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14. Ordinance No, 17 of 2018 – Introduction
Fair Housing Act: Mandatory Set Aside Ordinance
- | | | | |
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15. Ordinance No. 18 of 2018 – Introduction
Fair Housing Act: Overlay Ordinance
- | | | | |
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16. Ordinance No. 19 of 2018 – Introduction
Designated “No Parking” Area on Harbor Beach Blvd.
- | | | | |
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17. Ordinance No: 20 of 2018-Introduction
Designated “No Parking” Area on Bayshore Avenue
- | | | | |
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18. Resolution 2018-143 Re: Authorization to Submit Grant Application to NJ D.O.T.
- | | | | |
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19. Resolution 2018-144 Re: Establishing Procedures for Project Administration and
Management for Federal Highway Administration Projects
- | | | | |
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20. Resolution 2018-145 Re: Insertion of Special Item of Revenue, Chapter 159:
Municipal Alliance
- | | | | |
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21. Resolution 2018-146 Re: Authorizing Execution of an Amended Contract for Open
Box Containers and Disposal Services
- | | | | |
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22. Resolution 2018-147 Re: C.E.R. Refund
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CITY OF BRIGANTINE
RESOLUTION 2018-

GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT

WHEREAS, N.J.S.A.40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2017 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A.40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S.52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.S.A.5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled, "Comments and Recommendations"; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations", as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.S.A.5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S.52:27BB-52, to wit:

R.S.52:27BB52 a local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Brigantine, hereby states that it has complied with N.J.S.A.5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

This is to certify that the above is a true and lawful copy of a resolution adopted by the City Council of the City of Brigantine, County of Atlantic, New Jersey at its meeting of August 1, 2018.

Lynn Sweeney, RMC
City Clerk

CITY OF BRIGANTINE
ORDINANCE NO. 14 of 2018

THE FLOOD DAMAGE PREVENTION ORDINANCE

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 181 "FLOOD DAMAGE PREVENTION" OF THE CODE OF THE CITY OF BRIGANTINE, COUNTY OF ATLANTIC, STATE OF NEW JERSEY.

BE IT ORDAINED by the City Council of the City of Brigantine as follows:

WHEREAS, The Mayor and City Council of the City of Brigantine, New Jersey finds that the prevention of flooding is an urgent matter;

WHEREAS, The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry.

THEREFORE, the Mayor and City Council of the City of Brigantine, New Jersey does ordain as follows:

SECTION 1.0

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Brigantine of Atlantic County, New Jersey does ordain as follows:

1.2 FINDINGS OF FACT

- a) The flood hazard areas of the City of Brigantine are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a) Protect human life and health;
- b) Minimize expenditure of public money for costly flood control projects;

- c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d) Minimize prolonged business interruptions;
- e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b) Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

AO Zone- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

AH Zone- Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone

Advisory Base Flood Elevation (ABFE) —The elevation shown on a community's Advisory Flood Hazard Map that indicates the advisory stillwater elevation plus wave effect ($ABFE = SWEL + \text{wave effect}$). resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

Advisory Flood Hazard Area (AFHA) —The land in the floodplain within a community subject to flooding from the 1% annual chance event depicted on the Advisory Flood Hazard Map.

Advisory Flood Hazard Area Map - The official map on which the Federal Emergency Management Administration has delineated the areas of advisory flood hazards applicable to the community.

Appeal — A request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

Area of Shallow Flooding — A designated AO or AH zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard — Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

Base Flood — A flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) — The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. For zones VE and V1-30 the elevation represents the stillwater elevation (SWEL) plus wave effect ($BFE = SWEL + \text{wave effect}$) resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

Basement — Any area of the building having its floor subgrade (below ground level) on all sides.

Best Available Flood Hazard Data — The effective Flood Insurance Risk Maps or most recent Advisory Flood Hazard Area Maps FEMA has provided.

Best Available Flood Hazard Data Elevation — Is depicted on the effective FIRM or FIS, or an Advisory Flood Hazard Area Map or Advisory FIS.

Breakaway Wall — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Coastal A Zone — The portion of the Special Flood Hazard Area (SFHA) starting from a Velocity (V) Zone and extending up to the landward Limit of the Moderate Wave Action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the open coast and the landward Limit of the Moderate Wave Action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces. Construction and development in Coastal A Zones is to be regulated the same as V Zones/Coastal High Hazard Areas.

Coastal High Hazard Area — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Cumulative Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50 percent of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

Development — Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Digital Flood Insurance Rate Map (DFIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Elevated Building — A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor or, in the case of a building in a Coastal High-Hazard Area or Coastal A Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard and Coastal A Zones "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

Erosion — The process of gradual wearing away of land masses.

Existing Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Flood or Flooding — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) The overflow of inland or tidal waters and/or
- b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

Floodplain Management Regulations — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such federal, State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Freeboard — A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

Historic Structure — Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved State program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in States without approved programs.

Limit of Moderate Wave Action (LiMWA) — Inland limit of the area affected by waves greater than 1.5 feet during the Base Flood. Base Flood conditions between the V Zone and the LiMWA will be similar to, but less severe than those in the V Zone.

Lowest Floor — The lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

Manufactured Home — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when

attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Manufactured Home Subdivision — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

Primary Frontal Dune — A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

Recreational Vehicle — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand Dunes — Naturally occurring or man-made accumulations of sand in ridges or mounds landward of the beach.

Start of Construction — (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

Substantial Damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial Damage also means flood-related damages sustained by a structure on two or more separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure during a 10-year period the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. Substantial improvement also means "cumulative substantial improvement." This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed or "repetitive loss". The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance — A grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

Violation — The failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Brigantine, Atlantic County, New Jersey.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the City of Brigantine, Community No. 345286, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a) A scientific and engineering report "Flood Insurance Study, Atlantic County, New Jersey (All Jurisdictions)" dated August 28, 2018.
- b) "Flood Insurance Rate Map, City of Brigantine, New Jersey, Atlantic County" as shown on Index and panel(s) 34001C0334F, 34001C0341F, 34001C0342F, 34001C0343F,

34001C0344F, 34001C0353F, 34001C0354F, 34001C0361F, 34001C0362F, 34001C0363F, 34001C0456F, 34001C0457F whose effective date is August 28, 2018.

- c) Best Available Flood Hazard Data. These documents shall take precedence over effective panels and FIS in construction and development regulations only. Where the effective mapping or Advisory Base Flood Elevation conflict or overlap whichever imposes the more stringent requirement shall prevail.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study, maps and advisory documents are on file at Brigantine City Hall, 1417 West Brigantine Avenue, Brigantine, New Jersey.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Brigantine from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- a) Considered as minimum requirements;
- b) Liberally construed in favor of the governing body; and,
- c) Deemed neither to limit nor repeal any other powers granted under State statutes.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the City of Brigantine, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in section 3.2. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b) Elevation in relation to mean sea level to which any structure has been floodproofed.
- c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 5.2-2; and,
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Official shall include, but not be limited to:

4.3-1 PERMIT REVIEW

- a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- c) Review all development permits in the coastal high hazard and Coastal A Zone area to determine if the proposed development alters sand dunes or other natural coastal protections so as to increase potential flood damage.
- d) Review plans for walls to be used to enclose space below the base flood level in accordance with section 5.3-2 d).

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer sections 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed structures:
 - i. verify and record the actual elevation (in relation to mean sea level); and

- ii. maintain the floodproofing certifications required in section 4.1 c).
- c) In coastal high hazard and Coastal A Zone areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 5.3-2 a) and 5.3-2 b) i. and ii. are met.
- d) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 ALTERATION OF WATERCOURSES

- a) Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
- b) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

4.3-5 SUBSTANTIAL DAMAGE REVIEW

- a) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
- b) Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control.
- c) Ensure substantial improvements meet the requirements of sections 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION, and 5.2-3, SPECIFIC STANDARDS; MANUFACTURED HOMES.

4.3-6 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

4.4 VARIANCE PROCEDURE

4.4-1 APPEAL BOARD

- a) The City Council of the City of Brigantine shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b) The City Council of the City of Brigantine shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this ordinance.
- c) Those aggrieved by the decision of the City Council of the City of Brigantine, or any taxpayer, may appeal such decision to the appropriate court of competent jurisdiction.
- d) In passing upon such applications, the City Council of the City of Brigantine, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - i. the danger that materials may be swept onto other lands to the injury of others;
 - ii. the danger to life and property due to flooding or erosion damage;
 - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. the importance of the services provided by the proposed facility to the community;

- v. the necessity to the facility of a waterfront location, where applicable;
 - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. the compatibility of the proposed use with existing and anticipated development;
 - viii. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action; if applicable, expected at the site; and,
 - xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- e) Upon consideration of the factors of section 4.4-1 d) and the purposes of this ordinance, the City Council of the City of Brigantine may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- f) The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

4.4-2 CONDITIONS FOR VARIANCES

- a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items i.-xi. in section 4.4-1 d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d) Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in section 4.4-1 d), or conflict with existing local laws or ordinances.
- e) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

5.1-1 ANCHORING

- a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b) All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- d) For all new construction and substantial improvements the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and certified by a NJ Licensed design professional and located above the required freeboard so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-4 SUBDIVISION PROPOSALS

- a) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
- d) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

5.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of

floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two (2) exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

- a) For Coastal A Zone construction see section 5.3 COASTAL HIGH HAZARD AREA AND COASTAL A ZONE.
- b) New construction and substantial improvement of any residential structure located in an AE-9 zone shall have the lowest floor, including basement together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated at or above the base flood elevation or as required by ASCE/SEI 24-14, Table 2-1, or the best available flood hazard data elevation, whichever is more restrictive, plus three feet;
- c) New construction and substantial improvement of any residential structure located in an A or AE zone (other than the AE-9 zone) shall have the lowest floor, including basement together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated at or above the base flood elevation, or as required by ASCE/SEI 24-14, Table 2-1, or the best available flood hazard data elevation, plus two feet;
- d) New construction and substantial improvement of any residential structure located in a Shaded X zone shall comply with the requirements of the AE-9 zone noted above;
- e) Require within any AO or AH zone on the municipality's DFIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with all attendant utilities and sanitary facilities, elevated above the depth number specified in feet plus two (2) foot, above the highest adjacent grade (at least three feet if no depth number is specified) or at or above the best available flood elevation data plus two feet, whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

5.2-2 NONRESIDENTIAL CONSTRUCTION

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone (for Coastal A Zone construction see section 5.3 COASTAL HIGH HAZARD AREA AND COASTAL A ZONE) shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities as well as all electrical, heating, ventilating, air-conditioning and other service equipment:

either

- a) Elevated to or above the base flood elevation plus two (2) feet or the best available flood hazard data elevation, plus two feet or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive; and
- b) Require within any AO or AH zone on the municipality's DFIRM to elevate above the depth number specified in feet plus two (2) feet, above the highest adjacent grade (at least three feet if no depth number is specified) or at or above the best available flood hazard data elevation data plus two feet, whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

- c) Be floodproofed so that below the base flood level plus two feet, or as required by ASCE/SEI 24-14, Table 2-1, or at or above the best available flood elevation data plus two feet, whichever is more restrictive, the structure is watertight with walls substantially impermeable to the passage of water;
- d) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- e) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section 4.3-3 b) ii.

5.2-3 MANUFACTURED HOMES

- a) Manufactured homes shall be anchored in accordance with section 5.1-1 b).
- b) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
 - i. Be consistent with the need to minimize flood damage,
 - ii. Be constructed to minimize flood damage,
 - iii. Have adequate drainage provided to reduce exposure to flood damage;
 - iv. Be elevated on a permanent foundation such that the top of the lowest floor is elevated to or above the base flood elevation or the best available flood hazard data elevation, plus two feet or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive; and,
 - v. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

5.3 COASTAL HIGH HAZARD AREA AND COASTAL A-ZONE

Coastal high hazard areas (V or VE Zones) and Coastal A Zones are located within the areas of special flood hazard established in section 3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

5.3-1 LOCATION OF STRUCTURES

- a) All buildings or structures shall be located landward of the reach of the mean high tide.
- b) The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or subdivision.

5.3-2 CONSTRUCTION METHODS

a) ELEVATION

All new construction and substantial improvements shall be elevated on piling or columns so that:

- i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood elevation plus two (2) feet or as required by the ASCE/SEI 24-14, Table 4-1, or the best available flood hazard data, whichever is more restrictive,
- ii. All electrical, heating, ventilating, air-conditioning, mechanical equipment and other equipment servicing the building is elevated two (2) feet above the base flood elevation, or the best available flood hazard data elevation, whichever is more restrictive and
- iii. With all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in section 5.3-2 d).

b) STRUCTURAL SUPPORT

- i. All new construction and substantial improvements shall be securely anchored on piling or columns.
- ii. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- iii. Prohibit the use of fill for structural support of buildings within Zones VI-30, VE, V, and Coastal A on the community's DFIRM.

c) CERTIFICATION

A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of section 5.3-2 a) and 5.3-2 b) i. and ii.

d) SPACE BELOW THE LOWEST FLOOR

- i. Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.
- ii. Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.
 - (i) breakaway wall collapse shall result from a water load less than that which would occur during the base flood and;
 - (ii) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the

effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

- iii. If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation and shall not exceed 300 SF.
- iv. Prior to construction, plans for any breakaway wall must be submitted to the Construction Code Official or Building Sub-Code Official for approval.

5.3-3 SAND DUNES

Prohibit man-made alteration of sand dunes within Coastal A Zones, VE and V Zones on the community's DFIRM which would increase potential flood damage.

SECTION 6.0 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 7.0 ENACTMENT

7.01 ADOPTION

This Ordinance shall be effective on (*effective date*) and shall remain in force until modified, amended or rescinded by City of Brigantine, Atlantic County, New Jersey.

ENACTED AND ADOPTED by the City Council of the City of Brigantine this [*day*] day of [*month*], [*year*].

ATTEST: City Council of the City of Brigantine,

Lynn Sweeney, City Clerk

By: _____
Mayor

APPROVED, this [*day*] day of [*month*], [*year*], by the Mayor of Brigantine

ATTEST:

Lynn Sweeney, City Clerk

Mayor _____

ORDINANCE NO. 2018-15

ORDINANCE OF THE CITY OF BRIGANTINE AMENDING CHAPTER
150 DEVELOPMENT FEES TO PROVIDE FOR THE COLLECTION
OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE
HOUSING AS PERMITTED BY THE NEW JERSEY FAIR
HOUSING ACT

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

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

BE IT ORDAINED by the City Council of the City of Brigantine, Atlantic County, New Jersey, that the Code of the City of Brigantine is hereby amended to include the following provisions regulating the collection and disposition of mandatory development fees to be used in connection with the City's affordable housing programs, 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.

A new Chapter 150 entitled "Development Fees" is added as follows:

1. Purpose

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

2. Basic requirements

- a) This ordinance shall not be effective until approved by the Court.
- b) The City of Brigantine shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan) in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*.

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. "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.
 - ii. "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
 - iii. "Development fee" means money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH Rules..
 - iv. "Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option

or contract to purchase, or other person having an enforceable proprietary interest in such land.

- v. "Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
- vi. "Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development fees

a) Imposed fees

- i. Within all residential zones, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%0 of the equalized assessed value for residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers are required to pay a development fee of six percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and one half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

- b) Eligible exactions, ineligible exactions and exemptions for residential development

- i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. 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. The fee percentage shall be vested on the date that the building permit is issued.
- iii. Development fees shall not be imposed and collected when an existing structure undergoes a change to a more intense use. For the demolition of an existing residential structure with a replacement of a new residential structure, the development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. Developments by the City or legally formed non-profit are exempt from development fees.
- v. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

5. Non-residential Development fees

a) Imposed fees

- i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed

value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

- b) Eligible exactions, ineligible exactions and exemptions for non-residential development
 - i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - ii. The 2.5 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.
 - iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 - iii. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - iv. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Brigantine as a lien against the real property of the owner.

6. 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 and to notify the Tax Assessor of the grant of such approval.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions

provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- c) The construction official responsible for the issuance of a 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 Brigantine fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h) The developer shall pay 100 percent of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.
- i) Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Brigantine. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

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

7. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 1. payments in lieu of on-site construction of affordable units;
 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 3. rental income from municipally operated units;
 4. repayments from affordable housing program loans;
 5. recapture funds;
 6. proceeds from the sale of affordable units; and
 7. any other funds collected in connection with Brigantine's affordable housing program.
- c) In the event of a failure by the City of Brigantine to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the City of Brigantine, or, if not practicable, then within the County or the Housing Region.

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

- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court.

8 Use of funds

- a) The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address Brigantine's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartments, market to affordable,, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse Brigantine for past housing activities.
- c) 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 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.
 - i. 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.

- ii. 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.
- iii. 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) Brigantine 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 monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to regulations and/or action are not eligible uses of the affordable housing trust fund.

9. **Monitoring**

- a) Brigantine shall complete and return to the appropriate agency and FSHC all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential 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 Brigantine's housing program, as well as to the expenditure of revenues and implementation of the plan granted a Judgment of Compliance and Repose by the Court. All monitoring reports shall be completed on designated forms.

10. **Ongoing collection of fees**

- a) The ability for Brigantine to impose, collect and expend development fees shall expire with its Judgment of Compliance and Repose unless Brigantine has filed an adopted Housing Element and Fair Share Plan with the duly designated entity, has petitioned for the appropriate action, and has received approval of its development fee ordinance. If Brigantine fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance

and Repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). Brigantine shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance and Repose, nor shall Brigantine retroactively impose a development fee on such a development. Brigantine shall not expend development fees after the expiration of its Judgment of Compliance.

REPEALER

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

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.

EFFECTIVE DATE

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

CITY OF BRIGANTINE

New Version
as of 7/31/18
4:00 PM.

CITY OF BRIGANTINE
ORDINANCE NO. 16 OF 2018

AFFORDABLE HOUSING ORDINANCE OF THE CODE OF THE CITY OF
BRIGANTINE TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT
AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC)
REGARDING COMPLIANCE WITH THE CITY'S AFFORDABLE HOUSING
OBLIGATIONS

BE IT ORDAINED by the City Council of the City of Brigantine, County of Atlantic and State of New Jersey, that the Code of the City of Brigantine is hereby revised to include provisions addressing Brigantine'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 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 Brigantine City 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 Housing Element and Fair Share Plan have been endorsed by the governing body. 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.

On the first anniversary of the entry of the Order granting Brigantine a Final Judgment of Compliance and Repose in IMO Application of the City of Brigantine, Docket No.ATL-L-1504-15 and every anniversary thereafter through the end of the Repose period, the City shall 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 and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

On the first anniversary of the entry of the Order granting Brigantine a Final Judgment of Compliance and Repose in IMO Application of the City of Brigantine, Docket No.ATL-L-1504-15 and every anniversary thereafter through the end of the Repose period, the City shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with copies provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Court-appointed Special Master and Fair Share Housing Center. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A.

52:27D-313, the City shall post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the Court regarding these issues.

For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the Order granting Brigantine Final Judgment of Compliance and Repose in IMO Application of the City of Brigantine, Docket No. ATL-L-1504-15, and every third year thereafter, the City will post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, on the issue of whether the municipality has complied with its very low income housing obligation.

SECTION 1:

Purpose.

The purpose of this ordinance is to provide for and regulate affordable housing in the City.

A. Definitions.

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

ACT

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

ADAPTABLE

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

ADMINISTRATIVE AGENT

The entity designated by the City 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

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

AFFORDABILITY AVERAGE

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

AFFORDABLE

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

AFFORDABLE HOUSING DEVELOPMENT

A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the City's fair share obligation, and includes, but is not limited to, inclusionary development market to affordable program and apartments for veterans and families.

AFFORDABLE HOUSING PROGRAM(S)

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

AFFORDABLE UNIT

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

AGENCY

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

AGE-RESTRICTED UNIT

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

ALTERNATIVE LIVING ARRANGEMENTS

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

ASSISTED LIVING RESIDENCE

A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the

proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD

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

COAH

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

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

DEVELOPER

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

DEVELOPMENT

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

INCLUSIONARY DEVELOPMENT

A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD

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

LOW-INCOME UNIT

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

MAJOR SYSTEM

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

MARKET-RATE UNITS

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

MEDIAN INCOME

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

MODERATE-INCOME HOUSEHOLD

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

MODERATE-INCOME UNIT

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

MULTIFAMILY UNIT

A structure containing five or more dwelling units.

NON-EXEMPT SALE

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

RANDOM SELECTION PROCESS

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

REGIONAL ASSET LIMIT

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

REHABILITATION

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

RENT

The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with

allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT

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

UHAC

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

VERY LOW-INCOME HOUSEHOLD

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

VERY LOW-INCOME UNIT

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

WEATHERIZATION

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

B. Applicability.

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 City of Brigantine pursuant to the City's most recently adopted Housing Element and Fair Share Plan.

C. 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:
 - i. 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.
 - ii. 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.

D. Zoning.

1. To implement the fair share plan in a manner consistent with the terms of the settlement agreement, ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, the zoning in Section 2 is consistent with the provisions of the City of Brigantine's Housing Element and Fair Share Plan and the terms of the settlement agreement.

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 median income). The very low income units shall be counted as part of the required number of low income units within the development.
 - b. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families.
 - c. A maximum of 25 percent of the City's obligation may be met with age restricted units. At least half of all affordable units in the City's Plan shall be available to families.
 - d. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
 - e. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;

- iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
- iv. 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. 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:
 - i. An adaptable toilet and bathing facility on the first floor; and
 - ii. An adaptable kitchen on the first floor; and
 - iii. An interior accessible route of travel on the first floor; and
 - iv. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - v. If 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
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, *et seq.*) and the Barrier Free Sub Code, N.J.A.C. 5:23-7, or evidence that Brigantine has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - a. Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

- b. To this end, the builder of restricted units shall deposit funds within the City of Brigantine'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 City of Brigantine 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 City of Brigantine 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 City's Affordable Housing Trust Fund in care of the City Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- f. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

3. 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 regional income limits established by COAH or a successor entity.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median

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

- c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.
- 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:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household;
 - iii. A two-bedroom unit shall be affordable to a three-person household;
 - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - v. 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:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based

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

- h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- j. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

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 its Section 8 program.

H. Occupancy Standards.

- 1. 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:
 - a. Provide an occupant for each bedroom;
 - b. Provide children of different sexes with separate bedrooms;
 - c. Provide separate bedrooms for parents and children; and
 - d. 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 Brigantine takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
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.

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 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.

- 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 anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

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, however, the Administrative Agent may, upon approval by the City Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
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 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 adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
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 Brigantine takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
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 Atlantic. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
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 percent 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 median income.

Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

- b. 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 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:

- 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 City of Brigantine shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Brigantine shall adopt an Ordinance creating the position of Municipal Housing Liaison. Brigantine shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Brigantine, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - a. Serving as Brigantine'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 Brigantine's Fair Share Plan;
 - c. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
 - 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 City of Brigantine shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the City Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

R. Administrative Agent.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

1. Affirmative Marketing:

- a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the City of Brigantine and the provisions of N.J.A.C. 5:80-26.15; and
- b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

- a. Soliciting, scheduling, conducting and following up on interviews with interested households;
- b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

- d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- f. Employing a random selection process as provided in the Affirmative Marketing Plan of the City of Brigantine when referring households for certification to affordable units.

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 Atlantic County Register of Deeds or 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- 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. 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 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 City 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 any monitoring requirements and deadlines imposed by the Court.
- 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 City of Brigantine 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. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the New Jersey State NAACP, the Mainland /Pleasantville Mizpah, Atlantic City and Cape May County Branches of the NAACP , Supportive Housing Association, FSHC and the Latino Action Network of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 6 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 6, comprised of Atlantic, Cape May, Cumberland and Salem 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 City of Brigantine 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. Pre-applications shall be emailed or mailed to prospective applicants upon request.

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

T. 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, 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:
 - i. 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. 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 City of Brigantine Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - ii. 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.
 - i. 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.

- ii. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the 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.
- iii. 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.
- iv. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the 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.
- v. 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.

- vi. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

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:

Brigantine is constitutionally obligated to provide a reasonable opportunity to comply with its affordable housing obligation. Creating three new affordable housing zones and a mandatory set aside ordinance create a reasonable opportunity for the construction of affordable housing. The zones/ ordinance shall be as follows:

1. Mandatory Set Aside Ordinance

Mandatory Affordable Housing Set-aside in Future Rezonings or the Grant of Variances Authorizing Multi-Family Housing.

- A. Pursuant to directives of the Superior Court in the third round affordable housing proceedings encaptioned In the Matter of the City of Brigantine, Docket No. ATL-L-1504-15 (Mount Laurel), if the City or its land use Boards permit, either through future rezonings or the grant of variances, multi-family or single family attached development that is “approvable” and “developable” as defined in N.J.A.C. 5:93-1, et seq. at a gross density of six (6) units to the acre or more, or permits an increase in the already permitted density of a multi-family or single family attached zone or development resulting in six (6) or more net new dwelling units on the property, the City and/or its land use Boards shall require that an appropriate percentage of the residential units shall be set-aside for low and moderate income households in accordance with N.J.A.C. 5:93-1, et seq. This requirement shall apply to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project which consists of five (5) or more net new residential units, whether permitted by a zoning amendment, a variance granted by the City’s land use Boards, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation. Nothing herein precludes the City from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to the provisions hereof consistent with N.J.S.A. 52:27D-311(h) and other applicable law. Consistent with N.J.A.C. 5:93-1, et seq., for inclusionary projects in which low and moderate income units are to be offered for “sale”, the appropriate set-aside percentage is 20 percent; for inclusionary projects for which the low and moderate income units are to be offered for “rent”,

the appropriate set-aside percentage is 15 percent. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in judicially approved Settlement Agreements under Docket No. ATL-L-1504-15 (Mount Laurel) or the City's judicially approved third round Housing Element and Fair Share Plan (collectively "Compliance Plan"), for which density and set-aside standards shall be governed by the specific standards set forth therein. A property shall not be permitted to be subdivided so as to avoid meeting the above affordable housing requirement.

2. Affordable Housing Overlay – B3 Town Center

AFFORDABLE HOUSING OVERLAY – B3 (AHO-B3) ZONE

PURPOSE.

The purpose of the Affordable Housing Overlay B3 (AHO-B3) overlay zone is to create an incentive to redevelop property for inclusionary development. The density is predicated on a set-aside for affordable housing (low and moderate-income housing). The affordable units will be for rent, the set-aside shall be 15 percent.

DESIGNATED OVERLAY AREA

The AHO-B3 zone will encompass a portion of the B3 (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains a shopping area (Town Center) that is located between Harbor Beach Blvd., 38th Street, Bayshore and Amhurst Avenue (Block 3804, Lot 1). The overlay zone at this shopping center will provide for three residential floors above commercial. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B-1 zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

PERMITTED USES.

- A. Mixed use, commercial first floor with residential above.

SCHEDULE OF AREA AND BULK REQUIREMENTS.

- A. Lot area. The minimum lot area shall be based on the underlying B-1 lot size requirements.
- B. Lot frontage. The minimum frontage shall be based on the underlying B-1 lot frontage requirements.
- C. Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B-1 District.

D. Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.

1. The developer shall install, at his sole expense, the following minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
2. All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

E. Parking.

1. Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).
2. Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine onsite parking requirements.

F. Solid waste disposal areas.

1. All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
2. Solid waste disposal areas shall be fully accessible to service vehicles.
3. Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.
4. Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
5. Disposal area and all facilities shall be provided and maintained by the owner of the development.

G. Public safety considerations.

1. All multifamily developments shall address the following public safety issues within the application for development:
 - i. Emergency access routes for police, fire and ambulance vehicles.
 - ii. Architectural techniques utilized to enhance the security of the development's occupants.
2. All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

3. Affordable Housing Overlay – B1A

AFFORDABLE HOUSING OVERLAY – B1A (AHO-B1A) ZONE

PURPOSE.

The purpose of the Affordable Housing Overlay B1A (AHO-B1A) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low and moderate income housing). The affordable units will be for rent, the set-aside shall be 15 percent.

DESIGNATED OVERLAY AREA

The AHO-B1A zone will encompass a portion of the B1A (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail store (former CVS Store) that is located along Brigantine Avenue and is listed on the Tax Map as Block 806, Lot 1. The overlay zone at this location will provide for up to three residential floors with the potential of parking underneath the structure. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B1A zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

PERMITTED USES.

- A. Multi-family dwellings

SCHEDULE OF AREA AND BULK REQUIREMENTS.

- A. Lot area. The minimum lot area shall be 24,000 sf.
- B. Lot frontage. The minimum frontage shall be based on the underlying B1A lot frontage requirements.
- C. Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B1A District.

D. Density – 20 dwelling units per acre.

E. Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.

1. The developer shall install, at his sole expense, the following minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
2. All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

F. Parking.

1. Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).

G. Solid waste disposal areas.

1. All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
2. Solid waste disposal areas shall be fully accessible to service vehicles.
3. Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.
4. Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
5. Disposal area and all facilities shall be provided and maintained by the owner of the development.

H. Public safety considerations.

1. All multifamily developments shall address the following public safety issues within the application for development:

- i. Emergency access routes for police, fire and ambulance vehicles.
 - ii. Architectural techniques utilized to enhance the security of the development's occupants.
2. All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

4. Affordable Housing Overlay – B1

AFFORDABLE HOUSING OVERLAY – B1 (AHO-B1) ZONE

PURPOSE.

The purpose of the Affordable Housing Overlay B1 (AHO-B1) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low and moderate income housing). The affordable units will be for rent, the set-aside shall be 15 percent.

DESIGNATED OVERLAY AREA

The AHO-B1 zone will encompass a portion of the B1 (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail and service uses that are located along Atlantic-Brigantine Boulevard and is listed on the Tax Map as Block 3701, Lots 1-9 and Block 3702, Lots 1-9. The overlay zone at this location will provide for up to three residential floors above the existing or new commercial uses. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B1 zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

PERMITTED USES.

- A. Mixed use, commercial first floor with residential above

SCHEDULE OF AREA AND BULK REQUIREMENTS.

- A. Lot area. The minimum lot area shall be based on the underlying B-1 lot size requirements.
- B. Lot frontage. The minimum frontage shall be based on the underlying B-1 lot frontage requirements.
- C. Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B-1 District.

D. Density – 20 dwelling units per acre.

E. Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.

1. The developer shall install, at his sole expense, the following minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
2. All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

F. Parking.

1. Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).
2. Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine onsite parking requirements.

G. Solid waste disposal areas.

1. All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
2. Solid waste disposal areas shall be fully accessible to service vehicles.
3. Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.
4. Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
5. Disposal area and all facilities shall be provided and maintained by the owner of the development.

H. Public safety considerations.

1. All multifamily developments shall address the following public safety issues within the application for development:
 - i. Emergency access routes for police, fire and ambulance vehicles.
 - ii. Architectural techniques utilized to enhance the security of the development's occupants.
2. All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

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 passage and publication as provided by law.

FIRST READING:

PUBLICATION:

PASSAGE:

The within Ordinance was introduced at a meeting of the Council of the City of Brigantine, County of Atlantic and State of New Jersey held on, -----2018 and will be further considered for final passage after a public hearing thereon at a meeting of said Council on -----2018.

LYNN SWEENEY, MUNICIPAL CLERK

PHILIP GUENTHER, MAYOR

ORDINANCE NO. 2018- 17

ORDINANCE OF THE CITY OF BRIGANTINE
AMENDING CHAPTER 149 OF THE CODE OF THE CITY
OF BRIGANTINE ENTITLED
“AFFORDABLE HOUSING ORDINANCE”.

WHEREAS, the City of Brigantine is required to amend certain provisions of Chapter 149 of the Code of the City of Brigantine entitled “Affordable Housing Ordinance” to facilitate the production of low and moderate housing pursuant to third round affordable housing proceedings in the Law Division of the Superior Court encaptioned In the Matter of the Application of the City of Brigantine, Docket No. ATL-L-1504-15 (Mount Laurel); and

WHEREAS, the purpose of this Ordinance is to accomplish the foregoing as required by judicial mandate.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the City Council of the City of Brigantine, County of Atlantic, State of New Jersey that Chapter 149 of the Code of the City of Brigantine entitled “Affordable Housing Ordinance” be amended, modified and supplemented as follows:

SECTION I.

A new Chapter 149-02 entitled “Mandatory Affordable Housing Set-aside in Future Rezoning or the Grant of Variances Authorizing Multi-Family Housing” is added as follows:

149-02. Mandatory Affordable Housing Set-aside in Future Rezoning or the Grant of Variances Authorizing Multi-Family Housing.

- a. Pursuant to directives of the Superior Court in the third round affordable housing proceedings encaptioned In the Matter of the City of Brigantine, Docket No. ATL-L-1504-15 (Mount Laurel), if the City or its land use Boards permit, either through future rezonings or the grant of variances, multi-family or single family attached development that is “approvable” and “develorable” as defined in N.J.A.C. 5:93-1, *et seq.* at a gross

density of six (6) units to the acre or more, or permits an increase in the already permitted density of a multi-family or single family attached zone or development resulting in six (6) or more net new dwelling units on the property, the City and/or its land use Boards shall require that an appropriate percentage of the residential units shall be set-aside for low and moderate income households in accordance with N.J.A.C. 5:93-1, et seq. This requirement shall apply to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project which consists of five (5) or more net new residential units, whether permitted by a zoning amendment, a variance granted by the City's land use Boards, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation. Nothing herein precludes the City from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to the provisions hereof consistent with N.J.S.A. 52:27D-311(h) and other applicable law. Consistent with N.J.A.C. 5:93-1, et seq., for inclusionary projects in which low and moderate income units are to be offered for "sale", the appropriate set-aside percentage is 20 percent; for inclusionary projects for which the low and moderate income units are to be offered for "rent", the appropriate set-aside percentage is 15 percent. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in judicially approved Settlement Agreements under Docket No. ATL-L-1504-15 (Mount Laurel) or the City's judicially approved third round Housing Element and Fair Share Plan (collectively "Compliance Plan"), for which density and set-aside standards shall be governed by the specific standards set forth therein. A property shall not be permitted to be subdivided so as to avoid meeting the above affordable housing requirement.

SECTION II. SEVERABILITY.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or

other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION III. INCONSISTENT ORDINANCES REPEALED.

All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

SECTION IV. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law and the filing of same with the Atlantic County Planning Board pursuant to N.J.S.A. 40:55d-16.

ORDINANCE NO. 2018- 12

ORDINANCE OF THE CITY OF BRIGANTINE
AMENDING CHAPTER 198 ENTITLED LAND USE,
ARTICLE VI BUSINESS ZONE REGULATIONS OF THE
CODE OF THE CITY OF BRIGANTINE

WHEREAS, the City of Brigantine is required to amend certain provisions of Chapter 198 of the Code of the City of Brigantine entitled "Land Use" to facilitate the production of low and moderate housing pursuant to third round affordable housing proceedings in the Law Division of the Superior Court encaptioned In the Matter of the Application of the City of Brigantine, Docket No. ATL-L-1504-15 (Mount Laurel); and

WHEREAS, the purpose of this Ordinance is to accomplish the foregoing as required by judicial mandate.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the City Council of the City of Brigantine, County of Atlantic, State of New Jersey that Chapter 198, Article VI of the Code of the City of Brigantine entitled "Business Zone Regulations" be amended, modified and supplemented as follows:

A new Chapter 198-57 entitled "Affordable Housing Overlay" is added as follows:

SECTION I. AFFORDABLE HOUSING OVERLAY – B1 (AHO-B1) ZONE

PURPOSE.

The purpose of the Affordable Housing Overlay B1 (AHO-B1) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low and moderate income housing). The affordable units will be for rent, the set-aside shall be 15 percent.

DESIGNATED OVERLAY AREA

The AHO-B1 zone will encompass a portion of the B1 (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an

existing commercial retail and service uses that are located along Atlantic-Brigantine Boulevard and is listed on the Tax Map as Block 3701, Lots 1-9 and Block 3702; Lots 1-9. The overlay zone at this location will provide for up to three residential floors above the existing or new commercial uses. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B1 zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

PERMITTED USES.

- A. Mixed use, commercial first floor with residential above

SCHEDULE OF AREA AND BULK REQUIREMENTS.

- A. Lot area. The minimum lot area shall be based on the underlying B-1 lot size requirements.
- B. Lot frontage. The minimum frontage shall be based on the underlying B-1 lot frontage requirements.
- C. Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B-1 District.
- D. Density – 20 dwelling units per acre.
- E. Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.
 - 1. The developer shall install, at his sole expense, the following minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
 - 2. All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

- F. Parking.

1. Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).
2. Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine onsite parking requirements.

G. Solid waste disposal areas.

1. All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
2. Solid waste disposal areas shall be fully accessible to service vehicles.
3. Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.
4. Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
5. Disposal area and all facilities shall be provided and maintained by the owner of the development.

H. Public safety considerations.

1. All multifamily developments shall address the following public safety issues within the application for development:
 - i. Emergency access routes for police, fire and ambulance vehicles.
 - ii. Architectural techniques utilized to enhance the security of the development's occupants.
2. All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

SECTION II. AFFORDABLE HOUSING OVERLAY – B1A (AHO-B1A) ZONE

PURPOSE.

The purpose of the Affordable Housing Overlay B1A (AHO-B1A) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low and moderate income housing). The affordable units will be for rent, the set-aside shall be 15 percent.

DESIGNATED OVERLAY AREA

The AHO-B1A zone will encompass a portion of the B1A (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail store (former CVS Store) that is located along Brigantine Avenue and is listed on the Tax Map as Block 806, Lot 1. The overlay zone at this location will provide for up to three residential floors with the potential of parking underneath the structure. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B1A zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

PERMITTED USES.

- A. Multi-family dwellings

SCHEDULE OF AREA AND BULK REQUIREMENTS.

- A. Lot area. The minimum lot area shall be 24,000 sf.
- B. Lot frontage. The minimum frontage shall be based on the underlying B1A lot frontage requirements.
- C. Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B1A District.
- D. Density – 20 dwelling units per acre.
- E. Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.
 - 1. The developer shall install, at his sole expense, the following minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the

Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.

2. All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

F. Parking.

1. Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).

G. Solid waste disposal areas.

1. All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
2. Solid waste disposal areas shall be fully accessible to service vehicles.
3. Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.
4. Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
5. Disposal area and all facilities shall be provided and maintained by the owner of the development.

H. Public safety considerations.

1. All multifamily developments shall address the following public safety issues within the application for development:
 - i. Emergency access routes for police, fire and ambulance vehicles.
 - ii. Architectural techniques utilized to enhance the security of the development's occupants.
2. All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

SECTION III.

AFFORDABLE HOUSING OVERLAY – B3 (Town Center) (AHO-B3) ZONE

PURPOSE.

The purpose of the Affordable Housing Overlay B3 (Town Center) (AHO-B3) overlay zone is to create an incentive to redevelop property for inclusionary development. The density is predicated on a set-aside for affordable housing (low and moderate-income housing). The affordable units will be for rent, the set-aside shall be 15 percent.

DESIGNATED OVERLAY AREA

The AHO-B3 zone will encompass a portion of the B3 (Business) zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains a shopping area (Town Center) that is located between Harbor Beach Blvd., 38th Street, Bayshore and Amhurst Avenue (Block 3804, Lot 1). The overlay zone at this shopping center will provide for three residential floors above commercial. There will be a 15 percent set-aside for affordable family rental units with 13 percent of the affordable units for very low-income households. The underlying B-1 zone, its permitted uses, area and bulk requirements shall remain unchanged unless the Overlay District option for Affordable Housing is implemented by the property owner(s) or developer.

PERMITTED USES.

- A. Mixed use, commercial first floor with residential above.

SCHEDULE OF AREA AND BULK REQUIREMENTS.

- A. Lot area. The minimum lot area shall be based on the underlying B-1 lot size requirements.
- B. Lot frontage. The minimum frontage shall be based on the underlying B-1 lot frontage requirements.
- C. Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B-1 District.
- D. Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.
 - 1. The developer shall install, at his sole expense, the following minimum site improvements: streets, access ways, off-street parking areas, sidewalks, street lighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements.

Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.

2. All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.

E. Parking.

1. Onsite parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).
2. Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine onsite parking requirements.

F. Solid waste disposal areas.

1. All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
2. Solid waste disposal areas shall be fully accessible to service vehicles.
3. Solid waste disposal areas shall be maintained in a clean and orderly condition at all time.
4. Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
5. Disposal area and all facilities shall be provided and maintained by the owner of the development.

G. Public safety considerations.

1. All multifamily developments shall address the following public safety issues within the application for development:
 - i. Emergency access routes for police, fire and ambulance vehicles.
 - ii. Architectural techniques utilized to enhance the security of the development's occupants.

2. All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

SECTION IV. SEVERABILITY.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION V. INCONSISTENT ORDINANCES REPEALED.

All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

SECTION VI. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law and the filing of same with the Atlantic County Planning Board pursuant to N.J.S.A. 40:55d-16.

ORDINANCE NO. 19 OF 2018

AN ORDINANCE AMENDING CHAPTER 284
OF THE CODE OF THE CITY OF BRIGANTINE
AS IT RELATES TO VEHICLES AND TRAFFIC

WHEREAS, State statute specifically allows municipalities to adopt ordinances governing "no parking" areas within said municipalities; and

WHEREAS, the City Council of the City of Brigantine is desirous of alleviating parking and traffic concerns within the City of Brigantine; and

WHEREAS, by alleviating traffic and parking concerns within the City of Brigantine, traffic congestion and the risk of accidents and other hazards is reduced.

NOW, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE IN THE COUNTY OF ATLANTIC AND STATE OF NEW JERSEY AS FOLLOWS:

SECTION I: Section 284-50 of the Code of the City of Brigantine is modified by adding the following:

<u>Name of Street</u>	<u>Block</u>	<u>Location</u>
Harbor Beach Blvd.	4600 Block to Corner of Brant Road	East Side

SECTION II: This Ordinance shall be forwarded to the Commissioner of the Department of Transportation and shall only become effective upon approval of said Department of Transportation.

SECTION III: Upon passage of this Ordinance and approval by the Department of Transportation, the Department of Public Works for the City of Brigantine is authorized to place any and all signs in conformity with this Ordinance.

SECTION IV: Severability

If any section or part of this Ordinance is deemed to be invalid or illegal in any court of competent jurisdiction then said part is severable from this Ordinance as a whole and the remaining sections or parts of this Ordinance shall remain in full force and effect.

SECTION V: Repealer

All Ordinances or portions thereof inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

SECTION VI: Effective Date

This Ordinance shall take effect after final adoption and publication as prescribed by law.

INTRODUCTION: August 1, 2018

ADOPTION:

Lynn Sweeney, RMC, City Clerk

Philip J. Guenther, Mayor

ORDINANCE NO. 20 OF 2018

AN ORDINANCE AMENDING CHAPTER 284
OF THE CODE OF THE CITY OF BRIGANTINE
AS IT RELATES TO VEHICLES AND TRAFFIC

WHEREAS, State statute specifically allows municipalities to adopt ordinances governing "no parking" areas within said municipalities; and

WHEREAS, the City Council of the City of Brigantine is desirous of alleviating parking and traffic concerns within the City of Brigantine; and

WHEREAS, by alleviating traffic and parking concerns within the City of Brigantine, traffic congestion and the risk of accidents and other hazards is reduced.

NOW, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE IN THE COUNTY OF ATLANTIC AND STATE OF NEW JERSEY AS FOLLOWS:

SECTION I: Section 284-50 of the Code of the City of Brigantine is modified by adding the following:

<u>Name of Street</u>	<u>Block</u>	<u>Location</u>
Bayshore Avenue	35 TH to 36 TH Street	West Side

SECTION II: This Ordinance shall be forwarded to the Commissioner of the Department of Transportation and shall only become effective upon approval of said Department of Transportation.

SECTION III: Upon passage of this Ordinance and approval by the Department of Transportation, the Department of Public Works for the City of Brigantine is authorized to place any and all signs in conformity with this Ordinance.

SECTION IV: Severability

If any section or part of this Ordinance is deemed to be invalid or illegal in any court of competent jurisdiction then said part is severable from this Ordinance as a whole and the remaining sections or parts of this Ordinance shall remain in full force and effect.

SECTION V: Repealer

All Ordinances or portions thereof inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

SECTION VI: Effective Date

This Ordinance shall take effect after final adoption and publication as prescribed by law.

INTRODUCTION: August 1, 2018

ADOPTION:

Lynn Sweeney, RMC, City Clerk

Philip J. Guenther, Mayor

City of Brigantine

Resolution 2018-

**Submit Submission of a Grant Application TA-2018-Brigantine City-00013 and
Execute a Grant Agreement with the New Jersey Department of Transportation for
the Transportation Alternatives Program**

WHEREAS, the New Jersey Department of Transportation offers federal Transportation Alternatives Program (TAP) funding to projects that foster more livable communities and promote alternative modes of transportation such as biking and walking; and

WHEREAS, special consideration is given to communities that are Transit Villages, Urban Aid communities and municipalities that have adopted Complete Streets policies;

WHEREAS, this program is available to all counties and municipalities in the State of New Jersey; and

WHEREAS, this grant program does not require matching funds; and

WHEREAS, the City of Brigantine carefully considers grant programs that assist the City in achieving projects and programs that are priorities for the community; and

WHEREAS, the City of Brigantine wishes to apply for this grant to fund streetscape improvements on West Brigantine Avenue from 30th Street to 35th Street.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the City of Brigantine formally supports this Transportation Alternatives Program application TA-2018-Brigantine City- 00013.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application to the New Jersey Department of Transportation for the Transportation Alternatives Program on behalf of the City of Brigantine.

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

CITY OF BRIGANTINE

RESOLUTION 2018 - _____

TO ESTABLISH PROCEDURES FOR ADMINISTRATION AND MANAGEMENT OF
FEDERAL HIGHWAY ADMINISTRATION PROJECTS

THE COUNCIL OF THE CITY OF BRIGANTINE RESOLVES THAT:

WHEREAS, the Federal Highway Administration provides federal funding for construction projects within the City of Brigantine; and

WHEREAS, the City of Brigantine is generally the recipient of such federal funding for specific projects through the New Jersey Department of Transportation; and

WHEREAS, the Federal Highway Administration requires that recipients of such federal funding establish appropriate procedures for the project administration and management of such Federal Aid Projects; and

WHEREAS, management of such projects must comply with Title 23CFR635 et. Seq.; and

WHEREAS, the New Jersey Department of Transportation has requested that the City of Brigantine adopt Policies and Procedures for Locally Administered Federal Aid Projects.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE:

1. The Policies and Procedures for Locally Administered Federal Aid Projects dated June, 2018 attached hereto and made a part hereof is hereby adopted.
2. Upon adoption, a copy of the Policies and Procedures for Locally Administered Federal Aid Projects dated June, 2018, together with a certified copy of this Resolution shall be submitted to the New Jersey Department of Transportation for final approval.

Lynn Sweeney, RMC
City Clerk

CITY OF BRIGANTINE

RESOLUTION NO. 2018-

“A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF BRIGANTINE AUTHORIZING THE EXECUTION OF AN
AMENDED CONTRACT WITH CAN OF WORMS, LLC”

WHEREAS, on July 18, 2015, the City Council for the City of Brigantine adopted Resolution 2015-154 awarding a contract to Can of Worms, LLC for the provision of open box containers and disposal services (“Contract”); and

WHEREAS, the Contract was for a three year term commencing August 6, 2015 and terminating August 6, 2018; and

WHEREAS, N.J.S.A. 40A:11-15 authorizes governing body of a local unit to extend the term of a contract when the contracting unit has commenced rebidding prior to the time the contract expires; and

WHEREAS, the City has commenced rebidding for the provision of these services; and

WHEREAS, the City and Can of Worms, LLC have mutually agreed to extend the termination date of the Contract, subject to the same terms and conditions, until October 16, 2018, to permit the City sufficient to time rebid for these services.

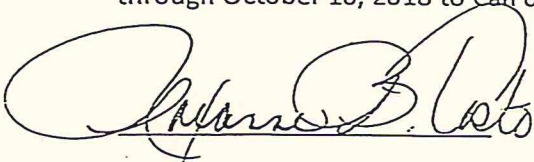
NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Brigantine that the Mayor, City Manager and the City Clerk are authorized to execute an Amended Contract with Can of Worms, LLC to extend the termination date until October 16, 2018.

LYNN SWEENEY, RMC
CITY CLERK

August 1, 2018

CERTIFICATION OF AVAILABILITY OF FUNDS

As required by N.J.S.A. 40A:4-57, N.J.A.C. 5:30-14.5 and any other applicable requirement, I, Roxanne Tosto, Chief Financial Officer of the City of Brigantine, have ascertained that as of August 1, 2018 there are sufficient funds in account #8-01-26-306-202 for the extension of the open box container contract through October 16, 2018 to Can of Worms LLC.

A handwritten signature in cursive script, appearing to read "Roxanne Tosto", written over a horizontal line.

Roxanne Tosto, CFMO

Chief Financial Officer

City of Brigantine

RESOLUTION 2018 –

WHEREAS, it has been determined by the Brigantine C.E.R. that the individual(s) as indicated on the attached Schedule "A" Refund for classes at CER that were paid initially paid for but were actually "Free Classes for Seniors"

WHEREAS, it is the desire of the Council of the City of Brigantine to have these payment(s) Returned to the respective individuals.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Brigantine, County of Atlantic, State of New Jersey, that:

1. The Financial Department is hereby authorized to refund the amounts shown to the respective applicants as presented in Schedule "A".
2. Copies of the resolution shall be sent to the Director of the C.E.R.

SCHEDULE A

Refund
CER Classes
July 10, 2018

Laura Lambright
3919 Ocean Ave. Unit D
Brigantine, NJ 08203

\$200.00

TOTAL \$ 200.00

RESOLUTION 2018-

CITY OF BRIGANTINE
FORM OF RESOLUTION REQUESTING CHANGE IN TITLE,
TEXT, OR AMOUNT OF APPROPRIATION PURSUANT TO
NJS 40A:4-85

WHEREAS, NJS 40A: 4-85 provides that the Director of the Division of Local Government Services may, at the request of, or with the consent of, the governing body of any county or municipality, make such correction of the title, text, or amount of any appropriation appearing in the budget as may be necessary to make said item of appropriation available for the purpose or purposes required for the needs of any county or municipality,

NOW, THEREFORE, BE IT RESOLVED, that in accordance with the provisions of NJS 40A:4-85, City Council of the City of Brigantine hereby requests the Director of the Division of Local Government Services to make the following correction in the 2018 budget:

Operations -Excluded from CAPS:

Public and Private Programs Offset by Revenues, Provision for Matching Funds
For Grants be reduced by the sum of \$4,080.00 and

An appropriation in the like amount of \$4,080.00 is added to the budget entitled:

Operations -Excluded from CAPS:

Public and Private Programs Offset by Revenues
2018 Municipal Alliance Grant

BE IT FURTHER RESOLVED that the foregoing correction is, in the opinion of the governing body, warranted and authorized by the statute referred to above, and is necessary for the orderly operation of the City of Brigantine for the reasons set forth:

The City provided for the possibility of receiving grants after the adoption of the 2018 budget that would possibly require a match in funds and provided for such in the line item called "Matching Funds for Grants". In order to accept the 2018 Municipal Alliance Grant, legal provision for the required match must be made. The above will provide for the said legal provision.

AND, BE IT FURTHER RESOLVED that the City Clerk submit two copies of this resolution to the Director of the Division of Local Government Services for approval.

This is to certify the above is a true and lawful copy of a resolution adopted by the City Council of the City of Brigantine, County of Atlantic, New Jersey at its meeting of August 1, 2018.

Lynn Sweeney, RMC, City Clerk

RESOLUTION NO. 2018-

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the City of Brigantine has received notice of an award of \$16,319.00 with a Cash Match of \$4,080.00 for the fiscal year 2019 and the period of July 1, 2018 through June 30, 2019 from the County of Atlantic, State of New Jersey and wishes to amend its 2018 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Brigantine, in the County of Atlantic, State of New Jersey, hereby requests that Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2018 in the sum of\$16,319.00

Which now is available as revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated
With Prior Written Consent of the Director of the
Division of Local Government Services:

State and Federal Revenues Off-set with

Appropriations:

Municipal Alliance

(July 1, 2018-June 30, 2019)

BE IT FURTHER RESOLVED that the like sum of	\$16,319.00
Cash Match from Emergency Appropriation.....	<u>\$ 4,080.00</u>
Total	\$20,399.00

Be and the same is hereby appropriated under the caption of:

General Appropriations:

Operations Excluded from CAPS

Municipal Alliance

(July 1, 2018-June 30, 2019)

BE IT FURTHER RESOLVED, that the City Clerk will forward a certified copy electronically to the Chief Financial Officer who will file request electronically with the Division of Local Government Services for approval.

RESOLUTION NO. 2018-

RESOLUTION AUTHORIZING THE AWARD OF A BID
TO ATLANTIC SALT INC FOR THE
PURCHASE OF ROCK SALT THROUGH THE
ATLANTIC COUNTY COOPERATIVE

WHEREAS, Pursuant to advertising for sealed bids to be publicly opened and read supplying Rock Salt to members of the Atlantic County Cooperative, a low bid of \$57.90/Ton was submitted by Atlantic Salt Inc., 134 Middle Street, Suite 210, Lowell, MA 01852, said being the lowest responsible bid.

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council for the City of Brigantine, County of Atlantic and State of New Jersey, that Roxanne Tosto, Acting City Administrator is hereby authorized to enter into a Contract with the said Vendor, on behalf of the City of Brigantine, for the sum not to exceed the Atlantic County Cooperative contract firm fixed price and to do whatever is necessary to provide the service and materials as set forth in the bid specifications for the period of September 1, 2018 through May 31, 2019 inclusive.

BE IT FURTHER RESOLVED that Roxanne Tosto, Chief Financial Officer of the City of Brigantine, does hereby certify that there are adequate funds available in the Capital Trust Fund Account T-03-09-360-018. Estimated expenditures for 2018 should not exceed \$60,000.00.

Certified to be a true copy of a Resolution adopted by the Municipal Council of the Township of Galloway, County of Atlantic and State of New Jersey, on the 1st day of August 2018.

CITY OF BRIGANTINE

Lynn Sweeney, RMC
City Clerk

Roxanne Tosto
Chief Financial Officer

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Guenther					
Simpson					
Sera					
Bew					
Riordan					
Haney					
DeLucry					



New Jersey Office of the Attorney General
 Division of Consumer Affairs
 Legalized Games of Chance Control Commission
 124 Halsey Street, 6th Floor, P.O. Box 46000
 Newark, New Jersey 07101
 (973) 273-8000

Application for a Raffle License

Application No. RA 856
 Identification No. 58-1-12461

Submit four (4) copies of this application to the Municipal Clerk's office in the municipality where the games will be conducted.

Please print clearly.

Name of municipality: Brigantine, NJ

Part A - General

1. Name of applying organization: ST. THOMAS the Apostle Church
- 2a. Street address of headquarters: 331 8th Street South Brigantine, NJ 08203
- b. Mailing address (if different):

3. A license is requested to conduct raffles of the kind stated on the date, or on each of the dates, and during the hours listed (use a separate application for each type of raffle).

Date	Hours	Date	Hours
<u>August 16, 2018</u>	<u>7:00PM</u>	_____	_____
<u>Merchandise Raffle</u>	_____	_____	_____
<u>(Chinese Auction)</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 4a. Address of place where raffles will be played: 331 8th Street S., Brigantine, NJ. 08203
- b. Does the applicant own the premises or regularly occupy them for its general purposes? Yes No
5. If raffles equipment is to be rented, attach a statement by the raffles equipment lessor to this application on Form 13.

Part B - Schedule of Expenses

The items of expense intended to be incurred or paid in connection with the games listed in this application, the names and addresses of the persons to whom each item is to be paid, and the purpose for which each item is to be paid, are:

Item of Expense	Name and address of supplier	Purpose
<u>Tickets</u>	<u>Staples</u>	<u>Raffle</u>
_____	<u>500 Staples Drive</u>	_____
_____	<u>Framingham, MA 01701</u>	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Sweeney, Lynn

From: Hurst, Ryan
Sent: Wednesday, July 18, 2018 4:49 PM
To: Rehill, Thomas; Platt, Tige; Doring, John; Kip Emig
Cc: Sweeney, Lynn; Tosto, Roxanne
Subject: PBA Corn Hole Tournament Request

The following request came from Rich DeLeon of the PBA.

The PBA wishes to hold a Corn Hole tournament on the 38th Street Beach Volleyball Courts on Sunday August 26, 2018 beginning at 9am. We respectfully request your permission to hold this worthwhile and fun event to raise money for the families of Fallen Law Enforcement Officers as well as related charities. Along with your permission to have this event at that location, we are requesting permission to access the beach by no more than five vehicles for the event equipment.

Please respond back with your approval.

Thanks,
Ryan

Ryan Hurst

Administrative Assistant
City of Brigantine
(609) 266-7600 x212
rhurst@brigantinebeachnj.com

To whom it may concern,

7/23/2018

I am putting in a request to hold the 14th annual Fall Riptide Striper Derby from September 4th 2018 (Tuesday after Labor Day) until December 23rd 2018. We would NOT use the front beach on the weekends during September as we understand that if the weather is nice the beaches will be busy. The tournament has helped several local charities and local people in distress with the biggest being Hooked On Fishing Not Drugs kids fishing tournament. We have donated well over \$28,000 from the money that we have raised in the past and will continue our donations. Like in the previous 13 years of running this tournament, I am asking for permission to drive on the front beaches of Brigantine as long as they have a valid Brigantine City 4 X 4 permit in addition to the Riptide Striper Derby permit. I am also asking at this point (rather than wait until the end) when the tournament ends on Sept 23rd that we are still allowed to drive the front beach as long as they have been entered into the Riptide Fall Derby until Feb 28th 2019 when the Spring Striper Derby will start. You have approved that for the last couple of years and has been a great help in allowing the anglers of Brigantine to access some great fishing spots. The anglers will have to abide by all city regulations and be in the act of fishing while driving the front beaches. I have run this tournament for the last 13 years and have not had any problems and will continue to run it the same way. If you have any questions you can call my cell # at 609-209-6022 and I thank you in advance for your cooperation.



Andy Grossman