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Flag Salute.

Roll Call: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

STATEMENT OF ADEQUATE NOTICE:

Mayor Kovach read the following statement: “Adequate notice of this meeting has been provided, indicating the time and place of the meeting and the proposed agenda, which notice was posted, made available to newspapers, and filed with the Clerk of the Town of Clinton in accordance with Section 3(d) of Chapter 231 of the Public Laws of 1975.”

Mayor Kovach welcomed the public to the meeting and explained how the meeting will be run by reading the following statement :

NJSA 10:4-8(b) authorizes municipalities to conduct public meetings through use of streaming services and other online meeting platforms. Recently adopted P.L. 2020, c.11 amends OPMA to clarify that in times of emergency public bodies may vote, accept public comment and cause a meeting to be open to the public via electronic means.

The Town of Clinton is using ZOOM Video Meetings. Please be aware that this meeting is being recorded for the public record.

We will continue to address all questions and comments for any topic that is not on the current agenda during public comments as well as comments during public hearings for any ordinances.

Please use the chat feature in ZOOM to indicate that you wish to be recognized for a comment or a question. You must provide your name and address to be recognized. You can also type in your questions. Feel free going forward to email councilmeeting@clintonnj.gov with any questions or concerns between meetings.

We ask that you keep your device muted until called upon by council. The meeting’s moderator may also mute participants.

The mayor and council will respond to all votes via roll call with the exception of opening and closing of public hearings will be a voice vote.

The Mayor and Council will respond to all votes by raising hands or via roll call.

Please feel free to reach out with a note at jkovach@clintonnj.gov anytime!

APPROVAL OF MINUTES

A motion was made by Ms. Johnson, seconded by Ms. Dineen, to approve the minutes of January 13, 2021 as submitted.

Vote all ayes
Motion carried

PUBLIC COMMENTS – NONE

MAYOR'S COMMENTS

1. Citizen Involvement form received from Kyle Perloff, 28 West Main Street. Motion was made by Mr. Traphagen seconded by Mr. Humphrey, to appoint Mr. Perloff to the Historic Commission.

Vote all ayes
Motion carried

2. Letter of resignation received from Brenda Karcher, employee at the Wastewater Treatment Plant, last day will be January 29, 2021. A motion was made by Ms. Dineen, seconded by Mr. Humphrey, to accept the resignation with regrets.

Vote all ayes
Motion carried

DOG PARK PRESENTATION

John Bohnel, long-time resident of Center Street, is very interested in having a dog park in Clinton. Mr. Bohnel reviewed past requests of interested parties that were denied for various reasons and took the discussions into consideration. Mr. Bohnel did extensive research on two specific locations, the Clinton Community Center and Hunts Mill Park, the area near the pond and the fitness trail. Measuring and getting prices for fencing and artificial ground material were discussed. Many council members asked questions pertaining to insurance liability and additional costs for electricity if needed. Council expressed favorable remarks for having a dog park and the matter will be referred to the Buildings and Grounds Committee for their next meeting. The Town insurance agent, Caroline Conboy, will require specifics in order to provide insurance information. The area of the pond was thought to be a good idea, however, Fire Chief Hedden informed the council that the squads perform drills in the pond. Mr. Bohnel was also informed that the area is a wetlands and floods and remains extremely wet and muddy long after it rains. Buildings and Grounds will address and report back.

INTRODUCTION OF ORDINANCE #21-03 – AMENDING LAND USE

A motion was made by Mr. Humphrey, seconded by Ms. Johnson, to introduce Ordinance #21-03 on first reading as submitted:

Ordinance 21-03
Affordable Housing Ordinance
Town of Clinton, Hunterdon County

AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF CLINTON TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWN'S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the Mayor and Council of the Town of Clinton, Hunterdon County, New Jersey, that the Code of the Town of Clinton is hereby amended to include provisions addressing Clinton's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income

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units ("affordable units") are created with controls on affordability over time and that low- and moderate income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Town of Clinton Land Use 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 Housing Element and Fair Share Plan has been endorsed by the Mayor and Council. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

The Land Use Ordinance of the Town of Clinton, Article X, § 88-69 through § 88-73, is hereby repealed and replaced in its entirety, to be titled "Affordable Housing Requirements":

SECTION 1. REPEAL AND REPLACE SECTION 88-69 AS FOLLOWS:

Section 88-69 entitled "Affordable Housing" shall be repealed and replaced with the following.

§ 88-69 Affordable Housing Requirements

A. Monitoring and Reporting Requirements

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

- (1) Beginning on February 1, 2020, and on every anniversary of that date through February 1, 2025, the Town agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- (2) Beginning on February 1, 2020, and on every anniversary of that date through February 1, 2025, the Town agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- (3) By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Town will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be

revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.

- (4) By March 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Town will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

B. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Applicability

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

(2) Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

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

D. Alternative Living Arrangements

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

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

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

(2) With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

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

E. Phasing Schedule for Inclusionary Zoning

- (1) In inclusionary developments the following schedule shall be followed:

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

F. New Construction

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

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[4] The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

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

(2) Accessibility Requirements:

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

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

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

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

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

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

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

[6] An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Clinton 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 Town of Clinton'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 paragraph 6)b) above shall be used by the Town of Clinton for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

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

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

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

(3) Design:

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

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

(4) Maximum Rents and Sales Prices:

(a) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures set forth in the Consent Order entered on December 16, 2016, by the Honorable Douglas K. Wolfson, JSC, in In the Matter of the Town of East Brunswick for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan, Docket No.: MID-L-004013-15.

(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,

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and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

- (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
- (d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (e) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - [1] A studio shall be affordable to a one-person household;
 - [2] A one-bedroom unit shall be affordable to a one and one-half person household;
 - [3] A two-bedroom unit shall be affordable to a three-person household;
 - [4] A three-bedroom unit shall be affordable to a four and one-half person household; and
 - [5] A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - [1] A studio shall be affordable to a one-person household;
 - [2] A one-bedroom unit shall be affordable to a one and one-half person household; and
 - [3] A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (g) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based

on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

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

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

(j) The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

G. Utilities

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

H. Occupancy Standards

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

- (1) Provide an occupant for each bedroom;
- (2) Provide children of different sexes with separate bedrooms;
- (3) Provide separate bedrooms for parents and children; and

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- (4) Prevent more than two persons from occupying a single bedroom.

I. 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 Ordinance for a period of at least thirty (30) years, until Clinton takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (2) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (3) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- (4) At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (5) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (6) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

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

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

- (1) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

- (3) The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- (4) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

K. 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) Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Town Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- (3) A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- (4) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

L. Limitations on Indebtedness Secured by Ownership Unit; Subordination

- (1) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- (2) With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership

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unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

M. Capital Improvements To Ownership Units

- (1) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- (2) Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

N. 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 Ordinance for a period of at least 30 years, until Clinton takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- (2) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Hunterdon. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (3) A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;

- (b) Sale or other voluntary transfer of the ownership of the unit; or
- (c) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

O. Rent Restrictions for Rental Units; Leases

- (1) A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the 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 Ordinance.
- (4) No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

P. 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 the regional median household income by household size.
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- (2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

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- (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 reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

Q. Municipal Housing Liaison

- (1) The Town of Clinton shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Town's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Town's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Clinton shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- (2) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Clinton, including the following responsibilities which may not be contracted out to the Administrative Agent:
- (a) Serving as Clinton's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (b) Monitoring the status of all restricted units in Clinton's Fair Share Plan;

- (c) Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
 - (d) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
 - (e) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- (3) Subject to the approval of the Court, the Town of Clinton shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Town in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Town Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

R. Administrative Agent

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

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

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- (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
 - (f) Employing a random selection process as provided in the Affirmative Marketing Plan of the Town of Clinton when referring households for certification to affordable units; and
 - (g) Notifying the following entities of the availability of affordable housing units in the Town of Clinton: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.
- (3) Affordability Controls:
- (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Hunterdon County Register of Deeds or Hunterdon County Clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) Resales and Rerentals:
- (a) 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
 - (b) Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (5) Processing Requests from Unit Owners:

- (a) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
 - (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
 - (c) Notifying the municipality of an owner's intent to sell a restricted unit; and
 - (d) Making determinations on requests by owners of restricted units for hardship waivers.
- (6) Enforcement:
- (a) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - (b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - (c) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
 - (d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - (e) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
 - (f) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Town Council and the Court, setting forth procedures for administering the affordability controls.
- (7) Additional Responsibilities:
- (a) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
 - (b) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and

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reporting requirements in accordance with the deadlines set forth in this Ordinance.

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

S. Affirmative Marketing Requirements

- (1) The Town of Clinton shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (2) The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction.
- (3) The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Hunterdon, Essex, Union and Warren Counties.
- (4) The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Town of Clinton shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- (5) 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.
- (6) The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- (7) The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- (8) Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- (9) In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Clinton, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the

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NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

- (10) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

T. Enforcement

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

- (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(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

- (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 adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

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

- [2] In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Town of Clinton Affordable Housing Trust Fund of the gross amount of rent illegally collected;

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

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

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

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

[3] 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.

[4] 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.

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This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

[5] 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.

[6] 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.

U. Appeals

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

SECTION 2. REPEAL CHAPTER 4-28 OF THE CODE OF THE TOWN OF CLINTON.

Section 4-48 entitled "Municipal Housing Liaison" shall be repealed.

SECTION 3. REPEAL SECTION 88-60.1 OF THE CODE OF THE TOWN OF CLINTON.

Section 88-30.1 entitled "Growth Share Provisions" shall be repealed.

SECTION 4. REPEALER

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

SECTION 5. SEVERABILITY

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

SECTION 6. EFFECTIVE DATE

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

Vote all ayes

Motion carried

A copy of this ordinance will be published in the February 3, 2021 edition of the Hunterdon Review.

A public hearing will be held February 24, 2021.

INTRODUCTION OF ORDINANCE #21-06 – PARKING LOT AMENDMENTS

A motion was made by Ms. Dineen, seconded by Ms. Intrabartola, to introduce Ordinance #21-06 on first reading as submitted:

ORDINANCE # 21-06

ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 135, ENTITLED VEHICLES AND TRAFFIC, OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF CLINTON

WHEREAS, the Town of Clinton Road Committee (Road Committee) is desirous to amend several sections of Chapter 135, entitled Vehicles and Traffic to adjust certain time limits; and

WHEREAS, the Road Committee has recommended to the Mayor and Council that the Code of the Town of Clinton be amended accordingly.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Clinton, the County of Hunterdon, that the Code of the Town of Clinton “Code”) is hereby amended as follows: (1) those portions of the Code set forth below are hereby amended as follows (additions noted in bold italics thus and deletions noted in strikethrough); and (2) portions of the Code not set forth below shall remain unchanged:

SECTION 1. Section 135-6 of the Code of the Town of Clinton entitled “Parking time limited on certain streets”, is amended as follows:

No person shall park a vehicle, trailer, or equipment for longer than the time limit shown in Schedule IV at any time between the hours listed in Schedule IV of any day, except Sundays and public holidays, upon any of the streets or parts of streets described in Schedule IV (§ 135-26) attached to and made a part of this chapter. At the discretion of the Chief of Police, short-term, temporary exceptions to these parking time limits may be granted.

SECTION 2. Section 135-26 of the Code of the Town of Clinton entitled “Schedule IV: Time Limit Parking”, is amended as follows:

In accordance with the provisions of § 135-6, no person shall park a vehicle for longer than the time limit shown upon any of the following streets or parts of streets:

Municipal Parking Lot No. 1 between painted lines	Entire lot	<ul style="list-style-type: none">• 24 hours for non-commercial• 6 hours for commercial	Rear of Municipal Building on Leigh Street
Municipal Parking Lot No. 2 between painted lines	Entire lot	<ul style="list-style-type: none">• 3 hours for non-commercial; 8:00 a.m. to 6:00 p.m., Monday to Saturday.• 3 hours for commercial; 8:00 a.m. to 6:00 p.m., Monday to Saturday.	Block 10, Lot 11, lot running from rear of the Boyle Building on Main Street to Lower Center Street

Municipal Parking Lot No. 3 between painted lines	Entire lot	<ul style="list-style-type: none">• 24 hours for non-commercial• 6 hours for commercial	At the corner of Water Street and Halstead Street
Municipal Lot No. 4 between painted lines	Entire lot	<ul style="list-style-type: none">• 24 hours for non-commercial• 6 hours for commercial	Community Center, Halstead Street
Municipal Parklands, Lot No. 5	Entire lot	<ul style="list-style-type: none">• 24 hours for non-commercial• 6 hours for commercial	Hunts Mills Haver Farm Road
Municipal Lot No. 6	Entire lot	<ul style="list-style-type: none">• 24 hours for non-commercial• 6 hours for commercial	DeMott Pond (Route 173)
Municipal Parking Lot No. 7	North	<ul style="list-style-type: none">• 8 hrs.; 6:00 a.m. to 4:00 p.m., Monday to Friday• No parking for commercial at any time.	Clinton Fire Department (New Street)

For the purposes of this section, “commercial vehicle” shall mean a bus, trailer, equipment, and/or vehicle that is intended for and primarily used for commercial purposes, whether or not said vehicle is registered as a commercial vehicle with any State Division of Motor Vehicles. For the purposes of this section, all trucks, vans, buses, trailers, equipment, or other vehicles containing advertising matter intending to promote the interest of any business shall be considered “commercial.”

SECTION 3. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.

Vote all ayes
Motion carried

A copy of this ordinance will be published in the February 3, 2021 edition of the Hunterdon Review. A public hearing will be held February 24, 2021.

RESOLUTION #42-21 – CANCELLATION OF LIEN #2017-10

A motion was made by Mr. Traphagen seconded by Mr. Humphrey, to adopt Resolution #42-21 as submitted:

RESOLUTION # 42-21

WHEREAS, the Tax Collector of the Town of Clinton has been paid \$71,791.67, the amount necessary to redeem Tax Sale Certificate #2017-10 on Block 15, Lot 10 assessed to Hunterdon Rentals, LLC and purchased by US Bank Custodian BV002 Trust & Crdtrs.

NOW THEREFORE BE IT RESOLVED, on this 27th day of January 2021 by the Mayor and Council of the Town of Clinton, County of Hunterdon, that the Chief Financial Officer be authorized to issue a check in the amount of \$71,791.67 (Certificate) and \$23,600.00 (Premium) to US Bank Cust BV002 Trust & Crdtrs, 50 South 16th Street, Suite 2050, Philadelphia, PA, 19102-2513, upon receipt of the Original Tax Sale Certificate endorsed for cancellation, and

BE IT FURTHER RESOLVED that the Tax Collector be authorized to cancel Lien #2017-10 on Block 15, Lot 10, assessed to Hunterdon Rentals, LLC, from the Town of Clinton Tax Records.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes
Motion carried

RESOLUTION #43-21 – LABOR COUNSEL

A motion was made by Ms. Dineen, seconded by Ms. Intrabartola, to adopt Resolution #43-21 as submitted:

RESOLUTION APPOINTING LABOR ATTORNEY

RESOLUTION # 43-21

WHEREAS, the Town of Clinton is in need of contracting for Labor Attorney and related services, within the Town of Clinton, Hunterdon County, State of New Jersey; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., requires a resolution authorizing the award of the contract for professional services and that the contract itself must be available for inspection.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Clinton, Hunterdon County, State of New Jersey, that the Mayor and the Town Clerk of Clinton are hereby authorized, respectively, to execute and attest to an agreement with Trimboli & Prusinowski, LLC, for Labor Attorney and related services, according to the attached fee schedule.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes
Motion carried

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RESOLUTION #44-21 – ENDORSING AMENDED HOUSING ELEMENT

A motion was made by Ms. Johnson, seconded by Ms. Karsh, to adopt Resolution #44-21 as submitted:

RESOLUTION #44 -21

**RESOLUTION ENDORSING THE AMENDED HOUSING ELEMENT AND FAIR SHARE
PLAN ADOPTED BY THE LAND USE BOARD AND ADOPTING A SPENDING PLAN**

WHEREAS, the Town of Clinton (the “Town”) filed a Declaratory Judgment Action (the “Litigation”) in the Superior Court of New Jersey, Hunterdon County, in furtherance of the Supreme Court’s March 10, 2015, decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”), which was assigned to the Honorable Thomas C. Miller, P.J., Cv.; and

WHEREAS, a Fairness Hearing was held on December 20, 2018, at which settlement agreements between the Borough and Fair Share Housing Center (“FSHC”) Moebus 34, LLC (“Moebus”) were approved, and said approval was later memorialized by an Order entered by the Court on March 6, 2019; and

WHEREAS, in accordance with the terms of the afore-mentioned settlement agreements and the Court’s March 6, 2019 Order, the Borough’s planner prepared a Housing Element and Fair Share Plan (“HEFSP”); and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:44D-13, the Land Use Board held a public hearing on the HEFSP on December 3, 2019 and adopted the HEFSP on the same day; and

WHEREAS, certain amendments were required to be made to the HEFSP; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:44D-13, the Land Use Board held a public hearing on the Amended HEFSP (dated January 7, 2021) on January 19, 2021 and adopted the HEFSP on the same day; and

WHEREAS, the Town Council of the Town of Clinton wishes to endorse the Amended Housing Element and Fair Share Plan dated January 7, 2021 and seeks approval of the HEFSP from the Court.

WHEREAS, the Town has in place a Development Fee Ordinance that establishes standards for the collection, maintenance, and expenditure of development fees to be used for providing low- and moderate-income housing in the Town; and

WHEREAS, the Development Fee Ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of construction of affordable units on-site, barrier free escrow funds, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units; and

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from the Council on Affordable Housing or a court of competent jurisdiction prior to spending any of the funds in its housing trust fund; and

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WHEREAS, the Town Planner has prepared a spending plan consistent with N.J.A.C. 5:97-8.10, which is attached to the Amended HEFSP as Appendix 17; and

WHEREAS, the Town wishes to continue to provide affordable housing opportunities through expenditure of funds through the Affordable Housing Trust Fund

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Town of Clinton, Hunterdon County, New Jersey, as follows:

1. That it hereby endorses the Housing Element and Fair Share Plan, as adopted by the Town of Clinton Land Use Board on January 19, 2021, attached hereto as Exhibit A.
2. The Town Council approves and adopts the Spending Plan attached thereto.
3. That it authorizes and directs its professionals to file with the Court (i) the Amended Housing Element and Fair Share Plan, (ii) the resolutions of the Land Use Board adopting and the Town Council endorsing the Housing Element and Fair Share Plan, (iii) the Spending Plan, and (iv) any additional documents the professionals deem necessary or desirable.
4. That it authorizes its professionals to seek Court approval of the Housing Element and Fair Share Plan at a properly noticed Compliance Hearing.
5. That it reserves the right to amend the Housing Element and Fair Share Plan, should that be necessary.
6. That a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the Fair Share Plan; and
7. That notice of this endorsement and a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Town of Clinton's municipal clerk's office during the regular business hours for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.
8. This Resolution shall take effect immediately.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes
Motion carried

RESOLUTION #45-21 – PROFESSIONAL SERVICES AGREEMENT

A motion was made by Ms. Karsh, seconded by Ms. Dineen, to adopt Resolution #45-21 as submitted:

RESOLUTION #45-21

RESOLUTION APPOINTING PROFESSIONAL PLANNER

PHILLIPS, PREISS, GRYGIEL, LEHENY, HUGHES, LLC

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WHEREAS, the Town of Clinton is in need of contracting for a professional planner and real estate advice in connection with the Town of Clinton, its Economic Development Committee and / or its department and agencies, and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., requires a resolution authorizing the award of the contract for professional services and that the contract itself must be available for inspection.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Clinton, Hunterdon County, State of New Jersey, that the Mayor and the Town Clerk of Clinton are hereby authorized, respectively, to execute and attest to an agreement with Phillips, Preiss, Grygiel, Leheny Hughes LLC for an amount not to exceed \$26,950 and related services.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes
Motion carried

RESOLUTION #46-21 – TRANSFER OF FUNDS

A motion was made by Ms. Dineen, seconded by Mr. Traphagen, to adopt Resolution #46-21 as submitted:

RESOLUTION # 46-21

WHEREAS, various 2020 bills have been presented for payment this year, which bills were not covered by order number and/or recorded at the time of transfers between the 2020 Budget Appropriation Reserve in the last two months of 2020; and

WHEREAS, N.J.S. 40A:4-59 provides that all unexpended balances carried forward after the close of the year are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allow transfers to be made from unexpended balances which are expected to be insufficient during the first three months of the succeeding year;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Clinton that transfers in the amount of \$3,000.00 be made between the 2020 Budget Appropriation Reserves as follows:

	<u>FROM</u>	<u>TO</u>
Shade Tree		
Other Expenses	\$3,000.00	
Solid Waste		
Other Expenses		\$3,000.00
TOTALS	\$3,000.00	\$3,000.00

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes
Motion carried

RESOLUTION #47-21 - SHARED SERVICE AGREEMENT

A motion was made by Mr. Humphrey, seconded by Ms. Johnson, to adopt Resolution #47-21 as submitted:

RESOLUTION #47-21

**RESOLUTION AUTHORIZING THE EXECUTION OF A SHARED
SERVICES AGREEMENT BETWEEN THE TOWN OF CLINTON AND
BOROUGH OF HIGH BRIDGE, HUNTERDON COUNTY,
STATE OF NEW JERSEY PURSUANT TO N.J.S.A. 40A:65-1, et seq.**

WHEREAS, the Town of Clinton (“Clinton”) has agreed to furnish the services of its Zoning Officer to the Borough of High Bridge (“High Bridge”) pursuant to N.J.S.A. 40A:65-1, et seq.; and

WHEREAS, Clinton and High Bridge have determined it is in their mutual best interests to provide a shared services for a Zoning Officer; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Town of Clinton, in the County of Hunterdon, that the Mayor and Clerk are authorized to sign the Shared Services Agreement in substantially the same form as attached hereto.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes
Motion carried

CORRESPONDENCE - NONE

REPORTS OF COUNCIL

Councilwoman Dineen

Land Use Board – Application for the Clinton House expansion on the agenda for the first meeting of February.

Councilwoman Karsh

Clinton Guild will continue to meet via zoom every other Tuesday beginning February 2, 2021 at 8:30 a.m. Sweetheart Week will begin February 7 and run through the week to Valentine’s Day! Check out Hunterdon Happenings, several businesses and museums in Town have been nominated.

Water Committee – Edna Mahon water connection is on-going and is scheduled for June, 2021. Access management plan continues to be updated. No change to water availability. Anticipate construction of the Fox Fire Booster Pump Station scheduled for the Spring, 2021. Phase II, paving of the West Main Street project is being planned. Residents will be notified when dates are secured, the paving will take place during the nighttime hours. Leak protection plan is going well.

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Economic Development Committee met and is moving forward with the sustainability project and with the grant and professionals as mentioned earlier this evening. Ms. Karsh thanked Mr. Phelan for all his efforts.

Councilwoman Intrabartola

Board of Health – Rabies Clinic was held January 23, 2021. Ms. Intrabartola mentioned everyone who worked that frigid morning including Officer Gonzalez for directing traffic. Member Beth Sosidka devised an on-line registration via google which worked well. 254 people pre-registered. A total of 325 pets were vaccinated. This was the first drive-through clinic ever held and was arranged due to COVID-19. Folks stayed in their cars and the vet went to each of them. All things considered, it was a success and good comments were given throughout the day. Thanks to Laura and Philip Roerig, DVM, for coming out, popping from car to car and for working with us!

Ms. Intrabartola and Mayor Kovach met with Paul Muir, Guild President, and Caroline Conboy, Town Insurance Agent, to discuss the umbrella insurance required for Tier A level of events. Events like the Christmas Parade and Dickens Days where floats and horse drawn carriages are in Town require additional coverage. The Guild experienced a tough year and not able to afford the extra coverage. Caroline Conboy made a generous \$500 donation to cover the umbrella insurance for the Clinton Guild. Many thanks to Ms. Conboy!

Councilman Traphagen

Historic Commission – held their re-org meeting and Richard Miller was appointed chair. Welcome to Kyle Perloff joining the commission as reported earlier this evening.

South Branch Emergency Services held an ice rescue drill Monday night at Pond Ridge.

Councilwoman Johnson

Sewer Committee – the new treatment plant building is moving forward, currently under construction.

School Board meeting to be rescheduled to February.

Board of Recreation – held their re-organization meeting and Mary Ann Shea is now the Chairperson; Sean Rogan is the Vice Chair. The Board welcomed three new members, Dino Rentoulis, Laura Burr and Kristina Tuxhorn! New people bringing new and creative ideas for this year, keeping within social distancing requirements.

Ms. Johnson also thanked Chief Kubinak for his time in figuring out the number of people allowed indoors in accordance with the Governor's Executive Orders. It is a very time consuming process.

Councilman Humphrey

Introducing the Mayor's Walk to take place Sunday, February 28 at 11:00 a.m. Currently between High Bridge and the Town of Clinton, with hopes to bring in other municipalities to join. This is part of the Mayor's Wellness Campaign and is part seniors and part recreation. The walk is one hour and ten minute education along the way. The group will be led by Mayor Kovach and will meet at the head of the Lansdown Trail parking lot. In partnership with ProActivity and they will assist in education and providing advice.

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Website updates – would like to finish by the end of the week. Everyone is asked to respond to Mr. Humphrey, even if there aren't any changes. Comments and profiles would be a welcomed addition from Council members.

March Newsletter articles are due February 9, 300-500 words encouraged. Mr. Humphrey and Ms. Intrabartola would like a more general interest newsletter for readers accompanied with photos.

Clinton Fire Department – Chief Hedden reported on 2020 statistics: apparatus was on the road 466 Times last year for a total of 270 calls for the year. 1458 hours on calls; 3,821 hours at events, meetings and training, totaling 5,279 volunteer hours for the year. Jonathan Shutz and Ryan Clancy achieved 5 years with the department, however, Jon is leaving Clinton to pursue his dream to become a paid fireman in Virginia. Dave Duran achieved 15 years, Steve Higgins 30 years and Bill Wintermute 60 years! 2020: Tim Langston 153 calls, Jeff Hedden 148 calls, Jason Mayer and Bill Langston 98 calls. For January, 18 calls, 4 gas leaks, 9 alarm activation, 3 working fires one motor vehicle accident. The Department purchased a Fast Rescue Solutions Board for \$2,600. This will be mounted on Squad 45, the unit used for Rapid Intervention Response Team. Clinton is one of five teams in the county that have this team and the board will be very instrumental in running rescues and in evacuations from buildings. The members received the list of questions from Council regarding the Fire District and are working on them.

Police Chief Kubinak

Working on hiring a new officer, the process is slow, not many candidates but have a pool to begin interviewing next week so making progress.

Happy to announce a very fast turn-around on a grant from Ford for \$2,000 masks for free!

STANDBY AND OVERTIME

A motion was made by Ms. Intrabartola, seconded by Ms. Karsh, to approve the standby and overtime attached to these minutes for the period January 8 through January 21, 2021.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes
Motion carried

PAYMENT OF BILLS

A motion was made by Mr. Humphrey, seconded by Mr. Traphagen, to approve the voucher list as attached to these minutes.

ROLL CALL: Ayes: Dineen, Humphrey, Intrabartola, Johnson, Karsh, Traphagen, Mayor Kovach

Vote all ayes
Motion carried

ADJOURNMENT

There being no further business, a motion was made by Mr. Traphagen, seconded by Ms. Dineen, to adjourn the meeting at 8:38 p.m.

Cecilia Covino, RMC/CMC
Municipal Clerk

Janice Kovach, Mayor