_\_ known and known to me to be \_\_\_\_\_ of \_\_\_\_\_, the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

\_\_\_\_\_  
NOTARY PUBLIC



Article 4.

Affordable Housing Covenants

Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the “Regulations”). Consistent with the Regulations, the following covenants (the “Covenants”) shall run with the land for the period of time commencing upon the earlier of (a) the date hereof or (b) the prior commencement of the “Control Period”, as that term is defined in the Regulations, and terminating upon the expiration of the Control Period as provided in the Regulations.

In accordance with N.J.A.C. 5:80-26.5, each restricted unit shall remain subject to the requirements of this subchapter, the “Control Period,” until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years;

- A. The Property may be conveyed only to a household who has been approved in advance and in writing by \_\_\_\_\_, an administrative agent appointed under the Regulations (hereinafter, collectively, the “Administrative Agent”).
- B. No sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent, and no sale shall be for a consideration greater than maximum permitted price (“Maximum Resale Price”, or “MRP”) as determined by the Administrative Agent.
- B. No refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt (collectively, “Debt”) secured by the Property, may be incurred except as approved in advance and in writing by the Administrative Agent. At no time shall the Administrative Agent approve any such Debt, if incurring the Debt would make the total of all such Debt exceed 95 percent of the applicable MRP.
- D. The owner of the Property shall at all times maintain the Property as his or her principal place of residence.
- E. Except as set forth in F, below, at no time shall the owner of the Property lease or rent the Property to any person or persons, except on a short-term hardship basis as approved in advance and in writing by the Administrative Agent.

F. If the Property is a two-family home, the owner shall lease the rental unit only to income-certified low-income households approved in writing by the Administrative Agent, shall charge rent no greater than the maximum permitted rent as determined by the Administrative Agent, and shall submit for written approval of the Administrative Agent copies of all proposed leases prior to having them signed by any proposed tenant.

G. No improvements may be made to the Property that would affect its bedroom configuration, and in any event, no improvement made to the Property will be taken into consideration to increase the MRP, except for improvements approved in advance and in writing by the Administrative Agent.

Article 5. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing. Accordingly, and as set forth in N.J.A.C. 5:80-26.18:

A. In the event of a threatened breach of any of the Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.

B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

EXECUTION BY GRANTOR

Signed by the Grantor on the date hereof. If the Grantor is a corporation, this Deed is signed by a corporate officer who has authority to (a) convey all interests of the corporation that are conveyed by this Deed, and (b) to bind the corporation with respect to all matters dealt with herein.

\_\_\_\_\_

Signed, sealed and delivered in

the presence of or attested by:

\_\_\_\_\_ [ seal ]

\_\_\_\_\_ [ seal ]

\_\_\_\_\_ [ seal ]

\_\_\_\_\_ [ seal ]

**CERTIFICATE OF ACKNOWLEDGEMENT BY INDIVIDUAL**

State of New Jersey, County of \_\_\_\_\_

I am either (check one) \_\_\_ a Notary Public or \_\_\_ a \_\_\_\_\_, an officer authorized to take acknowledgements and proofs in the state of New Jersey. I sign this acknowledgement below to certify that it was executed before me. On this the \_\_\_ day of \_\_\_\_\_, 20\_\_\_  
\_\_\_\_\_ appeared before me in person. *(If more than one person appears, the words "this person" shall include all persons named who appeared before the officer making this acknowledgement).* I am satisfied that this person is the person named in and who signed this Deed.

This person also acknowledged that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by this Deed, as such consideration is defined in P.L. 1968, c. 49, sec. 1(c), is \$\_\_\_\_\_.

---

Officer's signature: Sign above, and print stamp or type name below

**CORPORATE PROOF BY SUBSCRIBING WITNESS**

State of New Jersey, County of \_\_\_\_\_

I am either (check one) \_\_\_\_ a Notary Public or \_\_\_\_ a \_\_\_\_\_, an officer authorized to take acknowledgements and proofs in the state of New Jersey. On this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ (hereinafter the "Witness") appeared before me in person. The Witness was duly sworn by me, and under oath stated and proved to my satisfaction that:

1. The Witness is the \_\_\_\_\_ secretary of the corporation which is the Grantor described as such in this deed (hereinafter the "Corporation").
  
2. \_\_\_\_\_, the officer who signed this Deed is the (title) \_\_\_\_\_ of the Corporation (hereinafter the "Corporate Officer").
  
3. The making, signing, sealing and delivery of this Deed have been duly authorized by a proper resolution of the Board of Directors of the Corporation.
  
4. The Witness knows the corporate seal affixed to this Deed is the corporate seal of the Corporation. The Corporate Officer affixed the seal to this Deed. The Corporate Officer signed and delivered this Deed as and for the voluntary act and deed of the Corporation. All this was done in the presence of the Witness who signed this Deed as attesting witness. The Witness signs this proof to attest to the truth of these facts.

The Witness also acknowledges that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by this Deed, as such consideration is defined in P.L. 1968, c. 49, sec. 1(c), is \$\_\_\_\_\_.

Sworn and signed before me on the date above written:

---

*Witness: Sign above and print or type name below*

---

*Officer's signature: Sign above, and print stamp or type name below*

**Addendum G**  
**Proposed Ordinance #735**  
**AMENDMENT TO ZONING ORDINANCE**  
**Permitting Overlay Zoning for**  
**Affordable Housing**  
**May, 2019**

**WHEREAS**, the Mayor and Council of the Borough of Harrington Park are desirous of implementing zoning to promote affordable housing within the Borough;

**WHEREAS**, the Mayor and Council of the Borough of Harrington Park find that such proposed zoning amendments promote the general welfare, safety and housing goals within the Borough;

**WHEREAS**, on July 8, 2015, the Borough of Harrington Park had filed and served on all interested parties a Complaint for Declaratory Judgment with respect to the Borough of Harrington Park's affordable housing obligation; and

**WHEREAS**, the Borough of Harrington Park and Fair Share Housing Council, in consultation with the Court-appointed Master and the Borough's Planner, entered into a proposed settlement agreement on November 6, 2017; and

**WHEREAS**, following a fairness hearing on January 25, 2018, the Court approved the aforesaid proposed settlement agreement which specifically included the provisions contained herein;

NOW THEREFORE BE IT ORDAINED That Chapter 350 of the Zoning Ordinance is hereby amended as follows;

Chapter 350. Zoning

Article II Zoning Districts; Zoning Map

§ 350-4 **Designation of districts; Zoning Map.**

A. For the purpose of promoting the public health, safety, morals and general welfare of the community, the Borough of Harrington Park is hereby divided into the following types of districts:

R-1	Residential
R-2	Residential
R-3	Residential
S-1	Senior Citizen Dwelling Unit
B-1	Business
B-2	Business
I-1	Industry
OALSR	Office/Assisted Living/Senior Residential Community Multifamily Residential Overlay
	<i>Add the following</i>
<b>AHO</b>	<b>Affordable Housing Overlay</b>

Article IV Residential Districts

§ 350-12.1 Affordable Housing Overlay Zone.

- A. Purpose. To permit the development of inclusionary multifamily residential development in which a certain proportion of dwelling units are set aside for occupancy by low- and moderate-income households.
- B. Conflict in requirements. The requirements of the remaining provisions of Chapter 350 apply to the Affordable Housing Overlay Zone (AHO) except where those requirements conflict with this Section. In the event of such a conflict, the terms of this §350-12.1 shall prevail.
- C. The AHO-Affordable Housing Overlay Zone is located on the following specific sites within the Borough:
- Block 1204, Lots 4 and 5, presently zoned B-1;
  - Block 1204, Lots 6, 9, 10 and 11, presently zoned B-1;
  - Block 1205, Lot 1, presently zoned B-1;
  - Block 1205, Lot 4, presently zoned I-1;
  - Block 1206, Lot 1, presently zoned I-1
  - Block 1207, Lot 2, presently zoned I-1, and
  - Block 1316, Lot 1-7, 9 and 11, presently zone B-2.
- D. Permitted uses. The following uses are permitted within the AHO Affordable Housing Overlay Zone, all of which must contain affordable housing in accordance with this § 350-12.1:
- (1) Apartments.
  - (2) Townhouses.
  - (3) Mixed-use, with retail on the first floor and apartments above.

- E. Development standards. The bulk standards that are applicable within the AHO Affordable Housing Overlay Zone shall be those of the underlying zone in which they are located.
- F. Parking. The following parking requirements are applicable to the AHO-Affordable Housing Overlay Zone:
  - (1) Parking space size and number requirements shall be in compliance with the New Jersey Residential Site Improvement Standards (RSIS).
  - (2) All parking shall be located 10 feet from any front property line and five feet from any side or rear yard property line.
  - (3) All perimeter open space surrounding a parking lot must be densely landscaped with year- round screening materials, including but not limited to evergreen shrubs.
- G. Affordable housing requirements. All development in AHO- Affordable Housing Overlay Zone shall provide for affordable housing in accordance with the following requirements:
  - (1) All developments within the AHO-Affordable Housing Overlay Zone shall provide dwelling units which qualify for credit as low- and moderate-income housing per the requirements of New Jersey’s Fair Housing Act and which meet the income, bedroom distribution and other requirements of the Uniform Housing Affordability Controls (N.J.S.A. 5:80-26.1 et seq.), in the following minimum percentages:
    - (a) Rental projects: Fifteen percent (15%) of the total units.
    - (b) For-sale projects: Twenty percent (20%) of the total units.
  - (2) At least thirteen percent (13%) of the affordable units shall be very low-income units, as mandated by the Fair Housing Act.
  - (3) The developer shall utilize the Borough’s Administrative Agent or Borough-approved equivalent. The developer shall be solely responsible for the cost and expense of administering the low- and moderate-income income units for the lifetime of the deed restriction. This shall include the initial rental/sale of the unit and the ongoing compliance.
- H. Other requirements. Development in the AHO-Affordable Housing Overlay Zone shall also comply with the following requirements:
  - (1) Landscape buffer. A landscaped buffer shall be provided along the site's perimeter. The buffer shall be planted with grass, deciduous and evergreen trees, shrubs and all other landscape material and treatments as required by the Planning Board and Environmental Commission. No retaining walls shall be located within the buffer. Site identifying signage and driveways perpendicular to the buffer may encroach into the buffer.
  - (2) Mechanical equipment. Any rooftop mechanical equipment, inclusive of solar equipment, shall be concealed within the roof of the building so it is not visible from all vantage points at-grade or below the roof. Any ground-mounted mechanical equipment shall be screened appropriately.
  - (3) Architectural design guidelines.
    - (a) Primary materials for buildings shall be brick, wood, HardiePlank® panels or similar fiber cement siding, stone, precast and cast stone and manufactured stone, and glass.

- (b) No more than three different primary materials shall be used on each building façade. Within the primary materials, variations in colors, texture and pattern may be employed to further break up the mass or bulk of a building.
- (c) The architectural treatment of the front facade shall be continued in its major features around all visibly exposed sides of a building.
- (d) Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.
- (e) All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes.
- (f) Building wall offsets, including projections such as canopies and recesses may also be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall.
- (g) Similarly, in the case of a pitched roof, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
- (h)

#### **Addendum H**

#### **BOND ORDINANCE NUMBER #736**

**BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF TWO (2) FIRE TRUCKS AND OTHER MISCELLANEOUS EQUIPMENT, BY AND IN THE BOROUGH OF HARRINGTON PARK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY; APPROPRIATING \$1,403,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,336,190 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HARRINGTON PARK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY** (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

**SECTION 1.** The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Borough of Harrington Park, in the County of Bergen, State of New Jersey (the "Borough"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$1,403,000, said sum being inclusive of a down payment in the amount of \$66,810 now available for said improvements or purposes required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"), and now available therefor by virtue of a provision or provisions in a previously

adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

**SECTION 2.** For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$1,403,000 appropriation not provided for by the down payment referred to in Section 1 hereof, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$1,336,190 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$1,336,190 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

**SECTION 3.** (a) The improvements hereby authorized and purposes for the financing of which said bonds or notes are to be issued includes, but is not limited to: (i) the acquisition of two (2) fire trucks; (ii) the acquisition and installation, as applicable, of miscellaneous fire department equipment to equip the two fire trucks, including, but not limited to, hoses, nozzles, miscellaneous hand tools, personal and mobile radios and other related communications equipment and accessories; (iii) the acquisition of hardware for an e-ticket machine; and (iv) the acquisition and installation of a bullet-proof door for the Borough's Court Room. Such improvements or purposes shall also include, as applicable, all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto, all in accordance with the plans and specifications therefor on file in the office of the Borough Clerk and available for public inspection and hereby approved.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,336,190.

(c) The estimated cost of said improvements or purposes is \$1,403,000, the excess thereof over the estimated maximum amount of bonds or notes to be issued therefor being the amount of \$66,810, which is the down payment available for such improvements or purposes.

**SECTION 4.** In the event the United States of America, the State of New Jersey, and/or the County of Bergen make a contribution or grant in aid to the Borough for the improvements and purposes authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey and/or the County of Bergen. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Bergen shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

**SECTION 5.** All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date or as otherwise authorized by the Local Bond Law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to

time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

**SECTION 6.** The Capital Budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

**SECTION 7.** The following additional matters are hereby determined, declared, recited and stated:

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

(b) The average period of usefulness of said improvements or purposes within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 9.78 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$1,336,190 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$10,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost indicated herein for the improvements or purposes hereinbefore described.

**SECTION 8.** The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the bonds or notes and the interest thereon without limitation as to rate or amount.

**SECTION 9.** The Borough reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the

bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "Controlled Group" as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 9 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulation Section 1.150-2, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized herein used to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d), (ii) to create, within one year following the reimbursement of any expenditures of bond proceeds, "replacement proceeds" within the meaning of Treasury Regulation Section 1.148-1 of the bonds or any other bond issue, or (iii) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same "Controlled Group" within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will be issued in an amount not to exceed \$1,336,190. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of Section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2).

**SECTION 10.** The Borough covenants to maintain the exclusion from gross income under Section 103(a) of the Code of the interest on all bonds and notes issued under this bond ordinance.

**SECTION 11.** This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

### **AA Correspondence**

May 22, 2019

Minor Subdivision application for 41 Peat Street-Planning Board

May 24, 2019

Foreclosure Notification-61 Dorotockey Road

O/R requesting update for municipal projects

May 28, 2019

BOE Budget Meeting May 31<sup>st</sup>.

Foreclosure Action -250 Blanch Avenue

NJLM Legislative Bulletin April 2019

May 29, 2019

Correspondence copy to Orange and Rockland re: street improvements (Neglia)

June 10, 2019

Public Notice for Affordable Housing Overlay Zone June 17, 2019.

Mahwah Resolution National Gun Violence Day.