BOROUGH OF ENGLEWOOD CLIFFS, BERGEN COUNTY

ORDINANCE No. 20-20

AN ORDINANCE TO ENACT SECTION 30-19B AND REPEAL SECTION 30-18 (AFFORDABLE HOUSING REGULATIONS) IN CHAPTER 30 (ZONING) OF THE ORDINANCES OF THE BOROUGH OF ENGLEWOOD CLIFFS.

WHEREAS, in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"), the Borough of Englewood Cliffs filed an action for declaratory judgment requesting that the Court declare that Englewood Cliffs has complied with its constitutional obligation to provide a realistic opportunity for the development of housing that is affordable to low- and moderate-income families and individuals; and

WHEREAS, in order to carry out such Constitutional obligation, the Revised Ordinances of the Borough of Englewood Cliffs are to be amended to include provisions addressing Englewood Cliffs's constitutional obligation to provide affordable housing in accordance with the New Jersey Fair Housing Act of 1985 and all applicable laws; and

WHEREAS, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units; and

WHEREAS, this Ordinance shall apply except where inconsistent with applicable law; and

WHEREAS, a draft Housing Element and Fair Share Plan has been prepared on behalf of the Borough; and

WHEREAS, this Ordinance implements and incorporates the aforementioned draft Housing Element and Fair Share Plan and addresses the requirements of the New Jersey Fair Housing Act of 1985, as amended, N.J.A.C. 5:93-1, et seq., as amended and supplemented, and N.J.A.C. 5:80-26.1, et seq. as amended and supplemented;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Englewood Cliffs as follows:

SECTION 1. Chapter 30, Zoning, Section 19-B, Affordable Housing Regulations, is hereby enacted as follows:

Section 1. Purpose

(a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. This Ordinance is also intended to ensure that any site that benefits from a rezoning, variance, or redevelopment or rehabilitation plan approved by the Borough that results in any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, in any zone within Englewood Cliffs, and proposed at a density of five (5) units per acre or greater produces

affordable housing at a set-aside rate of 20% regardless of whether the affordable units are for sale or for rent. This Ordinance shall apply except where inconsistent with applicable law. 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 Borough of Englewood Cliffs to grant such rezoning, variance or other relief.

- (b) A Housing Element and Fair Share Plan has been prepared by the Borough's representatives which describes how Englewood Cliffs Borough shall address its affordable housing obligations.
- (c) On the first anniversary of the execution of the Settlement Agreement dated October 8, 2020, between the Borough of Englewood Cliffs and Fair Share Housing Center, and on every anniversary thereafter through the end of said Settlement Agreement, the Borough shall work with the Special Master so that the Special Master may provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with a copy or such posting provided to Fair Share Housing Center, using monitoring forms provided by FSHC.

Section 2. Definitions

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

"Accessory apartment" means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

"Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.) as has been subsequently amended.

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

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, applicable COAH regulations and the Uniform Housing Affordability Controls (UHAC)(N.J.A.C. 5:80-26.1 et seq.)

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

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

"Affordable" means, a sales price or rent within the means of a low- or moderate-income household as defined in 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 development" means a housing development all or a portion of which consists of restricted units.

"Affordable housing development" means a development included in the Borough's Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

"Affordable housing program(s)" means any mechanism in the Borough's Fair Share Plan prepared or implemented to address the Borough's fair share obligation.

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to applicable regulations, the FSHC Settlement Agreement, or an order of the Court.

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

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

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

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

"COAH" means the New Jersey Council on Affordable Housing.

"The Department" means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

"DCA" means the State of New Jersey Department of Community Affairs.

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

"Developer" means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed

development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

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

"Inclusionary development" means a development containing both affordable units and market rate units. Inclusionary developments must have a twenty (20) percent set aside of affordable units whether it is a rental or for-sale development. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

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

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

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

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

"Median income" means the median income by household size for the applicable county, as adopted annually by the Court, COAH, or a successor entity.

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

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

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

"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 adopted

Regional Income Limits per the Borough's annually updated income limits pursuant to the process established in the Borough's Settlement Agreement with FSHC or published annually by AHPNJ, COAH or a successor entity.

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

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

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of <u>N.J.A.C.</u> 5:80-26.1, as may be 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 median household income.

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

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

Section 3. Affordable Housing Programs

The Borough of Englewood Cliffs will use the following mechanisms to satisfy its affordable housing obligations:

(a) Phasing, Inclusionary developments shall be subject to the following schedule:

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

A unit is deemed completed when a permanent, as compared to a temporary, CO is issued for the unit.

(b) Fractional Units. If 20 percent of the total number of units in a development (or the setaside, as applicable) results in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site.

- Example: an 8-unit development requiring an affordable housing set-aside of 1.6 units is proposed. The developer is required to provide two on-site affordable units.
- (c) Integration of Affordable Units. In inclusionary developments low- and moderate-income units shall be integrated with the market rate units to the greatest extent feasible.
- (d) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- (e) The facade of an affordable housing dwelling shall be indistinguishable from those of market units in terms of the use of exterior materials, windows, doors, reveal, roof pitch, color, or other material. Affordable housing units shall have access to open space and site amenities comparable to that of market rate units.
- (f) For inclusionary developments with a single housing type, the affordable housing units shall have the same tenure as the market housing units.
- (g) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by the New Jersey Department of Community Affairs for its Section 8 program. Affordable units shall utilize the same type of heating source as market units within the affordable development.

Section 4. New Construction

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

- a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - 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.
 - In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units. If there is only one affordable unit it must be a low income unit.
 - 3. At least thirteen percent (13%) of all affordable units in the Borough, within each bedroom distribution, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval as of July 1, 2008, shall be designated as very-low income units at 30% of the median income, with at least fifty percent (50%) of all very-low income units being available to families. Very-low income units shall be considered low-income units for the purposes of evaluating compliance with the required low/moderate income unit splits, bedroom distribution, and phasing requirements of this ordinance.

- 4. Affordable developments that are not age-restricted shall be structured such that:
 - The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units are two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
 - iv. The remaining units, if any, may be allocated among two and three bedroom units at the discretion of the developer.
- 5. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low-and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

b. Accessibility Requirements:

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

- accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.
- c. The funds deposited under paragraph b. above shall be used by the Borough of Englewood Cliffs for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- d. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough.
- e. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund and appropriately earmarked.
- f. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

c. Maximum Rents and Sales Prices

- In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC utilizing the regional income limits established pursuant to the calculation procedures as approved by the Court and detailed below:
 - Regional income limits shall be established for the Housing Region in which the Borough is located (Housing Region 1) 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 number of 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 number of households from the most recent decennial Census in the Borough'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 eighty percent (80%) 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 fifty percent (50%) 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 thirty percent (30%) 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.

- ii. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to NJ.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph ii. above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- 2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
- 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.
 - a. At least thirteen percent (13%) of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30 percent of median income, leaving 37 percent to be made affordable to low income households and 50 percent to be made affordable to moderate income households.
- 4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- 5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
- 6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:

- a. A studio shall be affordable to a one-person household;
- b. A one-bedroom unit shall be affordable to a one and one-half person household; and
- c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- 7. 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.
- 8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- 9. The price of owner-occupied very low, 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.
- 10. The rent of very-low, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
- 11. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

Section 5. Affirmative Marketing Requirements

(a) The Borough of Englewood Cliffs (or Court) shall adopt an Affirmative Marketing Plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented. The Affirmative Marketing Plan shall include the following community and regional organizations, which must be notified when affordable units are available: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino

- Action Network, East Orange NAACP, Newark NAACP, Bergen County NAACP, and Elizabeth NAACP.
- (b) In accordance with the requirements of N.J.S.A. 52:27D-321.3 et seq., L.2020, c.5, all available affordable units must be listed on the New Jersey Housing Resource Center website, nihrc.gov.
- (c) The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 1 and is required to be followed throughout the period of deed restriction.
- (d) The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties.
- (e) 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 Borough of Englewood Cliffs shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- (f) 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.
- (g) 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.
- (h) The affirmative marketing process for available affordable units shall begin at least four (4) months prior to the expected date of occupancy.
- (i) Applications for affordable housing shall be available in several locations, including, at a minimum, the Bergen County Administration Building, Hudson County Administration Building, Essex County Administration Building, Sussex County Administration Building, Bergen County Library Headquarters, Hudson County Library Headquarters, Essex County Library Headquarters, Sussex County Library Headquarters; and the developer's rental office. Applications shall be mailed to prospective applicants upon request
- (j) In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Englewood Cliffs to the following entities: Fair Share Housing Center, the New Jersey State Conference of the

- NAACP, the Latino Action Network, NORWESCAP, Supportive Housing Association, and the Central Jersey Housing Resource Center.
- (k) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough.

Section 6. Occupancy Standards

- (a) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide separate bedrooms for adults and children;
 - 3. Provide children of different sex with separate bedrooms; and
 - 4. Prevent more than two persons from occupying a single bedroom.
- (b) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

Section 7. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (a) 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 until the Borough of Englewood Cliffs elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (c) 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.
- (d) At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this 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.
- (e) 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.

(f) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

<u>Section 8. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices</u>

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

- (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (c) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (d) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

Section 9. Buyer Income Eligibility

- (a) 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. Very low income units shall be reserved for households with a gross household income of less than 30 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a very low-income household, a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.
- (c) Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts

- to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- (d) 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 (1) year.

Section 10. Limitations on indebtedness secured by ownership unit; subordination;

- (a) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the Administrative Agent shall determine in writing that the proposed indebtedness complies with the provisions of this section and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- (b) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

Section 11. Capital Improvements

- (a) The owner of a restricted ownership unit 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.
- Upon the resale of a restricted ownership unit, all items of property that are (b) 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 of the air conditioning equipment, which shall be subject to ten (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.

Section 12. Control Periods for Restricted Rental Units

- (a) 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 until the Borough of Englewood Cliffs elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, et seq. as may be amended and supplemented, for at least 30 years.
- (b) Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period.
- (c) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (d) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

Section 13. Price Restrictions for Rental Units; Leases

- (a) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (b) 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.
- (c) 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.
- (d) No rent control or other pricing restriction shall be applicable to either the market-rate units or the affordable units in any development in which at least 20% of the total number of dwelling units are restricted rental units in compliance with this Article.

Section 14. Tenant Income Eligibility

- (a) Tenant income eligibility shall be in accordance with <u>N.J.A.C</u>. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - 1. 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;
 - 2. 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;
 - 3. The household is currently in substandard or overcrowded living conditions;
 - 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - 5. 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.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 15. Administration

- (a) The position of Municipal Housing Liaison (MHL) for the Borough of Englewood Cliffs is established by this ordinance. The Borough shall make the actual appointment of the MHL by means of a resolution and to be approved by the Court
 - 1. The MHL must be either a full-time or part-time employee of Englewood Cliffs.
 - 2. The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.
 - 3. The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
 - 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Englewood Cliffs, including the following responsibilities which may not be contracted out to the Administrative Agent:

- Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- ii. The implementation of the Affirmative Marketing Plan and affordability controls.
- iii. When applicable, supervising any contracting Administrative Agent.
- iv. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
- v. Compiling, verifying and submitting annual reports as required;
- vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
- vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.
- (b) The Borough of Englewood Cliffs shall designate by resolution of the Borough Council, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93 and UHAC.
- (c) The Borough Administrative Agent shall monitor the designated Administrative Agent of the developer in the initial sales and rental transactions for very-low, low- and moderate-income dwellings in accordance with N.J.A.C. 5:80-26.14, as it may be amended or superseded. The developer's administrative agent shall have all of responsibilities as put forth in this rule. After the initial sales and rental transactions, the Borough Administrative Agent shall monitor the activities of the developer's or owner's Administrative Agent for any re-sales or re-rentals. If the person is the Borough's Administrative Agent, then he or she shall assume all of the duties and responsibilities set forth in N.J.A.C. 5:80-26.14 following the initial renting, sales and occupancy of low- and moderate-income dwellings. The affordability controls set forth in this Ordinance shall be administered and enforced by the Administrative Agent regardless of association. The primary responsibility of the Administrative Agent shall be to ensure that the restricted units are sold or rented, as applicable, only to very-low, low- and moderate-income households in accordance with the Fair Housing Act.
- (d) The Administrative Agent, whether the Borough's representative, developer's agent, or a delegated agent, shall have the responsibility to income qualify low and moderate-income households, to place income eligible households in low- and moderate-income units upon initial occupancy, to provide for the initial occupancy of low- and moderate-income units with income qualified households, to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls, to assist with advertising and outreach to low- and moderate-income households, and to enforce the terms of the deed restriction and mortgage loan. All Administrative Agents shall 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.
- (c) Nothing herein shall preclude the Developer of the Municipally Sponsored Project or of any inclusionary project to ask the Borough to assent to the developer retaining its own administrative agent at its own expense and nothing shall prevent the Borough from granting its assent provided that the developer's Administrative Agent is a qualified and experienced

Administrative Agent approved in advance by the Borough and the Court, and reports periodically to the Borough's Municipal Housing Liaison as that Liaison may require.

- (d) The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s) and shall coordinate his or her activities with the Borough Administrative Agent to ensure the accurate tracking of the progress of the occupancy of affordable housing in the municipality, answer inquiries regarding affordable housing from the public or direct same to the appropriate official or agency, and assist in the compliance with the affordable housing monitoring and reporting requirements of the Court and the Settlement Agreement.
- In order to ensure an orderly transfer of control responsibility from one Administrative Agent to another Administrative Agent, or other transfer, the requirements as set forth in N.J.A.C. 5:80-26.17 shall apply as are necessary before or during the transition. The Administrative Agent's enforcement responsibility for implementing such practices and procedures shall not be delegated or otherwise transferred to any other party, except to a successor administrative agent.

The Borough Administrative Agent shall keep records of the affirmative marketing activities undertaken in accordance with the affirmative marketing plan established by any developer's Administrative Agent. The records shall include, but not be limited to, the following:

- 1. Electronic reporting of affordable housing activity; any required paper forms;
- 2. Copies of any press releases, brochures, flyers, print advertisements and application forms used in the affirmative marketing program.
- 3. The income and demographic characteristics of each household applying for and occupying income-restricted housing.
- 4. An evaluation of any necessary adjustments required to the affirmative marketing program as communicated by the Administrative Agent.
- (h) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (i) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, and shall have authority to take all actions necessary and appropriate to carry out its responsibilities, which includes:
 - 1. Records retention.
 - 2. Resales and re-rentals.
 - 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;
 - ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
 - 3. Processing requests from unit owners

- i. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
- ii. 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;
- iii. Notifying the Borough of an owner's intent to sell a restricted unit; and
- iv. Making determinations on requests by owners of restricted units for hardship waivers.

4. Enforcement

- Securing annually from the municipality a list of all affordable ownership 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;
- ii. 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;
- iii. 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;
- iv. 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;
- v. Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and
- vi. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Court, setting forth procedures for administering the affordability controls.
- vii. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).;

Section 16. Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer

or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

- 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - i. A fine of not more than \$10,000.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Englewood Cliffs Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
- 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
 - i. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
 - ii. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such

balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- iii. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- iv. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- v. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- vi. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

<u>Section 17. Annual And Periodic Monitoring of The Implementation of The Borough's Affordable Housing Plan</u>

- (a) On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Borough agrees to work with the Special Master so that the Special Master may provide annual reporting of the status of all affordable housing activity within the municipality through the posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center, using monitoring forms provided by FSHC.
- (b) On the first anniversary of the Court's approval of the Spending Plan, and on every anniversary of that date thereafter through July 1, 2025, the Borough agrees to work with the Special Master so that the Special Master may provide annual reporting of trust fund activity to Fair Share Housing Center and for posting by the Borough on the municipal

website, using monitoring forms provided by FSHC. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

- (c) The Fair Housing Act includes two provisions regarding action to be taken by the Borough during its ten-year repose period. The Borough agrees to comply with those provisions as follows:
 - 1. For the midpoint realistic opportunity review required pursuant to N.J.S.A. 52:27D-313, which has passed without the Borough preparing a report, the Borough shall work with the court-appointed Special Master so that the Special Master may prepare a midpoint report as part of the second annual reporting required in paragraph (a), above. The Borough shall post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced, and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
 - 2. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the Settlement Agreement dated October 8, 2020, between the Borough of Englewood Cliffs and Fair Share Housing Center, and every third year thereafter, the Borough shall work with the Special Master so that the Special Master may provide to the Borough to post on its municipal website, with a copy provided to Fair Share Housing Center, a status monitoring report as to its satisfaction of its very low income requirements, including the family very low income requirements referred to in the Settlement Agreement. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of the Settlement Agreement.
 - 3. In addition to the foregoing postings, the Borough may also elect to file copies of its reports with COAH or its successor agency at the State level.

Section 18. Appeals

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed with the Superior Court of New Jersey, Bergen County.

Section 19. Repealer

The remainder of all other sections and subsections of the aforementioned ordinance not specifically amended by this Ordinance shall remain in full force and effect.

Section 20. Inconsistent Ordinances

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

Section 21. Severability

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

Section 22. Effective Date

This ordinance shall take effect at such time as the Court enters a final Judgment of Compliance and Repose ("JOR") approving the Housing Element and Fair Share Plan the Borough placed on file on November 13, 2020, which final JOR may have conditions the Court deems necessary to implement the settlement agreement dated October 08, 2020 between the Borough of Englewood Cliffs and Fair Share Housing Center, following a duly-noticed fairness and compliance hearing.