

## May 9, 2017 – REGULAR SESSION

President Steward called the meeting to order at 8:34 p.m.

The Clerk read the Invocation: Almighty God who holds the fate of Man and Nation, we most humbly beseech thee to bless these deliberations, and these thy servants, that they may act with wisdom and understanding for the good of our community and thy greater glory. Amen.

Flag Salute

The Council President read the Open Public Meetings Statement:

The notice requirements provided for in the “Open Public Meetings Act” have been satisfied. Notice of this meeting was properly given in a notice which was transmitted to the Times of Trenton and the Trentonian, filed with the Clerk of the Township of Ewing and posted in the Ewing Township Municipal Complex, all on the 4th day of January, 2017.

**THE PUBLIC WILL HAVE AN OPPORTUNITY TO ADDRESS THE COUNCIL DURING THE “STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC” SEGMENT OF THE MEETING. MEMBERS OF THE PUBLIC ARE REQUESTED TO SIGN IN ON SHEET PROVIDED IN THE FRONT OF THE ROOM. ALL QUESTIONS AND COMMENTS FROM THE PUBLIC WILL BE DIRECTED TO THE COUNCIL PRESIDENT. WHEN ADDRESSING THE COUNCIL, PLEASE GIVE YOUR NAME AND YOUR ADDRESS.**

**THE COUNCIL INVITES AND ENCOURAGES PARTICIPATION BY THE PUBLIC IN ITS MEETINGS, HOWEVER A MEMBER OF THE PUBLIC MAY UTILIZE FIVE MINUTES OF TIME FOR REMARKS AND QUESTIONS, UNLESS OTHERWISE ENGAGED IN A DIALOGUE WITH A MEMBER OF THE COUNCIL, ANY FURTHER REMARKS OR QUESTIONS BEYOND THE TIME LIMIT MUST BE AUTHORIZED BY THE PRESIDENT OF THE COUNCIL.**

### ROLL CALL

- |                               |                                |
|-------------------------------|--------------------------------|
| ▪ Mr. Baxter – Present        | Jim McManimon, Administrator   |
| ▪ Ms. Keyes-Maloney – Present | Joanna Mustafa, CFO            |
| ▪ Mr. Schroth – Present       | Maeve Cannon, Attorney         |
| ▪ Ms. Wollert – Present       | Kim Macellaro, Municipal Clerk |
| ▪ President Steward – Present |                                |

### STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC FOR ITEMS NOT ON THE AGENDA

Rebecca Lynn (1008 River Road) asked what is the next step with regards to amending the Affordable Housing Trust Fund.

The Attorney replied that since it was adopted at the last meeting it would have to be amended.

The Council President said that Council will take Ms. Lynn’s suggestion under advisement. Ms. Lynn commented that the sewer bill was quite a surprise. The sewer bill for Ewing Independent Living is \$22,000. Each unit was raised by thirty dollars. Because it is affordable housing, we are not allowed to raise the rent to cover the bill. Ms. Lynn then asked how is sewer calculated.

President Steward explained that the rates are set by Council each year.

Ms. Lynn asked if it is across the board or do you limit for those that have affordable housing.

President Steward responded that it is across the board. There is no differentiation in the sewer rates.

Ms. Lynn asked – why.

The Attorney responded that it is user-based just like a utility.

Ms. Lynn stated that the issue is - we cannot afford to pay it.

The Administrator said that he reviewed the 2015 statements of Rely Properties and then, for a similar comparison, reviewed those of the Gardens at Birmingham.

The Administrator and Ms. Lynn discussed this further.

The Administrator stated that the way the ELSA Trust Fund is set up is that it must fund itself based on the users and he cannot separate out any affordable housing. The rate was set by Ordinance with a Public Hearing. If the sewer bill cannot be paid, it becomes a lien on the property that is available at the Tax Sale in December of each year. You try to make payments each year. It is a \$2,100 increase in their sewer bill.

Ms. Lynn stated that the issue is that the Administrator compared two properties that do not compare as the rents at the Gardens of Birmingham range from \$1,200 to \$1,600 while the rents in her building are \$743 per month. The Gardens can afford to pay the sewer increase.

President Steward asked if there was any process where we can delineate out certain properties or non-profits.

The Administrator replied that we cannot; we would have to offer the same arrangements to the entire Town.

Ms. Lynn stated that it stinks that the rents need to be raised, if we are even allowed to do so. And, at the same time, the rental subsidy request keeps being turned down. These people cannot afford to pay more rent. Ms. Lynn added that Rely Properties makes sure to have just enough income so that they do not have to raise rents.

Dave Lyons (530 Washington Avenue) asked if there will be a second reading on the solar ordinance tonight.

President Steward replied that because it was advertised for a Public Hearing, we will give anyone who wishes to speak for the record the opportunity but it will not be the second reading and final adoption this evening.

There were no additional questions or comments from members of the Public.

#### **BILLS LIST**

1. The Clerk read (**Resolution #17R-92**) A Resolution Authorizing the Chief Financial Officer to Pay Bills in the Amount of \$666,786.36 and to Pay Supplemental Bills per Resolution #17R-14 in the Amount of \$3,785.61

There were no questions or comments from Council or the Public. Ms. Wollert then moved the Resolution, seconded by Mr. Baxter. The Council President asked for a roll call.

#### **ROLL CALL**

Mr. Baxter	YES
Ms. Wollert	YES
Ms. Keyes-Maloney	YES
Mr. Schroth	YES
President Steward	YES

*All items listed under Consent Agenda, are considered routine by the Township Council and will be enacted by one motion in the form listed below. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and considered separately. There will be one motion for all items listed.*

#### **CONSENT AGENDA**

The Clerk read the Consent Agenda: (**Resolution #17R-93/**)

1. Approval of Agenda Session Minutes for March 16, 2017; Approval of Regular Session Minutes for March 16, 2017
2. A Resolution Authorizing Celestial Church of Christ to Hold a Block Party/Road Closing on May 14, 2017
3. A Resolution Authorizing a Refund, as Recommended by the Director of EMS for Overpayment in the amount of \$700.00 for overpayment of transport service on March 6, 2017 for patient Andrew Swanson to Aetna, P.O. Box 14079, Lexington, Kentucky 40512-4079.

4. A Resolution Authorizing a Refund and Cancellation, as Recommended by the Tax Collector, a REFUND in the amount of \$2295.73 and a CANCELLATION in the amount of \$2295.73 due to: 100% Disabled Veteran Status for 1<sup>st</sup> & 2<sup>nd</sup> quarter tax bills (January 1<sup>st</sup> through June 30th) to Willie Duhart, 12 Lanning St., Ewing, NJ 08618 for property owner Willie Duhart for Block: 243 Lot: 7, also known as 12 Lanning St.

There were no questions or comments from Council or the Public. Mr. Schroth then moved the Resolution, seconded by Ms. Wollert. President Steward asked for a roll call.

**ROLL CALL**

Ms. Wollert	YES
Mr. Schroth	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
President Steward	YES

**CY2017 TOWNSHIP BUDGET**

1. The Clerk read (Resolution #17R-94) A RESOLUTION AMENDING THE CALENDAR YEAR 2017 MUNICIPAL BUDGET OF THE TOWNSHIP OF EWING, COUNTY OF MERCER

The CFO explained that being under State review, there are slight amendments initiated by the State. There is a slight adjustment with a grant and the debt service is moved from one section to another.

There were no questions or comments from Council or the Public. Mr. Schroth then moved the Resolution, seconded by Ms. Keyes-Maloney. The Council President asked for a roll call.

**ROLL CALL**

Ms. Keyes-Maloney	YES
Mr. Schroth	YES
Mr. Baxter	YES
Ms. Wollert	YES
President Steward	YES

2. PUBLIC HEARING ON THE AMENDMENTS TO THE CY2017 BUDGET

Ms. Wollert made a motion to open the Public Hearing, seconded by Ms. Keyes-Maloney. It was agreed by unanimous voice vote. There were no questions or comments from the Public. Mr. Baxter made a motion to close the Public Hearing, seconded by Ms. Wollert. It was agreed by unanimous voice vote.

3. The Clerk read (Resolution #17R-95) A RESOLUTION ADOPTING THE CY2017 EWING TOWNSHIP BUDGET, AS AMENDED

Ms. Wollert moved the Resolution, seconded by Mr. Schroth. President Steward asked for a roll call.

**ROLL CALL**

Mr. Schroth	YES
Ms. Wollert	YES
Mr. Baxter	YES, with comment
Ms. Keyes-Maloney	YES, with comment
President Steward	YES, with comment

Mr. Baxter stated that he will approve this Budget but he would like it to be known that he had a discussion with both the Business Administrator and the Mayor on his feelings about this Budget. Mr. Baxter said that he is not comfortable with the possible seven hires of firefighters being included in this Budget before negotiations

have been completed; it is a little premature. Unfortunately, negotiations have been going on forever.

Mr. Baxter stated that it is a sound Budget and wishes that it was two cents instead of two point four. Mr. Baxter thanked the CFO for her work preparing the Budget. Ms. Keyes-Maloney stated that she echoes many of the sentiments that Councilman Baxter has indicated. It puts us in a weird jam of having to budget for something that may or may not happen. A budget, in part, is a planning document that allows for future planning. By and large that is what this Budget does. Maybe not perfectly, but in terms of making sure that essential Township services continue and that the Town is investing in the future. Ms. Keyes-Maloney said that she looks forward to working with the Administration on many of the initiatives including what happens with the Township's fire personnel, as well as some of the other initiatives that are outlined including adding on additional police officers as we see retirements and investing in our recreational programs as we have for the last several years.

President Steward said that she appreciates the work done by the CFO and the Administration as well as her fellow Council members who she knows took a hard look at this Budget and have asked tough questions and will continue to do so throughout this year. This is a balanced and responsible approach to how we want to see this Town run. People expect a lot from us and this Budget lives up to that and makes those investments.

The Administrator thanked Council.

Councilman Baxter requested that the Administration provide Council with: one, the names and salaries of all the Township's employees as well as two, an organizational chart because these two items will be helpful in making quicker decisions during future budget discussions.

#### ORDINANCE(S) FOR FIRST READING AND INTRODUCTION

1. The Clerk read (Ordinance #17-17) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER TO AUTHORIZE THE PRIVATE SALE OF PERSONAL PROPERTY NO LONGER NEEDED FOR PUBLIC USE, SPECIFICALLY BICYCLES, TO THE BOYS AND GIRLS CLUB OF TRENTON AND MERCER COUNTY, A 501(c)(3) NON-PROFIT ORGANIZATION

President Steward said that this provides for the disposal of this excess property to this non-profit who serves Ewing and Trenton residents. They fix up the bikes and offer them at low cost.

At the request of the Council President, the Attorney explained why this needs to be done by Ordinance and not by Resolution.

There were no questions or comments from Council or the Public. Ms. Keyes-Maloney then moved the Ordinance, seconded by Mr. Schroth. President Steward asked for a roll call.

#### ROLL CALL

Mr. Schroth	YES
Ms. Keyes-Maloney	YES
Mr. Baxter	YES
Ms. Wollert	YES
President Steward	YES

2. The Clerk read (Ordinance #17-18) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO ADD § 225-10.6, TO PROHIBIT PARKING IN FRONT OF A PUBLIC OR PRIVATE DRIVEWAY

President Steward said that this comes at the request of some residents. This is already in State statute but we are incorporating it into our local ordinances as well. Councilman Baxter asked if we can add steps. A handicapped sign is not going to solve this problem.

President Steward replied that more investigation is needed on this. Councilman Baxter asked the Administration to investigate this.

**President Steward said that the Business Administrator indicated that he will visit that property.**

**The Attorney added that Council could just make it a no parking zone. But, it will take some investigation.**

**The Council President said that we need to figure out the extent that it effects other people as we cannot make the entire street a no parking zone.**

**There were no additional questions or comments from Council. There were no questions or comments from the Public. Ms. Wollert then moved the Ordinance, seconded by Mr. Baxter. The Council President called for a roll call.**

**ROLL CALL**

<b>Mr. Baxter</b>	<b>YES</b>
<b>Ms. Wollert</b>	<b>YES</b>
<b>Ms. Keyes-Maloney</b>	<b>YES</b>
<b>Mr. Schroth</b>	<b>YES</b>
<b>President Steward</b>	<b>YES</b>

**ORDINANCE(S) FOR SECOND READING, PUBLIC HEARING AND FINAL ADOPTION**

- 1. The Clerk read (Ordinance #17-11) AN ORDINANCE REPLACING THE ENTIRE CONTENTS OF THE EXISTING AFFORDABLE HOUSING ORDINANCE OF TOWNSHIP OF EWING TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP'S AFFORDABLE HOUSING OBLIGATIONS**

BE IT ORDAINED by the governing body of the Township of Ewing, Mercer County, New Jersey, that the Code of the Township of Ewing is hereby replaced to include provisions addressing Ewing's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Ewing Township Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan have been endorsed by the governing body. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

On the first anniversary of the entry of the Order granting Ewing a Final Judgment of Compliance and Repose in IMO Application of the Township of Ewing. Docket No.: MER-L-1556-15, and every anniversary thereafter through the end of the Repose period, the Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

On the first anniversary of the entry of the Order granting Ewing a Final Judgment of Compliance and Repose in IMO Application of the Township of Ewing. Docket No.: MER-L-1556-15, and every anniversary thereafter through the end of the Repose period, the Township shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with copies provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Court-appointed Special Master and Fair Share Housing Center.

For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township shall post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the Court regarding these issues.

For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.I, within 30 days of the third anniversary of the entry of the Order granting Ewing a Final Judgment of Compliance and Repose in IMO Application of the Township of Ewing, Docket No.: MER-L-1556-15, and every third year thereafter, the Township will post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, on the issue of whether the municipality has complied with its very low income housing obligation.

## SECTION I

### Chapter 81: Affordable Housing

#### §81-1 Purpose.

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

#### §81-2 Definitions.

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

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

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

**ADMINISTRATIVE AGENT**- The entity designated by the Township to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

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

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

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

**AFFORDABLE HOUSING DEVELOPMENT**- A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

**AFFORDABLE HOUSING PROGRAM(S)**- Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

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

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

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

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

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

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

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

**DCA-** The State of New Jersey Department of Community Affairs.

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

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

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

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

**LOW-INCOME HOUSEHOLD-** A household with a total gross annual household income equal to 50 percent or less of the median household income.

**LOW-INCOME UNIT-** A restricted unit that is affordable to a low-income household.

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

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

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

**MODERATE-INCOME HOUSEHOLD-** A household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

**MODERATE-INCOME UNIT-** A restricted unit that is affordable to a moderate-income household.

**MULTIFAMILY UNIT -** A structure containing five or more dwelling units.

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

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

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

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



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

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

UHAC - The Uniform Housing Affordability Controls set forth in NJ.AC. 5:80-26, et seq.

VERY LOW-INCOME HOUSEHOLD - A household with a total gross annual household income equal to 30 percent or less of the median household income for the applicable housing region.

VERY LOW-INCOME UNIT - A restricted unit that is affordable to a very low-income household.

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

§81-3 Applicability.

The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Ewing pursuant to the Township’s most recently adopted Housing Element and Fair Share Plan.

§81-4 to §81-6 Reserved

§81-7 Alternative Living Arrangements.

A. 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:

1. 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.
2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

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

B. 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.

1. 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.

§81-8 Phasing Schedule for Inclusionary Zoning.

A. In inclusionary developments the following schedule shall be followed:

§81-9 New Construction.

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

1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of median income). The very low-income units shall be counted as part of the required number of low income units within the development.
2. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families.
3. A maximum of 25 percent of the Township's obligation may be met with age restricted units. At least half of all affordable units in the Township's Plan shall be available to families.
4. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
5. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - a. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
  - b. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
  - c. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
  - d. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
6. 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.

**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 and the following:
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:
  - a. An adaptable toilet and bathing facility on the first floor; and
  - b. An adaptable kitchen on the first floor; and
  - c. An interior accessible route of travel on the first floor; and
  - d. 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
  - e. 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
  - f. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-3 l la, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Ewing has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
    - i. The funds deposited under paragraph 6) b) above shall be used by the Township of Ewing 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.
    - ii. 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 Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are

deposited into the Affordable Housing Trust Fund and appropriately earmarked.

- iii. Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
- iv. To this end, the builder of restricted units shall deposit funds within the Township of Ewing's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances
- v. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Ewing for the conversion of adaptable to accessible entrances.

- vi. 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. Design

1. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
2. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
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 rental units shall be affordable to households earning no more than 52 percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low- income households, earning 30 percent or less of the regional median household income.
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 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.
5. 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:
  - 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 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:
  - 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 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.
9. 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.

10. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

§81-10 Utilities.

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. 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 DCA for its Section 8 program.

§81-11 Occupancy Standards,

- A. 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.

§81-12 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 for a period of at least thirty (30) years, until Ewing takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, except that, for any units approved after October 13, 2016, such controls shall be for at least 50 years, or until such time after the initial 50 year period as the Township of Ewing elects to release the unit from such requirements.
- 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 without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non- restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- 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 following the removal of the restrictions provided under NJ.AC. 5:80- 26.5(a), as may be amended and supplemented.

§81-13 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

- A. Price restrictions for restricted ownership units shall be in accordance with NJ.AC. 5:80-26.1, as may be amended and supplemented, including:
  1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
  2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
  3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special

assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

#### §81-14 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.
- B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Township Committee, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- C. 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.
- D. 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.

#### §81-15 Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- A. 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.
- B. 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).

#### §81-16 Capital Improvements To Ownership Units.

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

§81-17 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 for a period of at least 30 years, until Ewing takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, except that, for any units approved after October 13, 2016, such controls shall be for at least 50 years, or until such time after the initial 50 year period as the Township of Ewing elects to release the unit from such requirements. For new projects receiving nine percent Low Income Housing Tax Credits, a control period of not less than a 30 year compliance period plus a 15 year extended use period shall be required.
- B. 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 at the Clerk's office of the County of Mercer. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. 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 on the property containing the unit.

§81-18 Rent Restrictions for Rental Units; Leases.

- A. 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.
- 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 ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15 percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§81-19 Tenant Income Eligibility.

- A. 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:
  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 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:
  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 1 .a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

§81-20 Municipal Housing Liaison.

- A. The Township of Ewing shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Ewing shall adopt an Ordinance creating the position of Municipal Housing Liaison. Ewing shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Ewing, including the following responsibilities which may not be contracted out to the Administrative Agent:
  - 1. Serving as Ewing's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  - 2. Monitoring the status of all restricted units in Ewing's Fair Share Plan;
  - 3. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
  - 4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
  - 5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the Court, the Township of Ewing shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

§81-21 Administrative Agent.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent.

- A. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:
  - 1. Affirmative Marketing:
    - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Ewing 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.

B. Household Certification:

1. Soliciting, scheduling, conducting and following up on interviews with interested households;
2. 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;
3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
4. 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.;
5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Ewing when referring households for certification to affordable units.

C. Affordability Controls:

1. 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;
2. 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;
3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Middlesex County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
4. Communicating with lenders regarding foreclosures; and
5. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Rerentals:

1. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rerental; and
2. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

1. 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;
2. 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;
3. Notifying the municipality of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

1. 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;
2. 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;
3. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be

made;

4. 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;
5. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
6. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Township Committee and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
2. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
3. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§81-22 Affirmative Marketing Requirements.

- A. The Township of Ewing shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the New Jersey State NAACP, the New Brunswick, Plainfield, Perth Amboy and Metuchen/Ewing NAACPs and the Latino Action Network of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2, comprised of Mercer, Ocean and Monmouth Counties.
- D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Township of Ewing shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. 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.
- F. 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.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§81-23 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, 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.

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(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:

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 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:
2. 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;
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 into the Township of Ewing Affordable Housing Trust Fund of the gross amount of rent illegally collected;
4. 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.
5. 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.
  - a. 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.
  - b. 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.
  - c. 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.
  - d. 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.

- e. Failure of the low- and moderate-income unit to be either sold at the Sheriffs 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.
- f. 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.

§81-24 Appeals.

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

SECTION II

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

SECTION III

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

SECTION IV

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

**The Council President said that this is coming back to Council after review by the Planning Board. Their recommendation is to adopt as is. This is to comply with the settlement on the Township's Affordable Housing obligations.**

**There were no questions or comments from Council. Ms. Keyes-Maloney made a motion to open the Public Hearing, seconded by Mr. Baxter. It was agreed by unanimous voice vote. There were no questions or comments from the Public. Ms. Keyes-Maloney made a motion to close the Public Hearing, seconded by Ms. Wollert. It was agreed by unanimous voice vote. Ms. Keyes-Maloney then moved the Ordinance, seconded by Mr. Schroth. President Steward asked for a roll call.**

**ROLL CALL**

<b>Mr. Schroth</b>	<b>YES</b>
<b>Ms. Keyes-Maloney</b>	<b>YES</b>
<b>Mr. Baxter</b>	<b>YES</b>
<b>Ms. Wollert</b>	<b>YES</b>
<b>President Steward</b>	<b>YES</b>

**2. The Clerk read (Ordinance #17-13) AN ORDINANCE AMENDING THE OLDEN AVENUE REDEVELOPMENT PLAN**

**WHEREAS**, on August 24, 1999, the Township of Ewing ("Township") adopted the Olden Avenue Redevelopment Plan ("OARP") prepared by Heyer, Gruel & Associates; and

**WHEREAS**, the Township amended OARP by ordinance effective May 2, 2011; and

**WHEREAS**, the Township again amended OARP by ordinance effective August 12, 2014; and

**WHEREAS**, after monitoring the efficacy of OARP and the 2011 and the 2014 amendments thereto, the Ewing Township Redevelopment Agency has recommended to Township Council new amendments to OARP; and

**WHEREAS**, the Township deems the proposed amendments to OARP to be in the public interest and wishes to adopt said amendments; and

**WHEREAS**, pursuant to N.J.S.A. 40A:12A-6, the Planning Board is directed to provide public notice and conduct a public hearing regarding the proposed amendment to OARP; and

**WHEREAS**, following said public notice and hearing, the Planning Board, pursuant to N.J.S.A. 40A:12A-7(e), is directed to prepare and transmit a report containing its recommendation concerning the proposed amendment to OARP, which shall include an identification of any provisions in the proposed OARP amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the Planning Board deems appropriate; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Ewing, in the County of Mercer, State of New Jersey as follows:

Section 1. The amendment of OARP annexed hereto is hereby adopted subject to receipt of the report of the Planning Board pursuant to N.J.S.A. 40A:12A-7(e).

Section 2. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Section 3. This ordinance shall take effect upon final passage and publication in accordance with law.

#### STATEMENT

An Ordinance amending the Olden Avenue Redevelopment Plan.

**President Steward said that this was also reviewed by the Planning Board who made some de minimis recommendations.**

**Chuck Latini (Township Planner) stated that the Planning Board did make some suggestions specifically ensuring that the conditions by which the conditional use standards applying to auto related uses are consistent throughout the document. Mr. Latini then listed where these are found in the document. There were also some minor adjustments to Sub Area Seven with regards to Planning and Zoning Board review and procedures. And, in the “Standards for Development Section”, there was a minor tweak that the Fair Share Housing Center asked us to make to the Affordable Housing section.**

**There were no questions or comments from Council.**

**Ms. Keyes-Maloney then made a motion to amend the Ordinance as described by the Township Planner, seconded by Ms. Wollert. President Steward asked for a roll call.**

#### **ROLL CALL**

<b>Ms. Wollert</b>	<b>YES</b>
<b>Ms. Keyes-Maloney</b>	<b>YES</b>
<b>Mr. Baxter</b>	<b>YES</b>
<b>Mr. Schroth</b>	<b>YES</b>
<b>President Steward</b>	<b>YES</b>

Mr. Baxter made a motion to open the Public Hearing on the Ordinance as amended, seconded by Ms. Wollert. It was agreed by unanimous voice vote. There were no questions or comments from the Public. Mr. Schroth made a motion to close the Public Hearing on the Ordinance as amended, seconded by Mr. Baxter. It was agreed by unanimous voice vote. Ms. Keyes-Maloney then moved the Ordinance as amended, seconded by Mr. Baxter. The Council President asked for a roll call.

**ROLL CALL**

Mr. Baxter	YES
Ms. Keyes-Maloney	YES
Mr. Schroth	YES
Ms. Wollert	YES
President Steward	YES

3. The Clerk read (Ordinance #17-14) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 225-62 SCHEDULE XV: TRUCKS OVER 10 TONS TO EXCLUDE TRUCKS OVER 10 TONS ON MAIN BLVD

**BE IT ORDAINED** by the Council of the Township of Ewing, County of Mercer that the Code of the Township of Ewing be amended as follows:

Section 1 CHAPTER 225-62 SCHEDULE XV: TRUCKS OVER 10 TONS is hereby amended as follows:

**§ 225-62 SCHEDULE XV: TRUCKS OVER 10 TONS.**

In accordance with the provisions of § 225-14C, trucks over 10 tons' gross weight are excluded from the following described streets or parts of streets except for the pickup and delivery of materials:

<b>Name of Street</b>	<b>Location</b>
Bull Run Road [Repealed 10-14-2003 by Ord. No. 03-19]	
Buttonwood Drive	From Somerset Street to Parkside Avenue
Glen Mawr Drive	Entire length
<u>Main Boulevard</u>	<u>Entire length</u>
Lower Ferry Road	From River Road to Sullivan Way
Somerset Street	From Pennington Road to Buttonwood Drive
Sutherland Road	From Thurston Avenue and Olden Avenue to Route 31

Section 2 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 3 Repealer. All prior ordinances or parts of same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 4 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

Adopted:

**The Council President stated that, in response to some constituents' concerns, this aims to prohibit tractor trailer traffic coming out of Main Boulevard.**

There were no questions or comments from Council. Ms. Wollert made a motion to open the Public Hearing, seconded by Mr. Baxter. It was agreed by unanimous voice vote. There were no questions or comments from the Public. Mr. Baxter made a motion to close the Public Hearing, seconded by Ms. Wollert. It was agreed by unanimous voice vote. Mr. Schroth then moved the Ordinance, seconded by Mr. Baxter. The Council President asked for a roll call.

**ROLL CALL**

Mr. Baxter	YES
Mr. Schroth	YES
Ms. Keyes-Maloney	YES
Ms. Wollert	YES
President Steward	YES

**4. The Clerk read (Ordinance #17-15) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND § 225-70, SCHEDULE XXIII: SPEED LIMITS**

**WHEREAS**, based on an investigation completed by the Township, the Township has determined that it is interest of the public safety to reduce the speed limit on Somerset Street, which is located between Pennington Road and Gould Avenue, from 35 miles per hour to 25 miles per hour.

**WHEREAS**, because Somerset Street qualifies as a “residence district” as defined under N.J.S.A. 39:1-1, the Township is authorized to establish by ordinance a twenty-five-miles-per-hour speed limit on Somerset Street without approval from the Commissioner of Transportation pursuant to N.J.S.A. 39:4-8 and N.J.S.A. 39:4-98.

**BE IT ORDAINED** by the Council of the Township of Ewing, County of Mercer that the Code of the Township of Ewing be amended as follows:

Section 1 Chapter 225, TRAFFIC REGULATIONS, Section 70, SCHEDULE XXIII: SPEED LIMITS, is hereby amended to read as follows:

In accordance with the provisions of § 70, speed limits are hereby established upon the following streets or parts of streets:

<b>Name of Street</b>	<b>Speed Limit (mph)</b>	<b>Location</b>
Bulls Run Road	40	From Pennington Road to Federal City Road
Buttonwood Drive	40	From Somerset Street to Parkside Avenue
Carlton Avenue	35	
Eggerts Crossing Road	40	
Federal City Road	35	
Green Lane, from Pennington Road to Ewingville Road		
Zone 1:	35	From Pennington Road to the center of the bridge over Shabakunk Creek; thence
Zone 2:	40	To Ewingville Road
Lower Ferry Road		
Zone 1:	40	From River Road to Parkway Avenue; thence
Zone 2:	35	To the Ewing Township-Hopewell Corporate Line
Mountain View Road	35	Between Route 29 and Bear Tavern Road
Scenic Drive	40	

School zone	25	In the Fisher Middle School Zone in Zone 2, during recess or while children are going to or leaving school during opening or closing hours
Somerset Street	<del>25</del> 35	
Stuyvesant Avenue	40	
Wilburtha Road		
Zone 1:	30	From River Road to 1,880 feet east thereof; thence
Zone 2:	40	To West Upper Ferry Road.

Section 2 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 3 Repealer. All prior ordinances or parts of same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 4 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

**President Steward explained that this changes the speed limit on Somerset from thirty-five to twenty-five miles per hour in response to some residents' concerns. Council also received a recommendation from the Township Engineer that the Township could proceed with this change.**

**There were no questions or comments from Council. Ms. Keyes-Maloney made a motion to open the Public Hearing, seconded by Mr. Baxter. It was agreed by unanimous voice vote. There were no questions or comments from the Public. Mr. Schroth made a motion to close the Public Hearing, seconded by Mr. Baxter. It was agreed by unanimous voice vote. Mr. Baxter then moved the Ordinance, seconded by Ms. Wollert. President Steward called for a roll call.**

**ROLL CALL**

Ms. Wollert	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
Mr. Schroth	YES
President Steward	YES

**5. The Clerk read (Ordinance #17-16) AN ORDINANCE OF THE TOWNSHIP OF EWING, IN THE COUNTY OF MERCER, AMENDING ZONING OF SOLAR ENERGY RESOURCES WITHIN THE TOWNSHIP**

**President Steward stated that this had been advertised for a Second Reading and Public Hearing this evening. The Planning Board has not completed its review. The Public is welcome to speak on it this evening. It will be re-advertised for Second Reading and Public Hearing and Final Adoption at a later date once the Planning Board's recommendations have been reviewed. If there are substantial changes, it will be advertised for First Reading.**

**There were no questions or comments from the Public.**

**NEW BUSINESS**

**The Clerk announced that this item had been pulled from the Agenda.**

**1. A RESOLUTION AWARDDING A CONTRACT TO SHI INTERNATIONAL CORPORATION FOR SECDO SOFTWARE PURSUANT TO STATE CONTRACT NO. 89851/M00003 IN THE AMOUNT OF \$25,800.00**



2. The Clerk read (**Resolution #17R-96**) A RESOLUTION AUTHORIZING NETTA'S CHANGE ORDER NO. 3 IN THE AMOUNT OF 19,500.00 FOR ADDITIONAL ARCHITECTURAL AND ENGINEERING SERVICES IN CONNECTION WITH ITS CONTRACT FOR THE REMOVAL OF ASBESTOS CONTAINING MATERIAL AND RELATED RENOVATIONS AT THE HOLLOWBROOK COMMUNITY CENTER

The Clerk read the Resolution with the corrected amount of \$15,600.00.

President Steward stated that it does not need to be amended because the correction was "caught" during the Agenda Session.

The Council President stated that this just extends the contract.

There were no questions or comments from Council or the Public. Mr. Baxter then moved the Resolution, seconded by Mr. Schroth. President Steward asked for a roll call.

**ROLL CALL**

Mr. Schroth	YES
Mr. Baxter	YES
Ms. Keyes-Maloney	YES
Ms. Wollert	YES
President Steward	YES

**CLOSED SESSION**

**(None for this Meeting)**

**ADJOURNMENT**

There being no further business President Steward asked for a motion to adjourn. Ms. Keyes-Maloney so moved, seconded by Mr. Baxter. It was agreed by unanimous voice vote. The meeting was adjourned at 9:05 p.m.

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Sarah Steward, President

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Kim J. Macellaro, Municipal Clerk