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13. Ordinance No. 18 of 2018 – Public Hearing and Adoption
Fair Housing Act: Overlay Ordinance

M: S: RC: MC:

14. Ordinance No. 19 of 2018 – Public Hearing and Adoption
Designated “No Parking” Areas on Harbor Beach Blvd.

M: S: RC: MC:

15. Ordinance No. 20 of 2018- Public Hearing and Adoption
Designated “No Parking” Area on West Side of Bayshore Avenue, 35th to 36th Street

M: S: RC: MC:

16. Ordinance No. 21 of 2018 – Introduction
Single Use Bag Regulation

M: S: RC: MC:

17. Resolution 2018-150 Re: Endorsing Fair Share Housing Element and Fair Share
Plan

M: S: RC: MC:

18. Resolution 2018-151 Re: Adopting 2018 Fair Share Housing Spending Plan

M: S: RC: MC:

19. Resolution 2018-152 Re: Funding for Fair Share Housing Shortfalls

M: S: RC: MC:

20. Resolution 2018-153 Re: Adopting Affirmative Marketing Plan

M: S: RC: MC:

21. Resolution 2018-154 Re: ACMJIF Renewal

M: S: RC: MC:

22. Resolution 2018-155 Re: Award of Contract – Storm Water Pump Station at
Hackney, Jenkins & 34th Street

M: S: RC: MC:

23. Resolution 2018-156 Re: Award of Contract – 2 Police Vehicles

M: S: RC: MC:

24. Resolution 2018-157 Re: Award of Contract – Maintenance for OEM Battery Backup System

M: S: RC: MC:

25. Resolution 2018-158 Re: Providing Funding for Brigantine B.O.E. for Civilian Security Agent

M: S: RC: MC

26. Resolution 2018-159 Re: Award of Contract – Emergency Repair of Sewer Collapse

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27. Consent Agenda

A. Brigantine VFW Raffle License #857

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28. Council Manager/Committee Discussion:

29. Public Comments

30. Council Comments

31. Adjourn _____ P.M.

The City Council of the City of Brigantine reserves the right to consider, discuss and/or take any formal action upon resolutions or ordinances not appearing on the printed agenda.

ORDINANCE NO. 15 of 2018

**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

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 re-rentals. 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. 17 of 2018

**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 “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.

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. 18 of 2018

**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). If the affordable units are for sale, the set aside shall be 20 percent. If the affordable units are 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). If the affordable units are for sale, the set aside shall be 20 percent. If the affordable units are 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. Mixed use, commercial first floor with residential above

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).
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 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). If the affordable units are for sale, the set aside shall be 20 percent. If the affordable units are 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-3 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 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.	4700 Block Corner of Ross Drive East North Bound along Harbor Beach Blvd. for 150 Feet	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

ORDINANCE NO. 21 OF 2018

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 210 OF THE
CODE OF THE CITY OF BRIGANTINE ENTITLED
"MERCANTILE LICENSES" BY ADDING A NEW ARTICLE V, ENTITLED
"SINGLE-USE BAG REGULATION"**

WHEREAS, the City of Brigantine ("City") is a municipal entity organized and existing under the laws of the State of New Jersey and located in Atlantic County; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the City Council for the City of Brigantine is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the City by law; and

WHEREAS, single-use carryout bags which are not properly disposed of by the consumer end up as litter on the City's streets, beaches, wetlands and parks and in the ocean and bay, which has a negative effect on the public health, safety and welfare of City residents and visitors; and

WHEREAS, City Council desires to regulate and limit the distribution of single-use carryout bags by commercial establishments doing business within the City, and encourage the use of reusable bags; and

WHEREAS, the regulation of single-use carryout bags is a necessary and proper means of addressing this significant problem.

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

Section 1. Chapter 210, "Mercantile Businesses" of the Code of the City of Brigantine is hereby supplemented and amended to create Article V, "Single-Use Bag Regulation," which shall read as follows:

§210-1 Definitions.

The following words, phrases and terms as used in this Chapter are hereby defined for the purpose thereof as follows:

- A. Carryout bag: A bag, sheet, or receptacle produced or manufactured from material commonly known as “plastic” or “polyethylene” provided by a commercial establishment at the point of sale for customers to carry their goods and/or products out of the premises.
- B. Commercial Establishment: Any business required to obtain a Mercantile License pursuant to Chapter 210. This includes, but is not limited to, drug stores, pharmacies, grocery stores, supermarkets, convenience food stores, food marts or restaurants, that provide carryout bags to consumers in which to place items purchased or obtained at such establishment.
- C. Reusable Bag: A bag that is designed and manufactured to withstand repeated uses over a period of time, is machine washable or made from a material that can be cleaned and disinfected regularly, is at least 2.25 mil thick if made from plastic, has a minimum lifetime of 75 uses, and is capable of carrying a minimum of 18 pounds.
- D. Single-Use Carryout Bag: Any carryout bag that is not a reusable carryout bag, except that “single-use carryout bag” shall not include any non-handled bag intended to separate and prevent an item from damaging or contaminating another item.

§210-2. Prohibition of Single-Use, Carryout Bag.

It shall be unlawful for any Commercial Establishment to provide single-use carryout bags to any customer or individual for the purpose of transporting products or goods out of the business or store, except as otherwise provided in this Chapter.

§210-3. Exceptions to Prohibition.

Single-Use Carryout Bags may be provided by a Commercial Establishment in the following circumstances:

- A. Any single-use carryout bag, which is a maximum of 11 inches by 17 inches, without handles provided for the customer (1) to transport produce, bulk food, meat, or seafood from a produce, bulk food, meat or seafood department within a store to the point of sale; or (2) to hold prescription medication dispensed from a pharmacy.
- B. Any single-use carryout bag provided for the purposes of transporting any live or previously live and now frozen substance used to attract and catch fish and/or crabs.
- C. A 40” Dry Cleaner Poly Garment Bag.

§210-4. Enforcement.

The City Licensing Officer shall have the authority to enforce the provision of this Chapter.

§210-5. Violations and Penalties.

Any person who violates any provision of this article shall be subject to a fine of not less than \$5 dollars and not more than \$500.00 for each individual violation.

Section 2. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

Section 3. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the City Council hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the City to meet the goals of the Ordinance.

Section 4. This Ordinance shall take effect after final adoption and publication in accordance with law. Enforcement of this Ordinance shall begin June 1, 2019.

CITY OF BRIGANTINE

RESOLUTION NO. 2018- 150

RESOLUTION ENDORSING THE 2018 HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued its decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”). In that decision, the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council on Affordable Housing (“COAH”) to the New Jersey Superior Court and established a transitional process for municipalities like the City of Brigantine to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans (“HE&FSPs”) to be constitutionally compliant and seeking similar protections to what they would have received if they had continued to proceed before COAH; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and Mount Laurel IV, the New Jersey Superior Court has the authority to enter an Order granting protection and repose against exclusionary zoning litigation to a municipality that is in compliance with its affordable housing obligations under the Fair Housing Act, N.J.S.A. 52:27D-301, et seq.; and

WHEREAS, on June 30, 2015, the City of Brigantine (“City”) filed a declaratory judgment action under docket number ATL-L-1504-15 with the New Jersey Superior Court, Atlantic County (“the DJ action”) seeking to declare its HE&FSP as being constitutionally compliant and seeking protection and repose against exclusionary zoning litigation for a ten (10) year period; and

WHEREAS, the Superior Court of New Jersey has ordered that municipalities that have filed declaratory judgment actions must submit updated HE&FSPs that address their affordable housing obligations as calculated by their respective municipal experts; and

WHEREAS, the City's Affordable Housing Consultant, Shirley M. Bishop, PP, has prepared an updated HE&FSP that addresses the City's affordable housing obligation (the "2018 HE&FSP"); and

WHEREAS, the City has reached agreement as to the City's obligation for providing affordable housing and the methodology and strategies for meeting that obligation; and

WHEREAS, the Court held a Fairness Hearing on June 12, 2018, at which time the Court determined that the City's Settlement Agreement satisfies the City's obligation to provide a realistic opportunity to satisfy its Rehabilitation, Prior Round and Third Round "fair share" of the regional need for housing affordable to low income and moderate income households pursuant to the Fair Housing Act, *N.J.S.A. 52:27D-301, et seq.*, the substantive, applicable regulations of the New Jersey Council on Affordable Housing ("COAH"), Mount Laurel IV and other applicable laws; and

WHEREAS, the Planning Board, at a meeting held on August 8, 2018, reviewed the 2018 HE&FSP and determined that implementation of the 2018 HE&FSP is in the public interest and would promote the general welfare and, by Resolution dated August 8, 2018, adopted the 2018 HE&FSP; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brigantine, Atlantic County, New Jersey, on this 15th day of August 2018, that:

1. The City Council hereby agrees to implement the 2018 HE&FSP that has been adopted by the Planning Board, and which addresses the terms of the Settlement Agreement with Fair Share Housing Center in the Superior Court of New Jersey by Order dated June 12, 2018; and

2. The City Council hereby endorses the 2018 HE&FSP as adopted by the Planning Board as an amendment to the City's Master Plan and agrees to implement the HE&FSP by adopting applicable ordinances; and
3. The Mayor, City Administrator and City Clerk, together with all other officers, professionals and employees of the City are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Resolution.
4. This Resolution shall take effect immediately.

CERTIFICATION

I, Lynn Sweeney, City Clerk of the City of Brigantine, do hereby certify that the above Resolution was considered and adopted by the City Council of the City of Brigantine at a regularly advertised meeting held on 15th day of August 2018.

Lynn Sweeney, RMC, City Clerk

[SEAL]

CITY OF BRIGANTINE

RESOLUTION NO. 2018- 151

**RESOLUTION OF THE CITY OF BRIGANTINE OF COUNTY OF ATLANTIC, STATE
OF NEW JERSEY, ADOPTING 2018 SPENDING PLAN**

WHEREAS, on August 8, 2018, the Brigantine City Planning Board adopted a Housing Element and Fair Share Plan in furtherance of its Settlement Agreement with Fair Share Housing Center, regarding the City's Third-Round Affordable Housing Obligation; and

WHEREAS, the Brigantine City Planner has prepared a Spending Plan, which is consistent with the Housing Element and Fair Share Plan and provides for the use of Affordable Housing Trust Funds in furtherance of the provision of affordable housing in the City of Brigantine.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brigantine, County of Atlantic, as follows:

1. The City of Brigantine hereby adopts and approves a Spending Plan of July 2018. Said Spending Plan is attached hereto and made a part hereof.
2. The City requests that the Court review and approve the Spending Plan.
3. A certified true copy of the Resolution shall be filed by the municipal clerk with Fair Share Housing Center and the Court Master.

Adopted:

CERTIFICATION

I, Lynn Sweeney, City Clerk of the City of Brigantine, do hereby certify that the above Resolution was considered and adopted by the City Council of the City of Brigantine at a regularly advertised meeting held on _____, 2018.

Lynn Sweeney, RMC, City Clerk

[SEAL]

CITY OF BRIGANTINE

RESOLUTION NO. 2018-152

**A RESOLUTION OF THE CITY OF BRIGANTINE REGARDING ANY
SHORTFALLS ASSOCIATED WITH THE PROVISION OF AFFORDABLE
HOUSING AS SET FORTH IN THE CITY'S ADOPTED HOUSING ELEMENT
AND FAIR SHARE PLAN**

WHEREAS, the City of Brigantine, County of Atlantic, has requested of the Superior Court for a Judgment of Compliance and Repose as to its Third Round Affordable Housing obligations and its adopted Housing Element and Fair Share Plan; and

WHEREAS, the plan submitted to the Court allocates funds for rehabilitation, a market to affordable program, veterans' apartments, affordability assistance and administration; and

WHEREAS, the City of Brigantine anticipates that funding will come from developer fees, payments in lieu and from the Atlantic County Improvement Authority (ACIA) Rehabilitation Program; and

WHEREAS, it is the Court's position that the City of Brigantine must allocate funds for the provision of affordable housing as set forth in the City's adopted Housing Element and Fair Share Plan; and

WHEREAS, in the event that the above funding sources prove inadequate to complete the affordable housing programs included in the City of Brigantine's Housing Element and Fair Share Plan, the City of Brigantine shall take all appropriate actions to secure and make available sufficient funding from all sources to address any shortfalls.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Brigantine, County of Atlantic, that the Council does hereby agree to take appropriate actions, consistent with law, to fund any shortfall in its approved affordable housing programs that may arise whether due to inadequate funding from other sources or for any other related reason; and

BE IT FURTHER RESOLVED that any shortfall may also be funded by bonding if there are no other resources, provided, however, that the City shall first utilize all other funding sources available to it, including but not limited to, development fees.

Adopted:

CERTIFICATION

I, Lynn Sweeney, City Clerk of the City of Brigantine, do hereby certify that the above Resolution was considered and adopted by the City Council of the City of Brigantine at a regularly advertised meeting held on _____, 2018.

Lynn Sweeney, RMC, City Clerk

[SEAL]

CITY OF BRIGANTINE

RESOLUTION NO. 2018-153

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGANTINE, COUNTY OF ATLANTIC, STATE OF NEW JERSEY, ADOPTING AFFIRMATIVE MARKETING PLAN

WHEREAS, the New Jersey Supreme Court and the New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”) and the Fair Housing Act. N.J.S.A. 52:27D-301, et seq. (“FHA”) that every municipality in New Jersey has an affirmative obligation to facilitate the provisions of affordable housing; and

WHEREAS, pursuant to its power under the FHA, the Council on Affordable Housing (COAH) and the Uniform Housing Affordable Controls (UHAC) rules have adopted regulations necessary for the establishment, implementation, review and monitoring of the affirmative marketing of a municipality’s affordable units; and

WHEREAS, the City wishes to adopt an Affirmative Marketing Plan.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Brigantine, County of Atlantic, as follows:

1. The City of Brigantine hereby adopts and approves an Affirmative Marketing Plan of July 2018. Said Affirmative Marketing Plan is attached hereto and made a part hereof.
2. The City requests that the Court review and approve the Affirmative Marketing Plan.
3. A certified true copy of the Resolution shall be filed by the municipal clerk with Fair Share Housing Center and the Court Master.

Adopted:

CERTIFICATION

I, Lynn Sweeney, City Clerk of the City of Brigantine, do hereby certify that the above Resolution was considered and adopted by the City Council of the City of Brigantine at a regularly advertised meeting held on _____, 2018.

Lynn Sweeney, RMC, City Clerk

[SEAL]

CITY OF BRIGANTINE
RESOLUTION 2018- 15A

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT RENEWING MEMBERSHIP IN THE
ATLANTIC COUNTY MUNICIPAL JOINT INSURANCE FUND

WHEREAS, the City of Brigantine (hereinafter the "MUNICIPALITY") is a member of the Atlantic County Municipal Joint Insurance Fund (hereinafter the "FUND"); and

WHEREAS, the MUNICIPALITY'S membership terminates as of January 1, 2019 unless earlier renewed by a Contract between the MUNICIPALITY and the FUND; and

WHEREAS, N.J.S.A. 40A:11-5 (1) (m) provides that a Contract which exceeds the bid threshold may be negotiated and awarded by the governing body without public advertising for bids and bidding therefor, if the subject matter is for the purchase of insurance coverage and consultant services, provided that the award is in accordance with the requirements for extraordinary unspecifiable services; and

WHEREAS, N.J.S.A. 40A:11-6.1(b) provides that the MUNICIPALITY shall make a documented effort to secure competitive quotations; however, a Contract may be awarded upon a determination, in writing, that the solicitation of competitive quotations is impracticable; and

WHEREAS, in accordance with N.J.A.C. 5:34-2.3, a designated official of the MUNICIPALITY, has filed a certificate with the governing body describing in detail, as set forth below in this Resolution, why this Contract meets the provisions of the statutes and the regulations and why the solicitation of competitive quotations is impracticable; and

WHEREAS, it has been determined that the purchase of insurance coverage and insurance consultant services by the MUNICIPALITY requires a unique knowledge and understanding of the municipal exposures and risks associated with the operation of a municipal entity, and many insurance professionals are not qualified to assess these risks and exposures based upon their inherent complexity; and

WHEREAS, insurance coverage for municipal entities can vary greatly in the type, limits, and exceptions to coverage, and therefore particularized expertise in determining and obtaining the appropriate coverage is required to protect the MUNICIPALITY; and

WHEREAS, it is the goal of the MUNICIPALITY to obtain a single integrated program to provide all types of insurance coverage with a plan to limit the MUNICIPALITIES exposure; and

WHEREAS, the FUND has provided comprehensive insurance coverage to member municipalities since 1987; and

WHEREAS, since 1987, the Fund has continually refined all of the types of coverage that it provides to its members so that it offers comprehensive insurance coverage and limits to all members that is unique and cannot be purchased from a single entity in the commercial insurance market; and

WHEREAS, the FUND has also developed and made available to its members Safety, Risk Management and Litigation Management programs that address the specific exposures and risks associated with municipal entities; and

WHEREAS, the FUND provides the MUNICIPALITY with Fund Administration, Claims Review, Claims Processing, Claims Administration, Actuarial and Legal services; and

WHEREAS, the FUND is one of the most financially sound Municipal Joint Insurance Funds in New Jersey, and the FUND operates with strong fiscal controls, member oversight, and meets all of the requirements promulgated by the New Jersey Department of Community Affairs and the Department of Banking and Insurance; and

WHEREAS, as an existing member of the FUND, the MUNICIPALITY would be renewing its membership in an organization with experienced and dedicated FUND Professionals who provide specialized services to the members; and

WHEREAS, the membership of the FUND includes many neighboring municipalities that have uniquely similar exposures to the MUNICIPALITY, and with whom the MUNICIPALITY has existing inter-local arrangements; and

WHEREAS, all of the aforementioned factors categorize the award of this Contract as an "extraordinary, unspecifiable service" that cannot be duplicated, accounted for, accurately detailed, or described in a manner that truly depicts the value of the MUNICIPALITY'S membership in the FUND; and

WHEREAS, for all of the aforementioned reasons, it is impracticable for the MUNICIPALITY to seek competitive quotations for a Contract to provide the procurement of insurance coverage and consultant services; and

WHEREAS, the FUND has been organized pursuant to N.J.S.A. 40A:10-36 et seq., and as such is an agency of the municipalities that created it; and

WHEREAS, N.J.S.A. 40A:11-5(2) also provides that a Contract which exceeds the bid threshold may be negotiated and awarded by the governing body without public advertising for bids and bidding therefor, if the Contract is entered into with a municipality or any board, body, officer, agency or authority thereof; and

WHEREAS, the FUND meets the definition of an agency as set forth in N.J.S.A. 40A:11-5(2); and

WHEREAS, for all of the aforementioned reasons, the MUNICIPALITY desires to enter into a Contract to renew its membership with the FUND for a period of three (3) years, for insurance coverage and consultant services, as an exception to the public bidding requirements of the Local Public Contracts Law.

NOW THEREFORE, be it resolved by the governing body of the MUNICIPALITY as follows:

1. The MUNICIPALITY agrees to renew its membership in the FUND and to be subject to the Bylaws, Rules and Regulations, coverages, and operating procedures thereof as presently existing or as modified from time to time by lawful act of the FUND.
2. The Mayor and Clerk of the MUNICIPALITY shall be and hereby are authorized to execute the "Contract to Renew Membership" annexed hereto and made a part hereof and to deliver same to the FUND evidencing the MUNICIPALITY'S renewal of its membership.

3. In accordance with N.J.A.C. 5:34-2.3, the certificate of a designated official of the MUNICIPALITY, which details why the solicitation of competitive quotations is impracticable, is attached hereto and made a part of this Resolution.
4. The Clerk of the MUNICIPALITY is authorized and directed to place a notice of the adoption of this Resolution and the award of this Contract in the official newspaper of the MUNICIPALITY.

This Resolution agreed to this _____ day of _____, 2018, by a vote of:
_____ Affirmative _____ Negative _____ Abstentions

Lynn Sweeney, RMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution 2018- adopted by the City of Brigantine in the County of Atlantic, at a regular meeting thereof held on August 15, 2018.

Lynn Sweeney, RMC
City Clerk

CITY OF BRIGANTINE
RESOLUTION NO. 2018- 155

A RESOLUTION BY THE CITY OF BRIGANTINE AUTHORIZING THE AWARD OF CONTRACT TO LAFAYETTE UTILITY CONSTRUCTION CO, INC. FOR THE STORM WATER PUMP STATION AT HACKNEY, JENKINS & 34TH STREET IN THE AMOUNT OF \$1,999,330.50

WHEREAS, the City Council of the City of Brigantine authorized the acceptance of proposals on August 2, 2018 for the "Storm Water Pump Station at Hackney, Jenkins & 34th Street"; and

WHEREAS, bids were received and the lowest bidder was Lafayette Utility Construction Co., Inc., 9 Atlantic Avenue, Egg Harbor Twp., NJ 08234, with a base bid in the amount of \$1,889,234.50 and Alternate #1 in the amount of \$110,096.00, totaling \$1,999,330.50 which was determined to be the lowest responsible bid; and

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the City of Brigantine, County of Atlantic and State of New Jersey, that the bid submitted by Lafayette Utility Construction Co., Inc., is hereby determined to be the lowest responsible bid and is accepted by the City subject to the execution of an Agreement, the posting of proper Performance Guarantees and insurance as required by the bid documents in forms acceptable to the Municipal Attorney; and

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 Capital Account #C-04-17-018-101 (\$1,379,435.00) and #C-04-14-013-104 (\$619,895.50).

Certified to be a true copy of a Resolution adopted by the Municipal Council for the City of Brigantine, County of Atlantic and State of New Jersey, on the 15th 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					

CITY OF BRIGANTINE
RESOLUTION NO. 2018-156

A RESOLUTION OF THE CITY OF BRIGANTINE
AUTHORIZING THE PURCHASE OF TWO NEW CHEVROLET TAHOES 4X4 SSV FROM
APPROVED STATE CONTACT VENDOR, HERTRICH FLEET SERVICES

WHEREAS, the City of Brigantine Police Department, pursuant to N.J.S.A. 40A:11-12a and N.J.A.C. 5:34-7.29c, may by resolution and without advertising for bids, purchase any goods or services under the State of New Jersey Cooperative Purchasing Program for any state contracts entered into on behalf of the state by the Division of Purchase and Property in the Department of the Treasury; and

WHEREAS, the City of Brigantine Police Department has the need to purchase two 2019 Chevrolet Tahoe 4x4 SSV vehicles utilizing state contracts, totaling \$69,980.96

WHEREAS, the City of Brigantine intends to enter into a contract with Hertrich Fleet Services through this resolution which shall be subject to all the conditions applicable to the current New Jersey State Contract #A88729

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council for the City of Brigantine, County of Atlantic, and State of New Jersey, that the City Purchasing Agent is hereby authorized to purchase two 2019 Chevrolet Tahoe's 4x4 SSV , pursuant to all conditions of the individual state contracts.

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 account #C-04-17-015-106 (\$53,245.65) and Current account #8-01-25-240-254 (\$16,735.31).

Certified to be a true copy of a Resolution adopted by the Municipal Council for the City of Brigantine, County of Atlantic and State of New Jersey, on the 15th 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					

RESOLUTION # 2018-157

A RESOLUTION AUTHORIZING AWARD OF CONTRACT TO SKAE POWER SOLUTIONS LLC FOR TESTING, SERVICE AND REPAIRS

WHEREAS, the Public Works department has a need for annual testing, maintenance and repairs to the OEM battery backup system; and

WHEREAS, it is determined in the best interest of the City of Brigantine to acquire said services as needed; and

WHEREAS, Dennis Krause, QPA, City Purchasing Agent has determined and certified in writing that the value of the contract will exceed \$17,500.00; and

WHEREAS, SKAE Power Solutions LLC has supplied these services in the past; and

WHEREAS, John W. Doring Jr., Superintendent of Public Works and Dennis Krause, QPA, City Purchasing Agent have reviewed required maintenance schedules and recommended that SKAE Power Solutions LLC, 348 Route 9W, Palisades, NY 10964 be awarded an alternative non-advertised method of award contract for annual maintenance to the OEM battery backup system as determined by the needs of the City of Brigantine; and

WHEREAS, the anticipated term of this contract is one (1) calendar year; and

WHEREAS, SKAE Power Solutions LLC has completed and submitted a Business Registration Certificate (BRC), a Business Entity Disclosure Certification which certifies that SKAE Power Solutions LLC has not made any contributions to a political or candidate committee for an elected office in the City of Brigantine, County of Atlantic, New Jersey in the previous one year period, and that the contract will prohibit SKAE Power Solutions LLC from making any contributions through the term of the contract; and

WHEREAS, the vendor has provided information demonstrating its compliance with the provisions of N.J.S.A. 19:44A-20.5, regarding political contributions; and

NOW, THEREFORE BE IT RESOLVED by the Municipal Council of the City of Brigantine, New Jersey that an alternative method contract with SKAE Power Solutions LLC for annual testing, service and repairs to the OEM battery backup system. A copy of the Business Entity Certification and Determination of Value shall be on file with this resolution in the City Clerk's Office.

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 2018 Current Account #8-01-26-302-216 and #8-01-302-233. Estimated expenditures for 2018 should not exceed \$30,000.00

Certified to be a true copy of a Resolution adopted by the Municipal Council for the City of Brigantine, County of Atlantic and State of New Jersey, on the 15th 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					

CITY OF BRIGANTINE

RESOLUTION NO. 2018-158

**“A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF BRIGANTINE PROVIDING FUNDING FROM THE CITY OF
BRIGANTINE TO THE BRIGANTINE BOARD OF EDUCATION FOR A SCHOOL
CIVILIAN SECURITY AGENT”**

WHEREAS, the Brigantine Board of Education (hereinafter the “BOE”) has discussed with the City of Brigantine (hereinafter the “City”) the need for a school civilian security agent in the school; and

WHEREAS, the City intended to hire a Class III Police Officer and provide such officer at the City’s expense to the BOE; and

WHEREAS, the City was unable to secure the services of a person qualified to be a Class III Police Officer; and

WHEREAS, the City wishes to provide the financial assistance to the BOE; and

WHEREAS, the City and the BOE wish to enter into an agreement to provide for the necessary funding from the City to the BOE for the services of civilian security security agent.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Brigantine, as follows:

1. The City shall provide funding in the amount of \$48,000 to the BOE for the securing of a school civilian security agent for the period of time from September 1, 2018, through June 30, 2019; and
2. The funding agreement shall be in effect from September 1, 2018 through June 30, 2019; and
3. The full terms and conditions entered into by the City and BOE are contained in the Agreement attached hereto and made a part hereof including the procedure for the payment schedule, full indemnification by the BOE to the City, and such other conditions as provided for in the Agreement.

DATE: _____

LYNN SWEENEY, RMC
CITY CLERK

CITY OF BRIGANTINE
RESOLUTION 2018-159

A RESOLUTION DECLARING THAT AN EMERGENT CONDITION EXISTS AND
AUTHORIZING AN AWARD OF A CONTRACT TO REPAIR SEWER COLLAPSE

WHEREAS, an emergent condition was declared for a sewer collapse at Sheridan Blvd. between Sarazen and Vardon roads and a contract was awarded to Lafayette Utility Construction Co.; and

WHEREAS, John W. Doring Jr., Superintendent of Public Works determined that time was of the essence in order to prevent further damage in accordance with N.J.S.A. 40A: 11-6; and

WHEREAS, the New Jersey Public Contract Law, N.J.S.A. 40A: 11-6. permits municipalities to make required purchases without public bidding or advertising, when situations of emergency which may affect the public health, safety, or welfare have been declared and when immediate replacement/reconstruction of said article is required to rectify the emergent conditions; and

WHEREAS, a Purchase Order will be issued to Lafayette Utility Construction Co., PO Box 944, Pleasantville, New Jersey 08232 in an amount of \$11,709.69; and

NOW THEREFORE, BE IT RESOLVED by the by the Municipal Council of the City of Brigantine, County of Atlantic and State of New Jersey that it authorizes Lafayette Utility Construction Co. to perform the work necessary to correct this emergent condition; and

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 Water & Sewer Utility budget in account #8-09-55-502-233, Equipment Maintenance and Repair.

Certified to be a true copy of a Resolution adopted by the Municipal Council for the City of Brigantine, County of Atlantic and State of New Jersey, on the 15th 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					

Application for a Raffles License

Application No. RA 857
 Identification No. J-11-30488

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 N.J. 08203

Part A - General

- Name of applying organization: VFW POST 6964
- Street address of headquarters: 121 31ST ST BRIGANTINE NJ 08203
- Mailing address (if different):
- 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>PULL TABS</u>			
<u>11-8-2018 - 11-8-2019</u>			
	<u>10AM - 10 PM</u>		

- Address of place where raffles will be played: 121 31ST ST BRIGANTINE N.J. 08203
- Does the applicant own the premises or regularly occupy them for its general purposes? Yes No
- 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>LICENCE</u>	<u>STATE OF NJ PO BOX 46000 NEWARK NJ 07101</u>	<u>CONDUCT GAMES</u>
<u>LICENCE</u>	<u>CITY OF BRIGANTINE 1417 BRIGANTINE AV. BRIGANTINE NJ 08203</u>	<u>CONDUCT GAMES</u>
<u>GAME SUPPLIES + TICKETS</u>	<u>ATLANTIC BINGO SUPPLY 1700 MIDWAY RD ODENTON MD. 21113</u>	<u>CONDUCT GAMES</u>