



**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
MONDAY, NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES**

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT.

Council President Sanders called the meeting to order at 6:40 p.m. and read the following statement of compliance with the Open Public Meetings Act into the record: This meeting is being held in compliance with the Open Public Meetings Act with the Clerk providing the required notice on Wednesday, November 21, 2018 to the Trenton Times, the Hunterdon County Democrat and the Bucks County Herald, posting of the meeting agenda on the city's website at www.lambertvillenj.org and on the city's bulletin board, and send out to the city's list serve.

ROLL CALL.

Present: Councilwoman Asaro, Councilwoman Warner (phone), Council President Sanders, Mayor DeVecchio (phone).

Absent: Councilwoman Taylor.

PLEDGE OF ALLEGIANCE.

Council President Sanders led the public in the Pledge of Allegiance.

MOMENT OF SILENCE.

The City Clerk led the public in a moment of silence in honor of those serving in the United States Armed Forces in country and abroad.

PROCLAMATIONS.

Bruce Coccuza, Police Director

Proclamation

WHEREAS, Bruce Coccuza, a retired Captain from the New York Police Department was hired on April 5, 1999 to serve as the City's Police Director; and

WHEREAS, throughout Mr. Coccuza's 19 years serving as the City's Police Director, he has accomplished the following:

A Pro-Active Internal Affairs Program

Public Safety Initiatives, such as

Implementation of Body Worn Cameras

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 2**

Pedestrian Safety

DUI Grants

Development of New Officers Training to Focus on Skills

Served on the following boards/commissions:

State of New Jersey's Police Training Commission

HART of Hunterdon County

WHEREAS, Mr. Cocuzza's sunny disposition as well as his knowledge base was very instrumental in helping the City with community policing and with the establishment of Town Watch.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that Bruce Cocuzza is hereby congratulated on a job well done and wished health, love and happiness in his retirement.

BE IT FURTHER RESOLVED that Friday, November 30, 2018 is hereby proclaimed as Bruce Cocuzza Day in the City of Lambertville.

ADOPTED: November 26, 2018

Mayor DelVecchio asked for a motion to adopt the proclamation honoring the police director. Councilwoman Asaro made a motion to adopt the proclamation to honor Police Director Cocuzza. Council President Sanders seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. **MOTION CARRIED.**

RESOLUTIONS.

RESOLUTION NUMBER 188-2018: *A Resolution Authorizing the Contract with Top Line Construction for the Installation of Speed Humps on South Main Street in an Amount Not to Exceed \$12,975.00.*

RESOLUTION NUMBER 188-2018

A Resolution Authorizing the Contract with Top Line Construction for the Installation of Speed Humps on South Main Street in An Amount Not to Exceed \$12,975.00

NOW THEREFORE BE IT RESOLVED by Mayor and Council of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey that the contract with Top Line Construction for the installation of speed humps on South Main Street in an amount not to exceed \$12,975.00 is hereby authorized.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 3**

BE IT FURTHER RESOVLED that the Mayor, City Attorney and City Clerk are hereby authorized to sign the agreement with Top Line Construction.

ADOPTED: November 26, 2018

Mayor DelVecchio asked for a motion to adopt Resolution Number 188-2018 authorizing the contract with Top Line Construction to install speed humps on South Main Street. Councilwoman Asaro made the motion to adopt and Council President Sanders seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. **MOTION CARRIED.**

- a. RESOLUTION NUMBER 189-2018: A Resolution Authorizing the Transfers in Appropriations of the 2018 Budget.

RESOLUTION NUMBER 189-2018

A Resolution to Make Budget Transfers Between Appropriations in the 2018 General Fund Budget

WHEREAS, certain 2018 Budget Appropriation balances are expected to be insufficient for the remainder of the year;

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, in accordance with N.J.S.A. 40A:4-58, the Treasurer be and is hereby authorized to make transfers between appropriations in the 2018 Budget for the City of Lambertville as follows:

<u>ACCOUNT NO.</u>	<u>ACCOUNT TITLE</u>	<u>FROM</u>	<u>TO</u>
S&W			
8-01-25-240-101	Police S&W Reg	\$3,000.00	
8-01-26-290-101	DPW S&W Reg	\$3,000.00	
8-01-26-305*101	SLD W S&W Reg		\$5,000.00
8-01-21-185-101	Frenchtown S&W		\$ 200.00
OE			
8-01-20-150-223	Tax Assessor; Books/Publications	\$1,000.00	
8-01-20-150-236	Tax Assessor; Computer Supplies	\$1,000.00	
8-01-20-151-228	Tax Map	\$1,750.00	
8-01-21-185-500	Frenchtown Zoning OE	\$ 200.00	
8-01-25-240-225	Police Maintenance Motor Vehicles	\$1,500.00	
8-01-26-290-239	DPW Machinery Parts	\$1,361.00	

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 4**

8-01-26-305-229	SW Other Contractual Items		\$5,000.00
8-01-30-420-299	Celebration Public Events		\$ 428.00
8-01-31-460-274	Gasoline		\$2,183.00
		\$12,811.00	\$12,811.00

ADOPTED: November 26, 2018

Council President Sanders asked for a motion to adopt resolution number 189-2018 authorizing the transfers in appropriations in the 2018 budget. Councilwoman Asaro made the motion and Council President Sanders seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. MOTION CARRIED.

BILLS LIST.

Council President Sanders informed the members of the public present that the Bills List has been amended to include payment to the Postmaster in an amount not to exceed \$2,500 for the certified mailing of the overlay and asked for a motion to approve the amended Bills List for the evening. Councilwoman Asaro made a motion to approve the amended Bills List. Council President Sanders seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCES – FIRST READING – none.

ORDINANCES – SECOND READING.

ORDINANCE NUMBER 19-2018: An Ordinance of the City of Lambertville, in the County of Hunterdon, New Jersey, Providing for the Acquisition of a Refurbished Garbage Truck in and for the City, appropriating \$97,000.00 Therefor, And Authorizing the Issuance of \$56,600.00 in General Improvement Bonds or Notes of the City to Finance the Same. Please note: The City received \$43,400 from the Insurance Company and that will be used as the down Payment.

Council President Sanders read the Ordinance into the record by title. He informed the members of the public present that the public hearing on the ordinance to fund the garbage truck will be held on December 18, 2018 beginning at 7 pm.

ORDINANCE NO. 19-2018

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 5**

AN ORDINANCE OF THE CITY OF LAMBERTVILLE, IN THE COUNTY OF HUNTERDON, NEW JERSEY, PROVIDING FOR THE ACQUISITION OF A REFURBISHED GARBAGE TRUCK IN AND FOR THE CITY, APPROPRIATING \$97,000 THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$53,600 IN GENERAL IMPROVEMENT BONDS OR NOTES OF THE CITY TO FINANCE THE SAME.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAMBERTVILLE, IN THE COUNTY OF HUNTERDON, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

Section 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the City of Lambertville, in the County of Hunterdon, New Jersey (the "City") as general improvements. For the improvements or purposes described in Section 3 hereof, there is hereby appropriated the \$97,000, including the sum of \$43,400 as the down payment for the improvement and purpose required by the Local Bond Law. The down payment has been made available by the receipt of the proceeds of an insurance claim by the City related to the casualty loss on a prior garbage truck owned by the City, which sum is hereby appropriated.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment or otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$53,600, pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for which the bonds or notes are to be issued is the acquisition of a refurbished 2004 Mack garbage truck with a Heil rear-loader body to replace a previous garbage truck damaged in a fire, including such painting, branding and installation of radios and equipment necessary to allow the vehicle to be used for its intended use, and further including all work and related materials necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvements or purposes is \$53,600 authorized herein.

(c) The estimated cost of the improvements or purposes authorized herein is \$97,000.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8(a). The chief financial officer is hereby authorized to sell part or all of the notes from time to time, at not less than par and accrued interest, at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 6**

Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

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

(b) The average period of usefulness of the improvements or purposes, within the limitations of the Local Bond Law, computed on the basis of respective amounts or obligations for the several purposes and the respective reasonable life thereof within the limitations of the Local Bond Law, is 5.00 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$53,600, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$10,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the improvements or purposes.

(e) The City reasonably expects to commence the acquisition of the several improvements or purposes described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the City further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 1 hereof.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the City is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy ad valorem

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 7**

taxes upon all the taxable real property within the City for the payment of the obligations and the interest thereon without limitation as to rate or amount.

Section 9. The City Council hereby covenants on behalf of the City to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of the bonds and notes authorized hereunder as is or may be required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), including compliance with the Code with regard to the use, expenditure, investment, timely reporting and rebate of investment earnings as may be required thereunder.

_____ **Section 10.** This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Mayor DeVecchio suggested that the public hearings on the ordinances be done out of order because the governing body intended to vote down Ordinance Number 24-2018.

ORDINANCE NUMBER 24-2018: An Ordinance Amending and Supplementing the "Zoning Ordinance" of the Land Use Ordinances of the City of Lambertville, 2016, County of Hunterdon, State of New Jersey, and Specifically Subsections 300 Zoning Districts, 301 Regarding the Zoning Map, 402 Entitled "Residential Low Density (R-L) District" to Establish Two New Inclusionary Overlay Zones, and 406 Entitled "Central Business District" To Establish One New Inclusionary Overlay Zone.

Council President Sanders read the ordinance into the record by title. He informed the members of the public present that this ordinance will create an overlay zone to establish two new inclusionary overlay zones on the Central Business District and to establish one new inclusionary overlay zone. Council President Sanders informed the members of the public present that the city has heard the concerns expressed and has decided to vote down the ordinance.

A member of the public from Lambert Lane asked why the first notice they received was about this meeting when the ordinance was introduced on November 5.

**CITY OF LAMBERTVILLE
ORDINANCE NO. 24-2018**

**AN ORDINANCE AMENDING AND SUPPLEMENTING
THE "ZONING ORDINANCE", OF THE
CODE OF THE CITY OF LAMBERTVILLE (2014)
COUNTY OF HUNTERDON, STATE OF NEW JERSEY
AND SPECIFICALLY, SUBSECTIONS 300 ZONING DISTRICTS,
301 REGARDING THE ZONING MAP,
402 ENTITLED "RESIDENTIAL LOW DENSITY (R-L) DISTRICT" TO ESTABLISH
TWO NEW INCLUSIONARY OVERLAY ZONES, AND
406 ENTITLED "CENTRAL BUSINESS DISTRICT" TO ESTABLISH ONE NEW
INCLUSIONARY OVERLAY ZONE**

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 8**

WHEREAS, the Planning Board of the City of Lambertville, Hunterdon County, State of New Jersey, adopted its current Housing Element and Fair Share Plan pursuant to N.J.S.A. 40:55D-28 on November 7, 2018; and

WHEREAS, the Governing Body endorsed the Housing Element and Fair Share Plan on November 26, 2018; and

WHEREAS, the Governing Body subsequently petitioned the Council on Affordable Housing (COAH) for substantive certification but said substantive certification was not received prior to COAH's rules being overturned in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 By the Council on Affordable Housing; and

WHEREAS, as COAH failed to adopt new constitutionally compliant rules, the NJ Supreme Court entered an order of March 10, 2015 which transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, the City filed for Declaratory Judgment with the New Jersey Superior Court on July 8, 2015; and

WHEREAS, the City executed a Settlement Agreement with Fair Share Housing Center (FSHC) on May 22, 2018 that identified the City's affordable housing obligation and a preliminary indication of how the City would satisfy the affordable housing obligation; and

WHEREAS, the Settlement Agreement was subject to a Fairness Hearing on September 13, 2018 during which the Court found that the Settlement Agreement was fair to the interests of low- and moderate-income households; and

WHEREAS, the Court's review and approval of the Settlement Agreement is reflected in an Order on Fairness and Preliminary Compliance Hearing signed by the Honorable Thomas C. Miller, P.J.Civ. and filed on October 11, 2018; and

WHEREAS, said Order requires the City to adopt Inclusionary Overlay Zone ordinances that are consistent with the Settlement by January 9, 2019; and

WHEREAS, the Governing Body introduced the Inclusionary Overlay Zone ordinances on November 5, 2018;

WHEREAS, the Planning Board has determined that the Inclusionary Overlay Zone ordinances are consistent with the goals and objectives of City of Lambertville's 2018 Housing Element and Fair Share Plan on November 7, 2018; and

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 9**

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Governing Body held a public hearing(s) on the Inclusionary Overlay Zoning ordinances on November 26, 2018; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY

OF LAMBERTVILLE, in the County of Hunterdon and the State of New Jersey, that the "Zoning Ordinance", of the Code of the City of Lambertville (2014) (hereinafter "Code") is hereby amended and supplemented as follows:

SECTION 1. Amend Subsection 300, "Zoning Districts", of the Code of the City of Lambertville (2014) to read as follows:

§300 Zoning Districts.

- A. For purposes of this Ordinance, the City of Lambertville is hereby divided into the following zoning districts:

Symbol	Zone
R-C	Residential - Conservation
R-L	Residential Low Density
R-1	Residential 1
R-2	Residential 2
R-3	Townhouse Residential
CBD	Central Business District
C-2	Service Commercial (Ord. No. 2014-28)
C-3	General Commercial
	Residential Overlay Option 1 (Ord. No. 2001-15)
IO-1	Inclusionary Overlay Zone 1
IO-2	Inclusionary Overlay Zone 2
IO-3	Inclusionary Overlay Zone 3
LHSRA	Lambertville High School Redevelopment Area

- B. No change.

SECTION 2. Amend Subsection 301, "Zoning Map", of the Code of the City of Lambertville (2014) to read as follows:

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 10**

§301 ZONING MAP

- A. The boundaries of these districts are hereby established as shown on the map entitled “Zoning Map of the City of Lambertville”, dated October 26, 2018 and as it may be amended pursuant to law.

Editor’s Note: The Zoning Map may be found at the end of this Zoning Ordinance.

- B. Zoning Map Amendments.

- 1. No change.
- 2. Overlay Zones.

An Ordinance to Amend the Zoning Map of the City of Lambertville to repeal the Residential Option 2 Overlay District and create three Inclusionary Overlay Zones that create realistic opportunities for housing that is affordable to very-low-, low-, and moderate-income households.

IO-1 Inclusionary Overlay Zone 1	Block 1002, Lot 41
IO-2 Inclusionary Overlay Zone 2	Block 1072, Lot 3, 3.01 Block 1058, Lot 15
IO-3 Inclusionary Overlay Zone 3	Block 1022, Lot 8

- 3. Lambertville High School Redevelopment Area.

An Ordinance to Amend the Zoning Map of the City of Lambertville to create the Lambertville High School Redevelopment Area that creates a realistic opportunity for housing that is affordable to very-low, low-, and moderate-income households.

LHSRA Lambertville High School Redevelopment Area	Block 1073, Lots 1, 3, 5, 6, 7, 8, 9, 10, 11, 32, 33, and 33.01 Block 1090, Lots 4 and 5 Block 1091, Lots 1 and 1.01
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Editor’s Note: See §1600 for the Connaught Hill Redevelopment Plan. See the Appendix for the Zoning Map

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 11**

SECTION 3. Amend Subsection 402.2.H. of Subsection 402.2 of the Code of the City of Lambertville (2014) containing the zoning requirements for “Residential Option 2 Overlay District” to read in its entirety as follows:

H. IO-1 Inclusionary Overlay Zone District.

1. Purpose and area of application.

To address its affordable housing unmet need obligation, the City through the implementation of an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing that is affordable to very-low, low-, and moderate-income households on Block 1002, Lot 41. This Ordinance establishes the Inclusionary Overlay Zone 1 – the IO-1 District – and permits the creation of multi-family development on the property identified above provided that such housing complies with a required inclusionary set-aside requirement for affordable housing and with the requirements of this ordinance. This ordinance shall not take effect until such time that the site ceases to be used for agriculture use or the site becomes available for residential development.

2. Special Rules.

- (a) In any inclusionary development permitted by this ordinance, in the case of affordable rental units, at least 15% of the residential units must be affordable to very-low, low-, and moderate-income households and, in the case of owner-occupied affordable units, at least 20% of the residential units must be affordable to very-low, low-, and moderate-income households.
- (b) Where this Ordinance contradicts §1200-6 of the City’s Affordable Housing Ordinance, the effects and requirements of this Ordinance shall supersede the requirements of §1200-6.

3. Additional permitted uses. In addition to the uses otherwise permitted in the R-L District, the following additional uses shall be permitted:

- (a) Semi-detached dwellings.
- (b) Townhouse dwellings.
- (c) Apartment dwellings.

4. Restriction on conditional uses. No development utilizing the provisions of the IO-1 Inclusionary Overlay District shall include any conditional use permitted in §402.4.

5. Accessory Uses Permitted.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 12**

- (a) Common recreational facilities, as specifically approved by the Planning Board within the specified open space in order to satisfy the needs of the residential population within the development, including but not limited to tennis courts, tot lots, picnic tables and recreational paths.
- (b) Complimentary landscape structures and elements including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses.
- (c) Underground sprinkler systems within the designated open space and within individual lots, provided that the water spray does not extend beyond the tract boundary line.
- (d) Fences and walls in accordance with the design provisions specified in §507.
- (e) Patios and balconies.
- (f) Off-street parking and private garages in accordance with §402.2H.10 and §509.
- (g) Signs in accordance with §402.2H.11 and §515.
- (h) Office space within an apartment building to be used for the operation and management of the affordable rental apartments.
- (i) Lighting in accordance with §511.
- (j) Stormwater management and other utilities.
- (k) Conservation areas, recreation, open space, and public purpose uses.
- (l) Temporary construction trailers and one (1) sign not exceeding thirty-two (32) square feet in area, either attached to the trailer or freestanding, which advertises the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and ending with the issuance of a Certificate of Occupancy or one (1) year, whichever time period is less. The temporary construction trailer(s) and temporary sign shall be located on the site where the construction is taking place and shall be set back at least thirty feet (30') from all lot lines and from the right-of-way lines of all existing and proposed streets. There shall be at least one (1) operating telephone within the trailer.
- (m) Other accessory uses customarily incidental to a principal use.

6. Maximum Building Height.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 13**

- (a) No principal building shall exceed forty (40) feet in height and three (3) stories as measured from the proposed finished grade except as further allowed in §400.8, entitled “Height Exceptions”.
- (b) No accessory building shall exceed twenty-five (25) feet in height and one and one-half (1 1/2) stories.

7. Area, Yard, Height and Coverage Requirements.

- (a) The following regulations, area, bulk, setback and intensity requirements for the principal dwelling and permitted accessory structures applies for the IO-1 District:

IO-1 Area, Yard, Height and Coverage Requirements §402.2H.7			
Requirements			
Tract			
Min. Tract Size	8 acres		
Max. Density	6 dwelling units per acre		
Min. Open Space	20%		
Lots	Single-Family Semi-Detached Dwelling	Townhouse Dwelling	Multi-Family Apartments
Min. Lot Size	2,250 SF	2,000 SF	30,000 SF
Min. Lot Frontage	30 FT	20 FT	150 FT
Min. Lot Depth	75 FT	100 FT	200 FT
Max. Building Coverage	65%	70%	35%
Max. Lot Coverage	80%	80%	60%
Principal Building			
Min. Front Yard	10 FT	10 FT	20 FT
Min. Side Yard	0 FT common wall; 10 FT otherwise	0 FT common wall; 10 FT otherwise	30 FT
Min. Rear Yard	15 FT	15 FT	50 FT
Max. Garage Height	1 story	1 story	N/A
Distance between buildings			
Side-to-Side	20 FT	20 FT	30 FT
Rear-to-Rear	50 FT	50 FT	50 FT
Side-to-Rear	50 FT	50 FT	50 FT
Accessory Buildings or Structures			
Min. Front Yard	N.P.	N.P.	N.P.
Min. Side Yard	0 FT	N/A	10 FT
Min. Rear Yard	3 FT	3 FT	10 FT
Distance to another building	N/A	N/A	20 FT
Notes:			
1. Patios and Decks on end units may not project more than three (3) feet beyond the Principal Building wall.			
2. Balconies may encroach into a required minimum setback up to three (3) feet.			

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 14**

3. Unless modified by §400.7.A.

N.P. = Not a permitted location

(b) No parking area, loading area, driveway or other structure (except for approved access ways, signs and fencing) shall be permitted within ten feet (10') of any tract boundary line, and such areas shall be planted and maintained in lawn area or ground cover and shall be landscaped with trees and shrubbery as approved by the Board.

8. Requirements for Buildings.

(a) General Architectural Requirements.

- (1) Multiple detached principal buildings shall be permitted on the tract.
- (2) The exteriors of all building in the development, including accessory buildings, shall be architecturally compatible and shall be constructed of complimentary materials.
- (3) All building elevations shall exhibit classical proportions. The characteristics of classicism include symmetry, repetition of elements, expressions of hierarchy to reflect the building uses, and tripartite compositions (base, middle, top).
- (4) Sub-elements within the facades and individual architectural components (i.e., railings, awnings, columns) shall also conform to the overall classical proportions of the facade.
- (5) All entrances to a building shall be articulated utilizing architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches or overhangs.
- (6) Balconies and patios shall be designed as integral subcomponents of the building facade. Cantilevered balconies are not permitted.
- (7) The building shall be provided with both heat and smoke alarms as well as fire suppression sprinkler system where required by code.

(b) Façade Treatments.

- (1) Any façade exceeding thirty feet or more in length shall include at least one change in wall plane (projection or recess) having a depth of at least 3% of the entire length of the facade and extending for a minimum of 20% of the entire length of the facade.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 15**

- (2) The architectural treatment of the front façade(s) shall be continued in its major features around all sides of each building.

(c) Roof Treatments.

- (1) Principal roof eaves shall project at least two (2) feet beyond the building facade or a supporting column. Secondary roof eaves (i.e., balconies, porches and patios) shall project at least one foot.
- (2) Primary roofs shall have a minimum pitch of 6/12. Secondary roofs may have a pitch below 6/12.
- (3) The transition between a facade and a roof shall have a cornice or frieze that is designed to fit the overall composition of the facade.

(d) Windows and Fenestration.

- (1) Windows and other openings in the facade shall exhibit a vertical emphasis, in harmony with the overall facade composition. Windows shall be single hung with simulated divided lights.
- (2) Within each building elevation, the maximum ratio of windows to wall shall be 50% window to 50% wall. The minimum ratio of window to wall shall be 25% window to 75% wall.

9. Off-Street Parking and Driveways.

- (a) No off-street parking area or internal roadway or drive aisle shall be located within forty (40) feet of any existing public road.
- (b) Single-family Semi-detached dwellings and Townhouse dwellings.
 - (1) Single-family semi-detached dwellings and townhouse dwellings shall be accessed from rear lanes/alleys.
 - (2) Single-family semi-detached dwellings and townhouse dwellings shall provide at least one (1) off-street parking space within an enclosed garage located in the rear yard with access from a lane/alley.
 - (3) Garages, driveways and parking areas shall have a minimum setback of three (3) feet from any side property line or side of dwelling unit. An exception to the three-foot setback from the side property lines shall exist for townhouse lots to permit garages, driveways and parking areas that share a common wall on the common property line.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 16**

- (c) Multi-family dwellings.
 - (1) Parking shall not be located in the front yard between buildings and public streets. Individual building driveways shall not have direct access to a public street, but may have direct access to an internal street, roadway, etc.
 - (2) Parking areas shall not be located between buildings and internal streets, roadways, etc.
 - (1) Parking areas shall be set back at least seven (7) feet from building walls.
- (d) Each dwelling unit shall be provided a minimum number of parking spaces according to the provisions of the Residential Site Improvement Standards (RSIS), *N.J.A.C. 5:21*, or based upon historical data provided subject to City review.
- (e) See §509 for additional standards.

10. Trash and Recycling Requirements.

- (a) The trash and recyclable material collection and pickup locations shall be provided either within the building being served or in nearby locations outside the building.
- (b) If located outside the building, the trash and recyclable materials area shall be totally enclosed, finished with materials used to construct the building(s) being served, up to a maximum of eight (8) feet in height, and located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence or wall. Landscaping, at least six (6) feet in height, shall be provided around any outdoor trash and recycling area.
- (c) The area provided for the collection and pickup of trash and recyclable materials shall be well lit and shall be safely and easily accessible by trash and recycling personnel and vehicles. Collection vehicles shall be able to access the trash and recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the trash and recycling area and the bins or containers placed therein against theft of trash and recyclable materials, bins or containers.
- (d) Any bins or containers which are used for the collection of trash and recyclable material, and which are located in an outdoor trash and recycling area, shall be equipped with a lid.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 17**

- (e) Individual bins or containers for the collection and pickup of recyclable materials shall be equipped with signs indicating the materials to be placed therein.
- (f) See §512 for additional standards.

11. Permitted Signs.

- (a) Community Sign. One (1) ground mounted freestanding sign identifying the name of the development no larger than twenty-five (25) square feet shall be permitted at the entrance to the development from an existing public street.
 - (1) The sign shall not exceed six (6) feet in height and shall be set back at least ten (10) feet from all street lines and fifty (50) feet from all other property lines.
 - (2) Any sign illumination shall be external to the sign and shall be designed and oriented to prevent any sight of the lamp from any street or neighboring properties.
- (b) Residential Building Identification: Each residential building may have up to two attached identification signs. The maximum sign area of each shall not exceed six (6) square feet. Such signs shall be appropriately integrated within the architecture of the buildings.
- (c) See §515 of this chapter for permitted temporary signs, additional standards and the design requirements for signs.

12. Community Design.

- (a) Only semi-detached single-family units or townhouse units shall be permitted along North Main Street. The fronts of the units shall face North Main Street.
- (b) Parking is not permitted between the buildings on North Main Street and shall be located internal to the development tract.
- (c) A minimum of 1,000 square feet of area shall be provided as community open space for the residential development.
- (d) Plantings. All portions of a lot not covered by buildings or structures (e.g. parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, children play areas, dog walks, etc.) shall be suitably planted with grass, shrubs, and trees and shall be maintained in good condition. In any case, no less than twenty (20%) of the area of the lot shall be

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 18**

so planted, and the planted area may include approved detention and/or retention basins.

- (e) Other design features.
 - (1) Wherever reasonably feasible, sustainable construction techniques shall be utilized to minimize the impact upon the environment, including energy efficient building designs, recycled materials, water conservation devices, permeable pavement, native plantings, low chemical usage to maintain the landscaping, and similar measures which are sensitive to the environment.
 - (2) The stormwater management plan shall include stormwater management facilities that are designed to enhance the aesthetic attributes of the proposed development.

13. Affordable Housing Standards.

- (a) A Developer's Agreement is required to establish low/moderate apportionment, very low-income requirement per *N.J.S.A. 52:27D-329.1*, bedroom distribution, unit size, etc.
- (b) At least 13% of the units shall be affordable to very-low-income households, 37% of the units shall be affordable to low-income households, and 50% may be affordable to moderate-income households.
- (c) The affordable units shall be developed in accordance with COAH's regulations at *N.J.A.C. 5:93* and the Uniform Housing Affordability Controls (UHAC), *N.J.A.C. 5:80-26.1 et seq.*, which govern the administration and affordability controls of affordable units in New Jersey, with one exception. The exception is for 13% very-low income housing at 30% of the regional median income instead of the UHAC requirement of 10% very-low income housing at 35% of the regional median income.
- (d) Affordable Housing Standards. In addition to addressing the requirements of COAH and noted above, the affordable units shall be developed in accordance with the following:
 - (1) The affordable units cannot be age-restricted units;
 - (2) The bedroom distribution requirements pursuant to *N.J.A.C. 5:93-7.3* and *N.J.A.C. 5:80-26.3(b)*.
 - (3) The unit distribution requirements pursuant to *N.J.A.C. 5:80-26.3*.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 19**

- (4) The length of controls requirement and deed restrictions pursuant to *N.J.A.C. 5:80-26.11*.
- (5) The accessibility and adaptability requirements pursuant to *N.J.A.C. 5:97-3.14*.

SECTION 4. Create Subsection 402.2I of Subsection 402.2 of the Code of the City of Lambertville (2014) containing the zoning requirements for “Residential Low Density (R-L) District” to read in its entirety as follows:

I. IO-2 Inclusionary Overlay Zone District.

1. Purpose and area of application.

To address its affordable housing unmet need obligation, the City through the implementation of an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing that is affordable to very-low, low-, and moderate-income households on Block 1022, Lot 3 and Block 1058, Lot 15. This Ordinance establishes the Inclusionary Overlay Zone 2 – the IO-2 District – and permits the creation of multi-family development on the property identified above provided that such housing complies with a required inclusionary set-aside requirement for affordable housing and with the requirements of this ordinance. This ordinance shall not take effect until such time that the site has access to public water and sewer.

2. Special Rules.

- (a) In any inclusionary development permitted by this ordinance, in the case of affordable rental units, at least 15% of the residential units must be affordable to very-low, low-, and moderate-income households and, in the case of owner-occupied affordable units, at least 20% of the residential units must be affordable to very-low, low-, and moderate-income households.
- (b) Where this Ordinance contradicts §1200-6 of the City’s Affordable Housing Ordinance, the effects and requirements of this Ordinance shall supersede the requirements of §1200-6.

3. Additional permitted uses. In addition to the uses otherwise permitted in the R-L District, the following additional uses shall be permitted:

- (a) Townhouse dwellings.
- (b) Apartment dwellings.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 20**

4. Restriction on conditional uses. No development utilizing the provisions of the IO-2 Inclusionary Overlay District shall include any conditional use permitted in §402.4.
5. Accessory Uses Permitted.
 - (a) Common recreational facilities, as specifically approved by the Planning Board within the specified open space in order to satisfy the needs of the residential population within the development, including but not limited to tennis courts, tot lots, picnic tables and recreational paths.
 - (b) Complimentary landscape structures and elements including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses.
 - (c) Underground sprinkler systems within the designated open space and within individual lots, provided that the water spray does not extend beyond the tract boundary line.
 - (d) Fences and walls in accordance with the design provisions specified in §507.
 - (e) Patios and balconies.
 - (f) Off-street parking and private garages in accordance with §402.2I.10 and §509.
 - (g) Signs in accordance with §402.2I.11 and §515.
 - (h) Office space within an apartment building to be used for the operation and management of the affordable rental apartments.
 - (i) Lighting in accordance with §511.
 - (j) Stormwater management and other utilities.
 - (k) Conservation areas, recreation, open space, and public purpose uses.
 - (l) Temporary construction trailers and one (1) sign not exceeding thirty-two (32) square feet in area, either attached to the trailer or freestanding, which advertises the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and ending with the issuance of a Certificate of Occupancy or one (1) year, whichever time period is less. The temporary construction trailer(s) and temporary sign shall be located on the site where the construction is taking place and shall be set back at least thirty feet (30') from all lot lines and from the right-of-way lines of all existing and proposed streets. There shall be at least one (1) operating telephone within the trailer.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 21**

(m) Other accessory uses customarily incidental to a principal use.

6. Maximum Building Height.

(a) No principal building shall exceed forty (40) feet in height and three (3) stories as measured from the proposed finished grade except as further allowed in §400.8, entitled “Height Exceptions”.

(b) No accessory building shall exceed twenty-five (25) feet in height and one and one-half (1 1/2) stories.

7. Area, Yard, Height and Coverage Requirements.

(a) The following regulations, area, bulk, setback and intensity requirements for the principal dwelling and permitted accessory structures applies for the IO-2 District:

IO-2 Area, Yard, Height and Coverage Requirements §402.2I.7		
	Requirements	
Tract		
Min. Tract Size	2.2 acres	
Max. Density	6 dwelling units per acre	
Min. Open Space	20%	
Min. Buffer to existing single-family detached dwellings	20 FT	
Lots	Townhouse Dwelling	Multi-Family Apartments
Min. Lot Size	2,000 SF	30,000 SF
Min. Lot Frontage	20 FT	150 FT
Min. Lot Depth	100 FT	200 FT
Max. Building Coverage	70%	35%
Max. Lot Coverage	80%	60%
Principal Building		
Min. Front Yard	10 FT	20 FT
Min. Side Yard	0 FT common wall; 10 FT otherwise	30 FT
Min. Rear Yard	15 FT	50 FT
Max. Garage Height	1 story	N/A
Distance between buildings		
Side-to-Side	20 FT	30 FT
Rear-to-Rear	50 FT	50 FT
Side-to-Rear	50 FT	50 FT
Accessory Buildings or Structures		
Min. Front Yard	N.P.	N.P.
Min. Side Yard	N/A	10 FT

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 22**

Min. Rear Yard	3 FT	10 FT
Distance to another building	N/A	20 FT
Notes:		
1. Patios and Decks on end units may not project more than three (3) feet beyond the Principal Building wall.		
2. Balconies may encroach into a required minimum setback up to three (3) feet.		
3. Unless modified by §400.7.A.		
N.P. = Not a permitted location		

(b) No parking area, loading area, driveway or other structure (except for approved access ways, signs and fencing) shall be permitted within twenty feet (20') of any tract boundary line, and such areas shall be planted and maintained in lawn area or ground cover and shall be landscaped with trees and shrubbery as approved by the Board.

8. Requirements for Buildings.

(a) General Architectural Requirements.

- (1) Multiple detached principal buildings shall be permitted on the tract.
- (2) The exteriors of all building in the development, including accessory buildings, shall be architecturally compatible and shall be constructed of complimentary materials.
- (3) All building elevations shall exhibit classical proportions. The characteristics of classicism include symmetry, repetition of elements, expressions of hierarchy to reflect the building uses, and tripartite compositions (base, middle, top).
- (4) Sub-elements within the facades and individual architectural components (i.e., railings, awnings, columns) shall also conform to the overall classical proportions of the facade.
- (5) All entrances to a building shall be articulated utilizing architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches or overhangs.
- (6) Balconies and patios shall be designed as integral subcomponents of the building facade. Cantilevered balconies are not permitted.
- (7) The building shall be provided with both heat and smoke alarms as well as fire suppression sprinkler system where required by code.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 23**

(b) Façade Treatments.

- (1) Any façade exceeding thirty feet or more in length shall include at least one change in wall plane (projection or recess) having a depth of at least 3% of the entire length of the facade and extending for a minimum of 20% of the entire length of the facade.
- (2) The architectural treatment of the front façade(s) shall be continued in its major features around all sides of each building.

(c) Roof Treatments.

- (1) Principal roof eaves shall project at least two (2) feet beyond the building facade or a supporting column. Secondary roof eaves (i.e., balconies, porches and patios) shall project at least one foot.
- (2) Primary roofs shall have a minimum pitch of 6/12. Secondary roofs may have a pitch below 6/12.
- (3) The transition between a facade and a roof shall have a cornice or frieze that is designed to fit the overall composition of the facade.

(d) Windows and Fenestration.

- (1) Windows and other openings in the facade shall exhibit a vertical emphasis, in harmony with the overall facade composition. Windows shall be single hung with simulated divided lights.
- (2) Within each building elevation, the maximum ratio of windows to wall shall be 50% window to 50% wall. The minimum ratio of window to wall shall be 25% window to 75% wall.

9. Off-Street Parking and Driveways.

- (a) Parking shall not be permitted between buildings and Brunswick Avenue (Route 518).

(b) Townhouse dwellings.

- (1) Individual townhouse driveways shall not have direct access to a public street, but may have direct access to an internal street, roadway, etc.
- (2) Townhouse dwellings shall provide at least one (1) off-street parking space within an enclosed garage located in the rear yard with access from a lane/alley.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 24**

(3) Garages, driveways and parking areas shall have a minimum setback of three (3) feet from any side property line or side of dwelling unit. An exception to the three-foot setback from the side property lines shall exist for townhouse lots to permit garages, driveways and parking areas that share a common wall on the common property line.

(c) Multi-family dwellings.

(1) Parking shall not be located in the front yard between buildings and public streets. Individual building driveways shall not have direct access to a public street, but may have direct access to an internal street, roadway, etc.

(2) Parking areas shall not be located between buildings and internal streets, roadways, etc.

(3) Parking areas shall be set back at least seven (7) feet from building walls.

(d) Each dwelling unit shall be provided a minimum number of parking spaces according to the provisions of the Residential Site Improvement Standards (RSIS), *N.J.A.C. 5:21*, or based upon historical data provided subject to City review.

(e) See §509 for additional standards.

10. Trash and Recycling Requirements.

(a) The trash and recyclable material collection and pickup locations shall be provided either within the building being served or in nearby locations outside the building.

(b) If located outside the building, the trash and recyclable materials area shall be totally enclosed, finished with materials used to construct the building(s) being served, up to a maximum of eight (8) feet in height, and located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence or wall. Landscaping, at least six (6) feet in height, shall be provided around any outdoor trash and recycling area.

(c) The area provided for the collection and pickup of trash and recyclable materials shall be well lit and shall be safely and easily accessible by trash and recycling personnel and vehicles. Collection vehicles shall be able to access the trash and recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the trash and recycling area and

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 25**

the bins or containers placed therein against theft of trash and recyclable materials, bins or containers.

- (d) Any bins or containers which are used for the collection of trash and recyclable material, and which are located in an outdoor trash and recycling area, shall be equipped with a lid.
- (e) Individual bins or containers for the collection and pickup of recyclable materials shall be equipped with signs indicating the materials to be placed therein.
- (f) See §512 for additional standards.

11. Permitted Signage.

- (a) Community Sign. One (1) ground mounted freestanding sign identifying the name of the development no larger than twenty-five (25) square feet shall be permitted at the entrance to the development from an existing public street.
 - (1) The sign shall not exceed six (6) feet in height and shall be set back at least ten (10) feet from all street lines and fifty (50) feet from all other property lines.
 - (2) Any sign illumination shall be external to the sign and shall be designed and oriented to prevent any sight of the lamp from any street or neighboring properties.
- (b) Residential Building Identification: Each residential building may have up to two attached identification signs. The maximum sign area of each shall not exceed six (6) square feet. Such signs shall be appropriately integrated within the architecture of the buildings.
- (c) See §515 of this chapter for permitted temporary signs, additional standards and the design requirements for signs.

12. Community Design.

- (a) The front façade of buildings shall face Brunswick Avenue (Route 518).
- (b) A minimum of 750 square feet of area shall be provided as community open space for the residential development.
- (c) Plantings. All portions of a lot not covered by buildings or structures (e.g. parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, children play areas, dog walks, etc.) shall be

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 26**

suitably planted with grass, shrubs, and trees and shall be maintained in good condition. In any case, no less than twenty (20%) of the area of the lot shall be so planted, and the planted area may include approved detention and/or retention basins.

- (d) Other design features.
 - (1) Wherever reasonably feasible, sustainable construction techniques shall be utilized to minimize the impact upon the environment, including energy efficient building designs, recycled materials, water conservation devices, permeable pavement, native plantings, low chemical usage to maintain the landscaping, and similar measures which are sensitive to the environment.
 - (2) The stormwater management plan shall include stormwater management facilities that are designed to enhance the aesthetic attributes of the proposed development.

13. Affordable Housing Standards.

- (a) A Developer's Agreement is required to establish low/moderate apportionment, very low-income requirement per *N.J.S.A. 52:27D-329.1*, bedroom distribution, unit size, etc.
- (b) At least 13% of the units shall be affordable to very-low-income households, 37% of the units shall be affordable to low-income households, and 50% may be affordable to moderate-income households.
- (c) The affordable units shall be developed in accordance with COAH's regulations at *N.J.A.C. 5:93* and the Uniform Housing Affordability Controls (UHAC), *N.J.A.C. 5:80-26.1 et seq.*, which govern the administration and affordability controls of affordable units in New Jersey, with one exception. The exception is for 13% very-low income housing at 30% of the regional median income instead of the UHAC requirement of 10% very-low income housing at 35% of the regional median income.
- (d) Affordable Housing Standards. In addition to addressing the requirements of COAH and noted above, the affordable units shall be developed in accordance with the following:
 - (1) The affordable units cannot be age-restricted units;
 - (2) The bedroom distribution requirements pursuant to *N.J.A.C. 5:93-7.3* and *N.J.A.C. 5:80-26.3(b)*.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 27**

- (3) The unit distribution requirements pursuant to *N.J.A.C. 5:80-26.3*.
- (4) The length of controls requirement and deed restrictions pursuant to *N.J.A.C. 5:80-26.11*.
- (5) The accessibility and adaptability requirements pursuant to *N.J.A.C. 5:97-3.14*.

SECTION 5. Create Subsection 406.1P of Subsection 406.1 of the Code of the City of Lambertville (2014) containing the zoning requirements for “Central Business District (CBD)” to read in its entirety as follows:

P. IO-3 Inclusionary Overlay Zone District.

1. Purpose and area of application.

To address its affordable housing unmet need obligation, the City through the implementation of an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing that is affordable to very-low, low-, and moderate-income households on Block 1022, Lot 8. This Ordinance establishes the Inclusionary Overlay Zone 3 – the IO-3 District – and permits the adaptive reuse of the nonresidential building into non-age-restricted (family) apartments on the property identified above provided that such housing complies with a required inclusionary set-aside requirement for affordable housing and with the requirements of this ordinance.

2. Special Rules.

- (a) In any inclusionary development permitted by this ordinance, in the case of affordable rental units, at least 15% of the residential units must be affordable to very-low, low-, and moderate-income households and, in the case of owner-occupied affordable units, at least 20% of the residential units must be affordable to very-low, low-, and moderate-income households.
- (b) Where this Ordinance contradicts §1200-6 of the City’s Affordable Housing Ordinance, the effects and requirements of this Ordinance shall supersede the requirements of §1200-6.

3. Permitted uses.

- (a) Apartment dwellings.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 28**

4. Restriction on conditional uses. No development utilizing the provisions of the IO-3 Inclusionary Overlay District shall include any conditional use permitted in §406.3.
5. Accessory Uses Permitted.
 - (a) Common recreational facilities, as specifically approved by the Planning Board within the specified open space in order to satisfy the needs of the residential population within the development, including but not limited to tennis courts, tot lots, picnic tables and recreational paths.
 - (b) Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses.
 - (c) Fences and walls in accordance with the design provisions specified in §507.
 - (d) Patios and balconies.
 - (e) Off-street parking in accordance with §406.1P.7 and §509.
 - (f) Signs in accordance with §515.
 - (g) Office space within an apartment building to be used for the operation and management of the affordable rental apartments.
 - (h) Lighting in accordance with §511.
 - (i) Stormwater management and other utilities.
 - (j) Conservation areas, recreation, open space, and public purpose uses.
 - (k) Temporary construction trailers and one (1) sign not exceeding thirty-two (32) square feet in area, either attached to the trailer or freestanding, which advertises the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and ending with the issuance of a Certificate of Occupancy or one (1) year, whichever time period is less. The temporary construction trailer(s) and temporary sign shall be located on the site where the construction is taking place and shall be set back at least thirty feet (30') from all lot lines and from the right-of-way lines of all existing and proposed streets. There shall be at least one (1) operating telephone within the trailer.
 - (l) Other accessory uses customarily incidental to a principal use.
6. Maximum Density. The maximum density of housing units shall be ten (10) units per acre.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 29**

7. Off-Street Parking.

- (a) Each dwelling unit shall be provided a minimum number of parking spaces according to the provisions of the Residential Site Improvement Standards (RSIS), *N.J.A.C. 5:21*.
- (b) See §509 for additional standards.

8. Affordable Housing Standards.

- (a) A Developer's Agreement is required to establish low/moderate apportionment, very low-income requirement per *N.J.S.A. 52:27D-329.1*, bedroom distribution, unit size, etc.
- (b) At least 13% of the units shall be affordable to very-low-income households, 37% of the units shall be affordable to low-income households, and 50% may be affordable to moderate-income households.
- (c) The affordable units shall be developed in accordance with COAH's regulations at *N.J.A.C. 5:93* and the Uniform Housing Affordability Controls (UHAC), *N.J.A.C. 5:80-26.1 et seq.*, which govern the administration and affordability controls of affordable units in New Jersey, with one exception. The exception is for 13% very-low income housing at 30% of the regional median income instead of the UHAC requirement of 10% very-low income housing at 35% of the regional median income.
- (d) Affordable Housing Standards. In addition to addressing the requirements of COAH and noted above, the affordable units shall be developed in accordance with the following:
 - (1) The affordable units cannot be age-restricted units;
 - (2) The bedroom distribution requirements pursuant to *N.J.A.C. 5:93-7.3* and *N.J.A.C. 5:80-26.3(b)*.
 - (3) The unit distribution requirements pursuant to *N.J.A.C. 5:80-26.3*.
 - (4) The length of controls requirement and deed restrictions pursuant to *N.J.A.C. 5:80-26.11*.
 - (5) The accessibility and adaptability requirements pursuant to *N.J.A.C. 5:97-3.14*.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 30**

SECTION 6. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the subsection, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 7. This Ordinance shall take effect upon final adoption, publication and the filing of a copy of said Ordinance with the Hunterdon County Planning Board, all in accordance with the law.

Mayor DelVecchio (on the phone) commented that the City is voting down the ordinance. Council President Sanders commented in light of the members of the public present, he felt we should move forward and opened the public hearing for Ordinance Number 24-2018. He introduced Emily Goldman, the City Planner, who gave an overview of the reason for this ordinance and reviewed the ordinance with an optional overlay with the members of the public present. She informed them that this is an additional permitted use within their existing zone. Two parcels/three are within the residential low district load in the City. It has two existing overlay zones, Lamberts Hill and the Old High School site. The RL zone still stands, just an optional permitted use for these properties.

Debbie Closson read into the record a statement about the Closson Farm, one of the properties included in the overlay zone.

Thanks for the opportunity to address this meeting. Many of you have probably seen the flyers circulating around town and postings on Facebook and I'd like to take a minute to correct some misunderstandings. We, as most of you, were blindsided by this ordinance which we first learned about over the summer. This overlay is something that is being imposed upon us by the City and the New Jersey courts. It is not something that we are seeking. However, after talking with the Mayor, city council, planner and the attorney we have been assured that this overlay is optional. That we are not obligated to do anything and life can go on as is and that while none of us like to be told what to do with our property, again it is optional.

There have been hurtful insinuations that we are greedily behind this and plan to sell the land to developers. As some of you know, Mom decided to move from her home that she loved earlier this year because it was overwhelming for her at 92. At her choice she moved into assisted living. Our plan is to rent out the house to help pay towards taxes and assisted living which is why, after donating important items to different organizations, we had the estate sale. I'd like to make it very clear that there is no connection between the estate sale and this plan and that the timing is purely coincidental.

This is an emotional and confusing issue and, in many ways, we are still trying to make sense of this, but Ed and I are always available to talk so please reach out to us if you have questions.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 31**

Rachel Finkle, Coryell Street asked if only 1 out of 5 have to be low to moderate income, according to the obligation? The City planner responded that we need to meet 88 credits. There is a formula that, 25% rental units, no more than 25% are restricted, 25% rental bonus, a 1 for 1 credit. The City's plan is to get the maximum bonus credits so we are providing for 66 actual units. The same formula goes to unmet need, with no bonus credits, representing 49 actual units.

Rachel Finkle asked for the time frame.

The City Planner responded that the city has to have 88 units by 2025. The City needs to submit monitoring reports to Fair Share Housing by 05-22-2019. The midpoint review is in 2020. The report has to identify the city's progress. At that time the city can propose compliance mechanisms.

Rachel Finkle commented that the city is fairly built out, what does the city do if they cannot find a realistic property? The City Planner responded that it is what it is, the calculation is 41 units but because the city has been proactive, we agreed to a higher number of 88 to take advantage of the units already in place, 22 units carrying over the balance in the unmet net. Rachel Finkle asked what percentage will be rental and what percentage will be for purchase? The City Planner responded that 25% will be rental units. That's the minimum we can do, it could be all rentals. The combination of for sale and rental, 50% have to be family rentals, if you had 22 units, 11 would need to be family and 11 would need to be age restricted.

A member of the public asked what the income range was for very low, low and moderate income? The City Planner responded that in 2018, for Middlesex, Somerset and Hunterdon County, we have the highest income level,

Very low income:	\$32,270
Low income:	\$53,950
Moderate income:	\$86,320

The City Planner commented that this generally means teachers, nurses, and firefighters. The income levels used to be produced by COAH, now they are based on the courts and using HUD's regional income limits.

Councilwoman Asaro asked if we have the ability to make changes over time and what is that time? The City Planner responded that the Court will schedule compliance hearings to make sure we comply with the settlement agreement, once approved, its on an as needed basis, so if the city wanted amend the plan and adopt the amendment, it would get submitted back to the courts.

Karen Taylor Ogren, President of the Historical Society read the following letter into the record:

Dear Mayor DelVecchio and Council Members Asaro, Sanders, and Warner:
After reviewing the proposed zoning ordinance (No. 24-2018), we respectfully share a concern in advance of the Nov. 26 public hearing:
We believe the Holcombe House, or "Washington's Headquarters," and an appropriate surrounding lot must be preserved as an historic landmark. The house and its barns date back to at least 1733.
As testament to its significance, Hannah Coryell Anderson in her 1928 book, "General Washington

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 32**

at Coryell's Ferry" <http://catalog.lambertvillelibrary.org/texts/American/coryell/coryell.pdf>, wrote: "This is undoubtedly the oldest home still standing within the present limits of Lambertville, and is interesting not only because of its age and architectural details, but because of its use by General Washington, as his headquarters, during his New Jersey campaign. Its value to its owners and to the community is greatly enhanced by the fact that General Washington, the revered "Father of His Country," once passed through its doorways and was sheltered within its walls."

Washington worked at Holcombe House July 29-31, 1777, on planning for Germantown PA , and then again June 21-23, 1778, on planning for the Battle of Monmouth, NJ. Long before Ms. Anderson's book, the house was celebrated as "Washington's Headquarters" with pride by area residents, as evidenced by countless postcards and paintings. We hope you share this pride, as we do.

Present and future Lambertville residents must honor its unique heritage and protect this treasure.

The zoning overlay must be changed accordingly.

We will gladly share our perspectives at the public hearing and elsewhere, as well as current research.

Sincerely,

/s/

Karen Taylor-Ogren, President

For the Board of Trustees

Mayor DelVecchio commented that we heard peoples concerns which is why we are killing the current ordinance. We are going to have a new plan by December 3 which will address concerns raised, meet the needs of the Closson Family and the city. We are prepared to do that next week.

John Flemming, owner of a house on Washington Street in the Township of West Amwell asked how many units will be low income and moderate income and how many children will it generate in the units. The City Planner responded that the city isn't allowed to consider school age children and the impact on the school. Mr. Flemming asked again, so we aren't allowed to consider it? Sprinkle in low to moderate, is that fair? There is no analysis of the schools? What about the fact of low and moderate, does it have any impact on value on surrounding houses? The City Planner commented that she was not an appraiser, and didn't do the analysis. Mr. Flemming asked what the potential negative impact of this type of development would be? The City Planner commented that this was state mandated.

Mr. Flemming commented that block 1091 used to be the town dump. The City Planner commented that that is a different ordinance. Mr. Flemming commented that he was talking about historical property, now are we talking about picking up a property with no analysis or borings? The City Planner commented that any development would require it. Mr. Flemming asked about accessing the development going through roads, widen the roads, take the land, is that the process? The City Planner commented all of that would be reviewed by the Planning Board when the site plan was reviewed. Mr. Flemming asked if the site plan would take into consideration, water, sewer, traffic? Once you give this ordinance, would the planning board have that much teeth if they fall short for something that isn't their problem, like, widen the road for access, and say no, how would that be handled? Councilwoman Asaro commented that the normal process would be followed. Mr. Flemming asked if normal process would be hampered

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 33**

by this ordinance. Is the use compatible with the zone plan, planning board would be within the rights if it meets the standards, sensitive areas are not research, there are very steep slopes?

Council President Sanders commented that he wanted to keep this to the questions about the overlay ordinance, not the redevelopment ordinance will be discussed shortly.

Mr. Flemming asked about the accumulated money from the COAH fees? The City Planner responded that the City has had a development fee ordinance since 2009, current trust fund balance is around \$50,000. Mr. Flemming asked if the fees were from surrounding municipalities? The City Planner responded that Mr. Flemming was referring to the RCAs which are no longer in existence. Mr. Flemming commented that the RCAs are when richer towns could pawn off to other municipalities their affordable housing obligations. The City Planner responded that the funding from different municipalities partially funded Heritage Village and did rehabilitation of senior housing and the program was abolished.

Mike Schultz, 255 North Main Street asked if the properties on this list, how many, a certain amount of homes have to be built, with what is available today, how many of these will be used on this list? The City Planner responded that she couldn't answer that question, the land is privately owned, it's up to the property owners. The City has an obligation to provide a realistic opportunity for the development of affordable housing. Mr. Shults asked what the number was. The City Planner responded 88 mechanisms to meet the unmet need.

Mayor DelVecchio responded that the city didn't have a choice.

Judith Detrano asked if it included parameters for aesthetics/historic element, parking? The City Planner responded that any residential development is governed by the residential standards based on the type of unit and the number of bedrooms. Any land owner would need to submit an application to the planning board and meet the design standards/planning requirements.

Jim Amon commented that he assumed that the city says our historic structures are too important to destroy the area, so we don't have any other place to put them, isn't there a court somewhere that says that? Mayor DelVecchio commented that this is the reason the governing body is killing the ordinance.

Council President Sanders commented that the governing body intended on voting this ordinance down.

Ryan Spreen of Clinton Street asked why the public hearing at the planning board was only advertised in the newspapers. The City Planner explained that the planning board took action for the adoption of the housing element only, all other ordinances were city council.

Mayor DelVecchio commented that the Planning Board only voted to say it was consistent with the Master Plan.

Carol Myers, lives on Cottage Hill, was born across from the Holcombe House, she checked the history of the house, it's historical. Is there any way to preserve the house?

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 34**

Jason Kiliwinski, owners of a property on York Street and recently purchased the farm house on Route 29. He stated that he is happy to share the easement he has for the property he just purchased.

Debbie Monigan asked for clarification. It was her understanding that the properties were all privately owned so if those owners do not choose to sell, you cannot force them. If they choose to sell to a developer to put a house on the property, then the developer has these options. The City Planner responded that it is just an additional permitted use. Ms. Monigan asked if they choose not to what is the impact? The City Planner responded then we look to redevelopment of existing sites.

Paul DiBenedetto, commented that this contrary to demographic areas. The prices decline for housing, kids want to rent, I don't see any reason for further development. The City Planner commented that Fair Share Housing would disagree, not only is this municipality in this situation, but so are all others across the state.

Council President Sanders commented to be clear, the court and state mandated this. Mr. DiBenedetto commented that they are oblivious to reality.

Mayor DelVecchio asked for a motion to remove the Closson Property, block 1002, lot 41, from the inclusionary overlay zone, zone 1. Councilwoman Asaro made the motion. Council President Sanders seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. MOTION CARRIED.

There being no further comments, the Council President made a motion to close the public hearing on Ordinance Number 24-2018. Councilwoman Asaro seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. MOTION CARRIED.

Council President Sanders asked for a motion to adopt on second reading, granting final approval of Ordinance Number 24-2018. Councilwoman Asaro seconded the motion. A roll call vote opposing the motion was taken by all members present and on the phone. MOTION DEFEATED.

ORDINANCE NUMBER 22-2018: An Ordinance of the City of Lambertville, County of Hunterdon, State of New Jersey Approving the Redevelopment Plan for the Lambertville High School Redevelopment Area, Block 1073, Lots 1,3,5,6,7,8,9,10,11,32,33 and 33.01, Block 1090, Lots 4 and 5, and Block 1091, Lots 1 and 1.01.

Council President Sanders read the ordinance into the record by title. He informed the members of the public present that this ordinance is to approve the Redevelopment Plan for the Lambertville High School. He introduced Emily Goldman, the City Planner who reviewed the timeline with the members of the public. She informed the members of the public present that this is the eastern quadron of the city, and she reviewed the map marked as Ordinance Number 22 Map, 24.5 acres of unimproved property. She reviewed the Redevelopment Plan, Map title Ordinance Number 22 Redevelopment Plan with the members of the public present. She

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 35**

reviewed the components of the plan, a 67-townhouse dwelling, 72 multifamily apartments complex.

CITY OF LAMBERTVILLE

ORDINANCE NUMBER 22-2018

**AN ORDINANCE OF THE CITY OF LAMBERTVILLE, COUNTY OF HUNTERDON,
STATE OF NEW JERSEY APPROVING THE REDEVELOPMENT PLAN FOR THE
LAMBERTVILLE HIGH SCHOOL REDEVELOPMENT AREA, BLOCK 1073, LOTS 1, 3, 5,
6, 7, 8, 9, 10, 11, 32, 33 AND 33.01, BLOCK 1090, LOTS 4 AND 5, AND BLOCK 1091, LOTS 1
AND 1.01**

WHEREAS, the Governing Body of the City of Lambertville, County of Hunterdon, New Jersey (“Governing Body”) has designated an area known as the Lambertville High School Redevelopment Area and identified as Block 1073, Lots 1, 3, 5, 6, 7, 8, 9, 10, 11, 32, 33, and 33.01, Block 1090, Lots 4 and 5, and Block 1091, Lots 1 and 1.01 on City of Lambertville Tax Maps including rights of way (the “Redevelopment Area”), as an area in need of redevelopment; and

WHEREAS, the Governing Body intends to adopt a redevelopment plan to provide specific provisions for the redevelopment of the Redevelopment Area; and

WHEREAS, the Governing Body has referred the proposed Lambertville High School Redevelopment Plan (“Redevelopment Plan”) to the City of Lambertville Planning Board for review and recommendation; and

WHEREAS, the Governing Body has received the recommendation of the Planning Board and has conducted a public hearing on the proposed Redevelopment Plan.

NOW THEREFORE BE IT ORDAINED by the Governing Body of the City of Lambertville, County of Hunterdon, State of New Jersey, that:

SECTION 1. Pursuant to the authority granted to the Governing Body by N.J.S.A. 40A:12A-7, the Lambertville High School Redevelopment Plan, dated _____, prepared by Clarke Caton Hintz attached hereto is hereby adopted.

SECTION 2. Pursuant to the provisions of N.J.S.A. 40A:12-7c, the Lambertville High School Redevelopment Plan hereby supersedes applicable provisions of the City of Lambertville Land Use Ordinance. In so doing the Lambertville High School Redevelopment Plan shall constitute an explicit amendment to the City Zoning Map to identify the Redevelopment Area as the boundaries of the area regulated by the Lambertville High School Redevelopment Plan. The official City Zoning map shall be amended to henceforth coincide with the Lambertville High School Redevelopment Plan.

SECTION 3. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency only.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 36**

SECTION 4. If any provision of this ordinance is declared invalid, such invalidity shall not affect the other provisions of this ordinance. Furthermore, the other provisions of this ordinance are deemed to be severable and remain in full force and effect.

SECTION 5. This ordinance shall take effect after final approval and publication according to law.

Council President Sanders opened the public hearing for Ordinance Number 22-2018 and asked for public comment.

John Flemming, a resident of Washington Road in the Township of West Amwell asked “right now if you were to develop this property, how many units would you be allowed to build?” The City Planner responded that current zoning is 2.26 units or 46 single family homes. Mr. Flemming asked about the impact on schools. Ms. Goldman responded that that is not something that COAH takes into consideration. Mr. Flemming asked about sewer and water capacity. Ms. Goldman responded that both utilities responded that they have the capacity; the builder would need to work with the utilities to make sure that they don’t need to upgrade their system. Mr. Flemming commented that some people have wells, will they be required to tap into the water? The City Planner responded that they will not be obligated to tap in but they can if they choose to. Mr. Flemming asked if anyone had a septic tank. Ms. Goldman responded that she wasn’t sure. Mr. Flemming asked if this plan will tie in with the Township of West Amwell’s Affordable Housing Plan. Ms. Goldman responded that it will not. Mr. Flemington asked about the dump which was previously located on block 1091. Ms. Goldman responded that the procedure for the clearing of a brown field will need to be followed, and it is the redevelopers responsibility to clean up the site. The details will be flushed out in a redeveloper’s agreement, phase I and II of the assessment, various site environmental assessment under the LSRP. Mr. Flemming said in other words, there will be a lot of trucks back and forth to clear out the crap. Ms. Goldman commented that they will need to remediate to residential standards and may be required to put a cap on it. Mayor DelVecchio responded that the city cannot speak to DEP’s requirements but the redeveloper will need to do whatever they deem is necessary.

Mr. Flemming commented that this means loaders and dump trucks by hundreds in and out of the site. Ms. Goldman responded yes. Mr. Flemming commented that they have inadequate roads, this will impact the wells. Ms. Goldman responded that because the developer will be required to use public water, she is not sure this will impact existing wells. The redeveloper will need to do a Geotech study.

Beth O’Brian of Hancock Street asked about the main thoroughfare through the project. Ms. Goldman used the map and gave an overview of the location of the site in question and confirmed

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 37**

that Hancock Street and Allen Street would be the main streets in gaining access to the site. Discussion ensued about the need to increase the size of the roads. Pat Buchanan of Rosemont Avenue commented that someone would need to give you permission to access Hancock Street. The City Planner responded that they can't go beyond the extent of the right of way.

Karen Atwood of the Township of West Amwell asked if the city was in discussion with the Township of West Amwell. The City Planner responded that the city was not.

Mayor DelVecchio commented that the Township of West Amwell's plan will be adjacent to this project, however, the City Planner stated that the Township has amended their plan.

Karen Atwood asked if the city had plans to connect to the Township of West Amwell and if the city was amenable if the Township of West Amwell wanted to sewer to allow it. We all have wells, West Amwell has septic. The City Planner stated that it all will be worked out as part of the site plan at the Planning Board.

Judy Detrano asked if the City considered PennEast Pipeline was considered and if they were advised of this issue. The City Planner responded that this is just a redevelopment plan. Ms. Detrano asked again if they had been advised. The City Planner responded that there is no developer. The city can select out of who responds who they want to develop the project.

Jolie Weber of 76 Washington Street asked if there will be improvements to Washington Street as part of this plan. The City Planner stated that at this time, there is no access through Washington Street because it is the low point of the site and it will be for storm water basin. Council President Sanders asked the City Planner to point out Washington Street on the map.

Councilwoman Asaro asked what Washington Street's connection was to the project. The City Planner stated that it might be used as access for storm water maintenance.

Rachel Finkle asked if fulfilling this becomes a vicious cycle whereas only 20% becomes affordable housing, you just keep increasing the number of units until the town explodes. The City Planner responded that because we are a vacant land analysis town, our settlement agreement addresses this. She continued to explain that when a new obligation comes into play, we just need to have mechanism for a realistic opportunity. Ms. Finkle asked if you had to translate the credits into best case/worst case? The City Planner responded that she wouldn't know off the top of her head, she commented that Heritage Village is 100% affordable housing, 86 units, 4 Habitat for Humanity units, 18-bedroom group home, accessory apartments, city owned apartment, there are

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 38**

mechanisms we are trying to take total advantage of and we can't take credit for those that predated the law. We will always have a COAH obligation.

Steve Chernoski asked if Hancock Street would need to be widened, primarily for pedestrian access and if the city thought about a staircase. The City Planner responded that the developer would need to submit a traffic study report for off-site improvements. She considered a stairwell on lot 32, and doesn't know if it is feasible to put a staircase to connect to downtown but she doesn't see why the Planning Board can't do that.

Megan from Elm Street asked where the wetlands were. The City Planner responded that they are identified to be protected, maintained and there is some landscaping required. Megan asked about the woodlands. The City Planner commented that they were not to be touched at all, maybe a trail but we are looking to limit the land disturbance.

Debbie Monigan of North Union Street asked if this is all privately owned. The City Planner stated that the city would be the property owner through eminent domain for the property on the map. Jolie Weber asked for the timeline. The City Planner commented that the court requires us to identify a developer within 6 months of final judgement; and within 9 months a redevelopment agreement has to be completed. The city has to hire an appraiser who will determine fair market value. That's the first step.

Debbie Monigan asked if once the city takes possession, could they say then that no lot could be smaller than $\frac{3}{4}$ of an acre. The City Planner commented that the redevelopment plan states that a maximum of 61 single family and 72 apartment units. Ms. Monigan asked where the number came from. The City Planner commented that it is a concept plan. Ms. Monigan asked if it could be lowered. The City Planner responded that it could not because the redevelopment area is one of the mechanisms to meet our 88-unit need.

Council President Sanders asked if there were further questions or comments from the public. There being no further questions or comments, Council President Sanders made a motion to close the public hearing for Ordinance Number 22-2018. Councilwoman Asaro seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. MOTION CARRIED.

Council President Sanders made a motion to adopt on second reading, granting final approval of Ordinance Number 22-2018. Councilwoman Asaro seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. MOTION CARRIED.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 39**

ORDINANCE NUMBER 23-2018: *An Ordinance Repealing and Replacing Section 2-9.5 “Municipal Housing Liaison” of the Code of the City of Lambertville and Section 1200 “Required Growth Share Affordable Housing Obligation” and Section 1201 “Development Fee for the City of Lambertville Pursuant to Council on Affordable Housing Regulations” of the City of Lambertville’s Land Development Review Ordinance to Address the Requirements of the Fair Share Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the City’s Affordable Housing Obligations.*

Council President Sanders read the Ordinance by title into the record. He informed the members of the public present that this Ordinance is to meet the City’s obligation and to settle the affordable housing obligation. The City Planner gave the following overview: The Affordable Housing Ordinance is to update the city’s growth share methodology which was introduced in 2004, new rules in 2008, the city at the time was trying to stay compliant based on growth share methodology. The new proposed ordinances update the city’s affordable housing ordinance to be consistent with current COAH Rules.

**Ordinance No. 23-2018
Affordable Housing Ordinance
City of Lambertville, Hunterdon County**

AN ORDINANCE REPEALING AND REPLACING SECTION 2-9.5 “MUNICIPAL HOUSING LIAISON” OF THE CODE OF THE CITY OF LAMBERTVILLE AND SECTION 1200 “REQUIRED GROWTH SHARE AFFORDABLE HOUSING OBLIGATION” AND SECTION 1201 “DEVELOPMENT FEE FOR THE CITY OF LAMBERTVILLE PURSUANT TO COUNCIL ON AFFORDABLE HOUSING REGULATIONS” OF THE CITY OF LAMBERTVILLE’S LAND DEVELOPMENT REVIEW ORDINANCE TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE CITY’S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the City Council of the City of Lambertville, Hunterdon County, New Jersey, that the Code of the City of Lambertville is hereby amended to include provisions addressing Lambertville’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 very-low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low-, low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Lambertville 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 has 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, with one

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 40**

exception regarding the provision of very-low income housing as described in more detail below, and the New Jersey Fair Housing Act of 1985.

Section 1200-1 Short Title

This section of the “Code of the City of Lambertville” shall be known as the “Affordable Housing Ordinance of the City of Lambertville.”

Section 1200-2 Purpose

1. This section of the Lambertville Code sets forth regulations regarding the very-low-, low-, and moderate-income housing units in the City consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing”, *N.J.A.C. 5:93 et seq.*, the Uniform Housing Affordability Controls (“UHAC”), *N.J.A.C. 5:80-26.1 et seq.*, except where modified by the requirements for very-low income housing as established in P.L. 2008, c.46 (the “Roberts Bill”, codified at *N.J.S.A. 52:27D-329.1*) as reflected in the terms of a Settlement Agreement between the City and Fair Share Housing Center (“FSHC”) such that the statutory requirement to provide very-low income units equal to 13% of affordable units approved and constructed after July 17, 2008, to be affordable households at 30% of the regional median income, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and the City’s constitutional obligation to provide a fair share of affordable housing for very-low-, low-, and moderate-income households.
2. This Ordinance is intended to assure that very-low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.
3. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of *N.J.A.C. 5:93*, as may be amended and supplemented.

Section 1200-3 Monitoring and Reporting Requirements

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

1. Beginning on May 22, 2018, and on every anniversary of that date through May 22, 2025, the City agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (“NJDC”), Council on Affordable Housing (“COAH”), or Local Government Services (“NJLGS”), or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the municipal website, using forms developed for this purpose by the NJDC, COAH, or NJLGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
2. Beginning on May 22, 2018, and on every anniversary of that date through May 22, 2025, the City agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 41**

FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

3. By July 1, 2020, as required pursuant to *N.J.S.A. 52:27D-313*, the City will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity. Any interested party may by motion request a hearing before the Court regarding these issues.
4. By May 22, 2021, and every third year thereafter, as required by *N.J.S.A. 52:27D-329.1*, the City will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low-income requirements, including its family very low-income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low-income housing obligations.

Section 1200-4 Definitions

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

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

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

“Administrative agent” means 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. 5:80-26.1*).

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

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

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

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

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 42**

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

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

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

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

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

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

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

“COAH” of the “Council” mean the New Jersey Council on Affordable Housing, as established by the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301, et seq.*) which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

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

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

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 43**

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

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

“Development fee” means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:93-8.8*.

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

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

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

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

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

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

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

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

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

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 44**

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

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

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

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

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

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

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

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

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

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

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

Section 1200-5 Applicability

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the City of Lambertville pursuant to the City's most recently adopted Housing Element and Fair Share Plan.
2. Moreover, this Ordinance shall apply to all developments that contain very-low-, low-and moderate-income housing units, including any currently unanticipated future developments that will provide very-low, low- and moderate-income housing units.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 45**

4. Projects receiving Federal Low Income Housing Tax Credit financing shall comply with the income and bedroom distribution requirements of UHAC at *N.J.A.C. 5:80-26.3* (with the exception that the UHAC requirement for 10 percent of the affordable units in rental projects being required to be at 35 percent of median income be modified as required by the statutory requirement, *N.J.S.A. 52:27D-329.1* to 13 percent of affordable units in such projects shall be required to be at 30 percent of median income) and the length of the affordability controls applicable to such projects shall be not less than a thirty (30) year compliance period plus a 15 year extended use period.

Section 1200-6 City-wide Mandatory Set-Aside

1. A multi-family development providing a minimum of five (5) new housing units created through a municipal rezoning; Zoning Board use or density variance; redevelopment plan or rehabilitation plan that provide for densities at or above six (6) units per acre is required to include a minimum affordable housing set-aside of 20% if the affordable units will be for-sale and a minimum affordable housing set-aside of 15% if the affordable units will be for rent.

2. At least 50% of the affordable units in each development shall be affordable to low-income housing. At least 13% of all affordable units in rental developments shall be affordable to very-low-income households.

3. All such affordable units, including bedroom distribution, shall be governed by the controls on affordability and affirmatively marketed in conformance with UHAC, *N.J.A.C. 5:80-26.1 et seq.*, or any successor regulation, and all other applicable law.

4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.

5. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the City to grant such rezoning, variance or other relief.

6. This City-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the City's Settlement Agreement with FSHC or Fair Share Plan, for which density and set-aside requirements shall be governed by the specific standards as set forth therein. The City shall maintain this mandatory set-aside provision through at least July 8, 2025 at which time the City may determine to extend the applicability of the provision.

Section 1200-7 Alternative Living Arrangements

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

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

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

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

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

Section 1200-8 Phasing Schedule for Inclusionary Zoning

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 46**

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

Section 1200-9 New Construction

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low-income units shall be counted as part of the required number of low-income units within the development.

b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.

c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

- 1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
- 2) At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
- 3) At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
- 4) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

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

2. Accessibility Requirements:

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 47**

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 Sub Code, *N.J.A.C. 5:23-7* and the following:

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

- 1) An adaptable toilet and bathing facility on the first floor; and
- 2) An adaptable kitchen on the first floor; and
- 3) An interior accessible route of travel on the first floor; and
- 4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

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

6) An accessible entranceway as set forth at P.L. 2005, c. 350 (*N.J.S.A. 52:27D-311a, et seq.*) and the Barrier Free Sub Code, *N.J.A.C. 5:23-7*, or evidence that the City has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

b) To this end, the builder of restricted units shall deposit funds within the City of Lambertville'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 Lambertville 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 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 Sub Code, *N.J.A.C. 5:23-7*, and that the cost estimate of such conversion is reasonable, payment shall be made to the

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 48**

City's Affordable Housing Trust Fund in care of the City's Director of Finance, or their designee, who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

3. Design:

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

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

4. Maximum Rents and Sales Prices:

a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court and detailed herein.

"Regional income units shall be established for the region that the City is located within (i.e. Region 3) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the City's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year."

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, which very low-income units shall be part of the low-income requirement.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 49**

development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one- and one-half-person household;
- 3) A two-bedroom unit shall be affordable to a three-person household;
- 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
- 5) A four-bedroom unit shall be affordable to a six-person household.

f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one- and one-half-person household; and
- 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

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

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

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 50**

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

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

Section 1200-10 Utilities

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

Section 1200-11 Occupancy Standards

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

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

Section 1200-12 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 the City takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of *N.J.A.C. 5:80-26.1*, as may be amended and supplemented.

2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 51**

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.

Section 1200-13 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

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

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 1200-16.

Section 1200-14 Buyer Income Eligibility

1. Buyer income eligibility for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.1*, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Governing Body, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 52**

low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

Section 1200-15 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)*.

Section 1200-16 Capital Improvements To Ownership Units

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 53**

Section 1200-17 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 the City takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of *N.J.A.C. 5:80-26.1*, as may be amended and supplemented.
2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Somerset. 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.

Section 1200-18 Rent Restrictions for Rental Units; Leases

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

Section 1200-19 Tenant Income Eligibility

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

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 54**

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

c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.

2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to *N.J.A.C. 5:80-26.16*, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

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.

Section 1200-20 Municipal Housing Liaison

1. The City shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the City's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the City's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). The City of Lambertville shall adopt this Ordinance which creates the position of Municipal Housing Liaison and the City of Lambertville shall adopt a Resolution which appoints the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 55**

2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the City of Lambertville, including the following responsibilities, which may not be contracted out to the Administrative Agent:
 - a. Serving as The City of Lambertville'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 the City of Lambertville's Fair Share Plan;
 - c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
 - d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
 - e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
3. Subject to the approval of the Court, the City shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the City in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the 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 work of the Administrative Agent(s).

Section 1200-21 Administrative Agent

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

1. Affirmative Marketing:
 - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the City 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:

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 56**

- 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;
 - f. Employing a random selection process as provided in the Affirmative Marketing Plan of the City when referring households for certification to affordable units; and
 - g. Notifying the following entities of the availability of affordable housing units in the City: Fair Share Housing Center, the New Jersey State Conference of the NAACP, including the New Brunswick, Plainfield Area, Perth Amboy and Metuchen/Edison branches, the Latino Action Network, NORWSCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.
3. Affordability Controls:
- a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Hunterdon County Register of Deeds or Hunterdon County Clerk's office after the termination of the affordability controls for each restricted unit;
 - d. Communicating with lenders regarding foreclosures; and
 - e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to *N.J.A.C. 5:80-26.10*.
4. Resales and Re-rentals:

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 57**

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 re-rental; and

b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Requests from Unit Owners:

a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

c. Notifying the municipality of an owner's intent to sell a restricted unit; and

d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

a. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

c. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in *N.J.A.C. 5:80-26.18(d)4*;

e. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 58**

f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Governing Body and the Court, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

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

Section 1200-22 Affirmative Marketing Requirements

1. The City shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, which is compliant with *N.J.A.C. 5:80-26.15*, as may be amended and supplemented.

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Hunterdon, Middlesex, and Somerset 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 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.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 59**

7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in City, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, including the New Brunswick, Plainfield Area, Perth Amboy and Metuchen/Edison branches, the Latino Action Network, NORWSCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

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

Section 1200-23 Enforcement of Affordable Housing Regulations

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

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

a. The municipality may file a court action pursuant to *N.J.S.A. 2A:58-11* alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

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

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

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 60**

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

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

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

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

3) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 61**

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.

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

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

Section 1200-24 Development Fees

1. Purpose:

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

b. COAH was authorized by P.L. 2008, c. 46, Section 8 (*N.J.S.A. 52:27D-329.2*), and the Statewide Nonresidential Development Fee Act (*N.J.S.A. 40:55D-8.1 through 40:55D-8.7*) 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 are under the jurisdiction of COAH or a court of competent jurisdiction and have a COAH- or court-approved spending plan may retain fees collected from nonresidential development.

c. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the "Mount Laurel IV" decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 7, 2025 are under the Court's jurisdiction and are subject to approval by the Court.

d. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This chapter shall be interpreted within the framework of COAH's rules on development fees, codified at *N.J.A.C. 5:93-8*.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 62**

2. Basic Requirements:
 - a. COAH had previously approved ordinances adopting and amending Section 1201, which established the City's affordable housing trust fund. The City's development fee ordinance which has been further amended remains effective pursuant to the Superior Court's jurisdiction in accordance with *N.J.A.C. 5:93.8*.
 - b. At such time that the Court approves the City's Amended Third Round Housing Element and Fair Share Plan and the Amended Third Round Spending Plan, the City may begin spending development fees in conformance with *N.J.A.C. 5:93-8* for the new 2018 Plan activities.
3. Residential Development Fees:
 - A. Imposed fees.
 1. Within all Zoning Districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
 2. 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 may be required to pay a development fee of 6% 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 1.5% 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.
 1. 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.
 2. 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.
 3. In addition to the construction of new principal and/or accessory buildings, development fees shall be imposed and collected for the construction of additions or expansions to existing buildings, for the change or conversion of an existing building to accommodate a more intense use, and/or for the demolition and replacement of an existing building provided that:

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 63**

- (a) The development fee shall be calculated on the increase in the equalized assessed value of the improved building.
 - (b) No development fee shall be collected for a demolition and replacement of a residential building resulting from a natural disaster.
 - (c) No development fee shall be collected for the construction of an “accessory structure” which is not a “building” as these terms are defined in the City “Land Development Ordinance.”
4. Nonresidential Development Fees:
- A. Imposed fees.
 - 1. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.
 - 2. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
 - 3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting 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 nonresidential development fee shall be zero.
 - B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.
 - 1. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two-and-one-half-percent (2.5%) development fee, unless otherwise exempted below.
 - 2. The two-and-one-half-percent (2.5%) fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - 3. Nonresidential developments shall be exempt from the payment of nonresidential 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 Nonresidential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.
 - 4. A developer of a nonresidential development exempted from the nonresidential 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 nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
 - 5. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 64**

shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the City as a lien against the real property of the owner.

5. Collection Procedures:

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

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

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

D. Within 90 days of receipt of that notice, the Municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

E. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

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

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

H. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

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 the City of Lambertville. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, *N.J.S.A. 54:48-1 et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 65**

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

6. Affordable Housing Trust Fund:

a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Director of Finance, or their designee, for the purpose of depositing development fees collected from residential and nonresidential 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 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 the City of Lambertville's affordable housing program.

c. The City of Lambertville previously provided COAH with written authorization, in the form of three-party escrow agreements between the municipality, Bank of Princeton, and COAH, to permit COAH to direct the disbursement of the funds as provided for in *N.J.A.C. 5:93-8*. The Superior Court shall now have such jurisdiction to direct the disbursement of the City's trust funds per *N.J.A.C. 5:93-8*.

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

7. 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 the City'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 apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential 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. 5:93-8.16* and specified in the approved spending plan.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 66**

b. Funds shall not be expended to reimburse the City of Lambertville for past housing activities.

c. At least 30% 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% or less of median income by region.

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

2. Affordability assistance to households earning 30% 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% or less of median income.

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

d. The City of Lambertville 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. 5:93-8.16*.

e. No more than 20% 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% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements set forth in the Court-approved December 8, 2018 executed Settlement Agreement with Fair Share Housing Center. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

8. Monitoring:

a. On or about December 8 of each year through 2025, the City of Lambertville shall provide annual reporting of trust fund activity to the DCA, COAH, or NJLGS, 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 DCA, COAH, or NJLGS. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the City of

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 67**

Lambertville's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court.

9. Ongoing Collection of Fees:

a. The ability for the City of Lambertville to impose, collect and expend development fees shall expire with its Court-issued Judgment of Compliance and Repose unless the City of Lambertville has filed an adopted Housing Element and Fair Share Plan with the Court or other appropriate jurisdiction, has filed a Declaratory Judgment Action, and has received the Court's approval of its development fee ordinance. If the City of Lambertville 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 (N.J.S.A. 52:27D-320). The City of Lambertville shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment Compliance and Repose, nor shall the City of Lambertville retroactively impose a development fee on such a development. The City of Lambertville shall not expend development fees after the expiration of its Judgment Compliance and Repose.

Section 1200-25 Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing as an action in lieu of prerogative writ in the Superior Court, Law Division in the County with jurisdiction over the City's affordable housing proceedings, or in such other manner as the Superior Court may direct.

Council President Sanders opened the public hearing for Ordinance Number 23-2019 and asked for public comment. There being no questions or comments, Council President Sanders made a motion to close the public hearing for Ordinance Number 24-2018. Councilwoman Asaro seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. MOTION CARRIED.

Council President Sanders made a motion to adopt on second reading, granting final approval of Ordinance Number 23-2018. Councilwoman Asaro seconded the motion. An affirmative roll call vote was taken in favor of the motion by all members present. MOTION CARRIED.

CORRESPONDENCE.

ANNOUNCEMENTS.

CITIZENS AGAINST THE PENNEAST PIPELINE COMMITTEE UPDATE.

Filomena Hengst, Chairperson of the Citizens Against the PennEast Pipeline Committee informed the members of the public present that they had signs available in the foyer, list serve sign up sheets, note cards for people to use and she encouraged people to take advantage of them. She introduced David Fournier of Suez for an update on the water company's position. Mr.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 68**

Fournier informed the members of the public present that they talked to PennEast about a year ago and they did some surveys but they have not been back. Council President Sanders thanked Mr. Fournier for the update.

Michael Heffler addressed the members of the public present and spoke about community aggregation and the importance of hitting PennEast where it counts, in their pockets. He said he has been speaking to municipalities in Hunterdon County about doing community aggregation and they are all on board.

Jeff Tittle reviewed a slide presentation to give an update on where we are today with the PennEast Pipeline. He commented that we need Governor Murphy to stand up and deny those permits. They must be signed off by DEP, if that doesn't happen, they can't go back and get this through because they can't get to the next level. Seven major pipelines have been proposed, five natural gas power plants. The administration has not taken a position. Our concern is that he talks about climate change and renewable energy, we need to keep him to his word.

Council President Sanders asked if the regulators follow the rules, if the rules from the Christie era are still in place, how essential do you think it is to change the rules before the decision make process? Mr. Tittel responded that it is critical. The impact on 401, each crossing was counted as part of one permit, cumulous impact is hard to get. Our governor needs to show leadership. PennEast is part of a bigger pipeline. UGI, Spectra, utilities, the main reason is to make more money, but they have other projects, we are in court a couple of years fighting two pipelines, New Jersey Gas Pipeline, Ocean County, and the reason we are fighting is it is going to take PennEast gas.

To sum it up, we need to hold the governor accountable on pipelines and fracking; ask the governor to put a moratorium on pipelines; repeal bad rules, input stronger rules. Unless we slow down, we will never get there, those power plants generate more electricity than windmills. We need to stop all power plants going into Transco lines, all this together with holding the governor accountable.

Michael Heffler informed the members of the public present that both Fisherman's Mark and the Lambertville-New Hope Ambulance and Rescue Squad turned down grants from PennEast Pipeline.

Filomena Hengst asked if there was a chance that this could lay dormant for a while. Mr. Tittel responded that it has happened in the past.

Kelly Kappler asked members of the public present to join their email/list serve to receive updates on future meetings and to show up at public meetings.

Council President Sanders asked for additional questions or comments from the public.

**CITY OF LAMBERTVILLE
SPECIAL SESSION
MAYOR AND COUNCIL
NOVEMBER 26, 2018, 6:30 P.M.
PHILLIP L. PITTORE JUSTICE CENTER
25 SOUTH UNION STREET
MINUTES
PAGE 69**

**PUBLICPARTICIPATION/PETITION OF CITIZENS AND PUBLIC
DISCUSSION.**

None.

ADJOURNMENT.

The meeting adjourned at 8:53 p.m. with a motion made by Councilwoman Asaro and seconded by Council President Sanders. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Respectfully submitted,

Cynthia L. Ege, CMR, RMC, City Clerk

The November 26, 2018 special session minutes were approved at the December 18, 2018 regularly scheduled session.