



## **BOROUGH OF ALPHA**

1001 East Boulevard  
Alpha, New Jersey 08865

---

### **REGULAR MEETING AGENDA**

Borough of Alpha Municipal Building  
Tuesday, December 12, 2017 – 6:30 PM

1. Call to Order: Open Public Meetings Notice- Mayor Craig S. Dunwell
2. Prayer & Salute to the Flag
3. Roll Call:  
Mr. Cartabona Mrs. Grossman, Mr. Pettinelli, Mr. Schwar, Mr. Seiss, Mr. Singleton
4. Public Comment:
5. **Ordinances:**
  - **REINTRODUCTION OF ORDINANCE 2017-12** (Public hearing to be held at 12/27/17 meeting)  
**AN ORDINANCE SETTING THE SALARY RANGES FOR ALL OF THE EMPLOYEES OF THE BOROUGH OF ALPHA.**
  - **ORDINANCE 2017-13** (Public hearing to be held at 12/27/17 meeting)  
**AN ORDINANCE TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF FACILITATING THE ADMINISTRATION OF THE BOROUGH OF ALPHA'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT**
  - **ORDINANCE 2017-14** (Public hearing to be held at 12/27/17 meeting)  
**AFFORDABLE HOUSING ORDINANCE BOROUGH OF ALPHA, WARREN COUNTY**
  - **ORDINANCE 2017-15** (Public hearing to be held at 12/27/17 meeting)  
**DEVELOPMENT FEE ORDINANCE BOROUGH OF ALPHA, WARREN COUNTY**
6. **Resolutions:**
  - **RESOLUTION 2017-113**  
**RESOLUTION AWARDDING A CONTRACT FOR SWIMMING POOL RECONSTRUCTION AND REHABILITATION**
  - **RESOLUTION 2017-152**  
**A RESOLUTION URGING GOVERNOR CHRISTIE AND THE NEW JERSEY STATE LEGISLATURE TO ENACT LEGISLATION THAT WILL PERMANENTLY EXTEND THE 2% CAP ON BINDING INTEREST ARBITRATION AWARDS BEFORE DECEMBER 31, 2017**

Agenda – cont.

- **RESOLUTION 2017-153**  
**A RESOLUTION APPROVING AN INTERLOCAL MUNICIPAL SHARED SERVICES AGREEMENT BETWEEN THE TOWN OF PHILLIPSBURG AND THE BOROUGH OF ALPHA FOR POLICE COVERAGE.**
- **RESOLUTION 2017-154**  
**A RESOLUTION APPROVING AN INTERLOCAL MUNICIPAL SHARED SERVICES AGREEMENT BETWEEN THE TOWN OF PHILLIPSBURG AND THE BOROUGH OF ALPHA FOR SHARING COURT SERVICES.**
- **RESOLUTION 2017-155**  
**A RESOLUTION APPROVING AN INTERLOCAL MUNICIPAL SHARED SERVICES AGREEMENT BETWEEN THE TOWN OF PHILLIPSBURG AND THE BOROUGH OF ALPHA FOR TEMPORARY USE OF ALPHA’S FACILITIES TO HOST PHILLIPSBURG COURT.**

7. Approval of Minutes:

Regular Meeting:

Executive Session:

8. Department Reports:

Administration – Councilman Alan Singleton  
Finance – Councilman Michael Schwar  
Health & Welfare – Councilman Peter Pettinelli  
Public Property – Councilwoman Tracy Grossman  
Public Safety – Councilman Thomas Seiss  
Public Works – Councilman Louis Cartabona

10. Committee Reports

11. Professionals & Officials Reports:

Mayor – Craig S. Dunwell  
Police Department-Robert Stettner  
Fire Department –Sean McDyer  
Emergency Squad -  
Office of Emergency Management – Todd Pantuso  
Attorney – Christopher Troxell  
Engineer – Frank Seney  
CFO- Lorraine Rossetti  
Acting Municipal Clerk – Donna Messina  
Recycling Coordinator – Thomas Fey  
Code Enforcement –Thomas Fey  
Library Board –Steve Noll

12. Public Comment:

Agenda – cont

13. Payment of Bills and Claims

14. Old Business

15. New Business:

- Alpha Volunteer Fire Co. – Raffles for various dates in 2018.
- Hiring of temporary p/t help in the Clerk’s office

16. Executive Session

17. Adjournment

---

***Executive Session may be called any time prior to adjournment.***

The public may be excluded for the following reasons as stated in the Open Public Meetings Act, NJSA 10:4-12:

- (1) Any matter which, by express provision of Federal Law or State statute or rule of court, shall be rendered confidential or excluded from the provisions of the Open Public Meetings Act.
- (2) Any matter in which the release of information would impair a right to receive funds from the Government of the United States.
- (3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, date, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual’s personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.
- (4) Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.
- (5) Any matter involving the purchase, lease, or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.
- (6) Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection including any investigation of violations or possible violations of the law.
- (7) Any pending or anticipated litigation or contract negotiation other than in section 4 herein in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.
- (8) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.
- (9) Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the party bears responsibility.

# Unreleased Approved Executive Session Minutes List

## Litigation:

06/13/95 (#1) Sewer  
 04/13/99 (#2) Sewer (Pohatcong)  
 05/11/99 (#2) Sewer (Pohatcong)  
 05/25/99 (#1) Sewer (Pohatcong)  
 05/25/99 (#3) Sewer (Pohatcong)  
 09/09/99 (#2) Resnick  
 09/28/99 (#1) Sewer (Phillipsburg)  
 09/28/99 (#8) Resnick  
 10/12/99 (#1) Sewer (Pohatcong)  
 10/26/99 (#1) Sewer (Pohatcong)  
 11/09/99 (#3) Sewer (Pohatcong)  
 12/14/99 (#1) Resnick  
 12/28/99 (#2) Resnick  
 01/11/00 (#1) Sewer (Pohatcong)  
 01/11/00 (#2) Resnick  
 02/22/00 (#4) Resnick  
 03/06/00 (#1) Resnick  
 04/24/00 (#6) Resnick  
 05/23/00 (-) Resnick  
 06/08/00 (-) Resnick  
 07/25/00 (#2) Resnick  
 08/08/00 (#1) Resnick  
 08/22/00 (#2) Sewer  
 09/07/00 (#3) Sewer  
 10/10/00 (-) Sewer  
 11/28/00 (#2) Resnick  
 12/12/00 (#5) Resnick  
 01/09/01 (#5) Sewer (Hubbard)  
 04/24/01 (#3) Pohatcong  
 04/24/01 (#5) Litigation Updates  
 05/08/01 (#1) Alpha 519  
 06/26/01 (#3) Resnick  
 02/26/02 (#2) EAI  
 03/26/02 (#1) EAI  
 06/25/02 (#2) Alpha 519  
 07/23/02 (#3) Resnick  
 08/13/02 (#2) Sewer  
 10/22/02 (#4) Resnick  
 11/12/02 (#1) Resnick  
 11/26/02 (#7) Resnick  
 12/10/02 (#3) Resnick  
 01/14/03 (#4) Sewer Contract  
 03/25/03 (#6) Alpha 519  
 04/22/03 (#4) Alpha 519  
 09/09/03 (#6) COAH  
 09/23/03 (#1) Sewer Litigation  
 09/23/03 (#3) Alpha 519  
 10/14/03 (#2) Alpha 519  
 10/28/03 (#1) Sewer Agreement  
 11/10/03 (#1) Alpha 519  
 11/10/03 (#4) Sewer  
 12/09/03 (#2) Alpha 519  
 12/09/03 (#3) DEP-Sewer  
 12/16/03 (#1) Don Souders  
 01/13/04 (#1) Lyn Aaroe-Sewer  
 01/13/04 (#3) Souders-Sewer  
 02/10/04 (#1) Perelman  
 02/10/04 (#3) Alpha 519  
 02/24/04 (#4) Alpha 519  
 03/09/04 (#1) Alpha 519  
 08/24/04 (#5) Alpha 519  
 09/28/04 (#2) Alpha 519  
 10/12/04 (#5) Odor-Alpha 519  
 10/12/04 (#7) Resnick-Toll Brothers  
 10/26/04 (#4) Landfill  
 10/26/04 (#5) Resnick Update  
 11/09/04 (#3) P'Burg Sewer  
 11/09/04 (#4) Resnick-Prop. Transf.  
 11/30/04 (#3) Resnick  
 12/14/04 (#6) Alpha 519

## Litigation (continued):

01/11/05 (#3) Alpha 519  
 01/25/05 (#1) Alpha 519  
 02/08/05 (#7) Alpha 519  
 03/08/05 (#1) Pohat-Water/Sewer  
 05/10/05 (#4) Alpha 519  
 06/14/05 (#1) P'Burg Sewer  
 08/09/05 (#3) Litigation Updates  
 08/23/05 (#2) Alpha 519  
 09/27/05 (#2) Aqua  
 09/27/05 (#3) EAI Letter  
 10/11/05 (#5) EAI Letter  
 01/24/06 (#2) Brian Prop  
 02/28/06 (#1) Alpha 519  
 02/28/06 (#2) COAH  
 03/14/06 (#10) EAI Update  
 03/29/06 (#5) COAH  
 04/11/06 (#1) COAH  
 04/11/06 (#6) Toll Brothers  
 04/25/06 (#3) Ezekian-Crincoli-Landfill  
 05/09/06 (#1) Toll Brothers  
 08/08/06 (#5) Pohat School-Sewer  
 10/10/06 (#1) CFO  
 10/10/06 (#3) COAH  
 10/10/06 (#5) Pohat & Alpha Sewer  
 11/28/06 (#1) Rocco  
 12/05/06 (#7) Homa Farm-Rocco  
 12/19/06 (#3) Brian Properties  
 03/13/07 (#3) Pohatcong-Sewer Lines  
 03/13/07 (#2) Alpha 519  
 03/27/07 (#1) Alpha 519  
 03/27/07 (#2) Brian Properties  
 04/10/07 (#2) Alpha 519  
 05/08/07 (#2) Alpha 519  
 05/08/07 (#3) Almond Tree Liquor Lic.  
 06/12/07 (#1) Planning Board  
 12/08/09 (#2) DEP-Home Water Dmg  
 04/27/10 (#3) Woodhill  
 07/13/10 (#5) Resolution for Quarry  
 03/26/13 (#6) New Fire Truck  
 04/23/13 (#2) DR Horton  
 04/23/13 (#3) Sewer Blockag  
 04/23/13 (#4) AYAA  
 04/23/13 (#5) AYAA Missing Funds  
 04/23/13 (#6) Library  
 05/28/13 (#2) D.R. Horton  
 05/28/13 (#5) DEP  
 06/11/13 (#12) Pedestrian Injury  
 06/11/13 (#13) DR Horton  
 06/11/13 (#2) Sinkhole Third Ave  
 6/11/13 (#10) Water Meters Malfunction  
 07/09/13 (#1) DR Horton  
 07/09/13 (#2) Lear-Fence  
 07/09/13 (#3) Alpha V. John Does  
 07/09/13 (#4) Fred Cook  
 07/09/13 (#5) Sink Hole-Oberly Property  
 07/09/13 (#6) AYAA  
 08/13/13 (#5) Homa Farm Drainage  
 08/13/13 (#6) Cahill Rambo Farm  
 08/13/13 (#9) Fire Hydrant Damage  
 08/13/13 (#10) Fred Cook  
 08/13/13 (11) John Doe Lawsuit  
 09/10/13 (#1) Damage at AYAA Field House  
 09/10/13 (#5) Water Main Break-Penn Bower  
 09/10/13 (#6) Backwash permit  
 10/22/13 (#1) Vault on W Vulcanite  
 10/22/13 (#9) Cook Litigation  
 11/12/13 (#1) Mold  
 11/26/13 (#1) Wayne St Water Main Break  
 11/26/13 (#3) MOLD-Peosh

## Contractual:

10/11/94 (-) Sewer Agreement  
 01/28/97 (#8) Sewer Contract  
 05/26/98 (#1) Sewer Negotiations  
 06/09/98 (#2) Sewer Negotiations  
 07/14/98 (#3) Sewer Contract  
 07/14/98 (#4) Sewer Capacity  
 11/24/98 (#2) Sewer Agreement  
 12/08/98 (#1) Sewer Contract  
 07/27/99 (#1) Sewer Contract  
 10/08/02 (#3) Quarry  
 10/22/02 (#3) Quarry  
 11/12/02 (#3) Quarry  
 12/10/02 (#1) Quarry  
 12/10/02 (#4) Sewer  
 09/09/03 (#2) Quarry  
 09/23/03 (#2) Quarry  
 10/28/03 (#2) Quarry  
 09/28/04 (#6) Pohat Sewage Request  
 10/12/04 (#1) P'Burg Sewer Agrmnt.  
 10/26/04 (#7) Sewer Agreement  
 11/30/04 (#1) Quarry  
 11/30/04 (#2) Alpha 519  
 02/22/05 (#5) Water-Alpha 519  
 04/26/05 (#3) Water Allocation  
 06/28/05 (#8) Sewer  
 07/12/05 (#1) Sewer Update  
 08/23/05 (#1) Sewage  
 09/13/05 (#3) Aqua  
 10/25/05 (#3) Aqua  
 05/23/06 (#1) Sewer w/P'Burg  
 05/23/06 (#5) Quarry  
 08/08/06 (#9) P'Burg Sewer Agrmnt  
 11/28/06 (#3) CFO-Salaries  
 12/05/06 (#8) DPW-CFO Contracts  
 12/19/06 (#2) CFO  
 06/23/09 (#2) Water System  
 12/08/09 (#1) Clerk Transition  
 01/26/10 (#2) Appraisal  
 04/27/10 (#5) Quarry  
 07/27/10 (#1) DPW Contract-Pension  
 04/23/13 (#7) Fire Truck  
 05/28/13 (#3) Firetruck  
 05/28/13 (#4) Industrial Drive  
 05/28/13 (#6) Sewer Highlands  
 06/11/13 (#1) Indus Dr Realignment  
 06/11/13 (#3) Valves & Pipe Upgrade  
 06/11/13 (#4) Court-Shared Services  
 06/11/13 (#8) Insurance  
 07/09/13 (#8) Fire Truck Bill  
 07/09/13 (#11) Admin Clerk  
 07/09/13 (#12) Homa Farm  
 08/13/13 (#1) Court  
 08/13/13 (#7) Fire Truck  
 09/10/13 (#3) Lease of Pub Property-Cell Tower  
 09/10/13 (#4) Truck Purchase  
 09/10/13 (#7) Penn Bower  
 09/10/13 (#11) Fire Truck  
 09/19/13 (#1) Mold Remediation  
 09/24/13 (#1) LUB Rep  
 09/24/13 (#3) Mold  
 10/22/13 (#2) Water Main Easement  
 10/22/13 (#4) Fire Truck Repairs  
 11/12/13 (#2) DEP Alpha St Well  
 11/12/13 (#4) Easement-Rooks  
 11/12/13 (#5) Court Shared Services  
 11/12/13 (#6) FireTruck Purchase  
 11/26/13 (#4) PEG Bandwidth  
 11/26/13 (#8) Savary-Work done for Borough -Concrete  
 12/10/13 (#3) Alpha Fire Co-Meet & Greet

## Personnel:

03/14/06 (#4) DPW-Ins. Liability  
 03/14/06 (#8) Pohat Sewer Billing  
 05/23/06 (#4) Plan. Attny-Master Plan  
 10/24/06 (#5) Labor Attny-DPW  
 01/23/07 (#1) Open Space  
 02/13/07 (#1) Construction Official  
 02/13/07 (#4) Attorney Souders  
 02/27/07 (#2) Auditors  
 02/27/07 (#4) CFO-Weekend Work  
 03/13/07 (#4) Don Souders  
 11/27/07 (#2) Health Benefits-Assessor  
 11/10/09 (#2) Dep Clerk-Salary  
 12/15/09 (#1) Pension for Sewer Emp.  
 12/15/09 (#3) Sewer-Reports & AD  
 01/05/10 (#1) CFO-Greenwich  
 01/05/10 (#4) Savary-DPW Employees  
 01/26/10 (#4) CFO-Greenwich  
 01/26/10 (#5) Mayor-Letter Re'cd  
 01/26/10 (#6) Licensed Operator  
 02/09/10 (#1) Savary-Recycle Coord.  
 02/23/10 (#1) Court Administrator  
 03/09/10 (#2) Water Pump Operator  
 03/23/10 (#3) Court Administrator  
 03/23/10 (#5) Court Administrator  
 03/23/10 (#6) CFO-Rice Notice  
 04/27/10 (#1) Rice Notice CFO  
 04/27/10 (#6) DPW Harassment Complaint  
 05/11/10 (#6) Art Groves  
 05/11/10 (#7) Clarence Deemer  
 05/25/10 (#3) Art Groves  
 05/25/10 (#4) Librarian  
 07/13/10 (#8) Clerk-Personnel Records  
 07/27/10 (#2) Scrap Metal  
 07/27/10 (#6) Scrap Metal: Clean Up  
 08/10/10 (#2) Clerk-Trenton  
 08/10/10 (#4) Attny Conflict-J Caleca  
 08/10/10 (#5) Security Cameras  
 12/27/10 (#1) CFO-Shared Serv.  
 01/19/2012 Construction Official  
 03/26/13 (#2) DPW  
 03/26/13 (#3) Code Book  
 03/26/13 (#5) Clerk  
 04/23/13 (#7) Easter Egg Hunt  
 05/28/13 (#7) Dep Clerk Personal Days  
 06/11/13 (#5) Clerk  
 06/11/13 (#9) Library  
 06/11/13 (311) NJLM Conf Hotel Limit  
 06/11/13 (#14) Savary-Charges  
 07/09/13 (#9) Clerks Office  
 07/09/13 (#10) AYAA  
 08/13/13 (#2) Tax Collector  
 08/13/13 (#3) Library  
 08/13/13 (#4) Clean Communities  
 08/13/13 (#12) Hops N Barley Name Change  
 09/10/13 (#2) DPW Overtime  
 09/10/13 (#9) Library  
 09/10/13 (#10) Savary  
 09/10/13 (#12) Mold in Municipal Building  
 09/24/13 (#2) Library Board President  
 10/22/13 (#3) Library Titles  
 10/22/13 (#5) Fire Co Applications  
 10/22/13 (#6) Savary  
 10/22/13 (#7) DPW Employees-Cell Phones  
 10/22/13 DPW -Laptop

## Unreleased Approved Executive Session Minutes List *(continued)*

### Litigation:

11/26/13 (#5) VanVeldhusien-Sewer Hook Ups  
 11/26/13 (#6) Judy Korp Property  
 11/26/13 (#9) Damage to Dog Fence  
 12/10/13 (#4) Invoices for Mold  
 12/10/13 (#8) Stormwater  
 12/30/13 (#4) Water Break-Response from DPW  
 01/14/14 (#1) Savary-Unauthorized Access  
 01/14/14 (#4) Penn Bower  
 02/11/14 (#) Sewer Back Up  
 02/11/14 (#4) Sewer Authority  
 02/25/14 (#1) Fred Cook  
 02/25/14 (#4) John Doe Lawsuits  
 02/25/14 (#5) Mrs. Lear Sewer Bill  
 04/08/14 (#3) Lee Ave Sewer Back Up  
 04/08/14 (#8) Lear Tort Claim  
 05/13/14 (#3) Firm Capacity  
 05/13/14 (#4) Fred Cook  
 05/13/14 (#7) HVAC System  
 06/10/14 (#1) DR Horton  
 06/10/14 (#2) Water Repairs 519  
 6/10/14 (#3) Lee Ave  
 6/10/14 (#6) Inspection Fees-Pohat  
 6/10/14 (#7) CFO-Greenwich  
 6/24/14 (#1) Drainage-Homa  
 6/24/14 (#4) Pohat Eng Billing  
 6/24/14 (#5) Library  
 7/8/14 #1 DPW  
 7/8/14 #2 Library  
 7/8/14 #4 Computer Switch  
 7/8/14 #6 Penn Bower  
 9/9/14 #1 D.R. Horton  
 9/9/14 #3 Trane  
 9/9/14 #4 D.R. Horton  
 9/23/14 #3 Library  
 01/12/15 #1 Savary Litigation  
 02/09/15 #5 Pohatcong  
 02/23/15#1 Route 519-Lateral  
 02/23/15 #2 Penn Bower  
 02/23/15 #4 Fire Hydrant  
 02/23/15 #7 Christy Rose  
 3/10/15 #9 Pool Demolition Contract  
 07/14/15 #1 DEP Violation  
 07/14/15 #3 COAH  
 07/14/15 #4 Rt. 519  
 08/11/15 #3 Fire Hydrant  
 08/11/15 #4 Water Tower

### Litigation (continued):

9/08/15 #2 Alpha Family Rest.  
 09/08/15 #3 Wayne St Sinkhole-Pohat  
 09/08/15 #5 Savary  
 09/08/15 #6 water Sewer Bill Estimation  
 9/21/15 #4 Mike Savary  
 9/21/15 #5 Christy Rose  
 9/21/15 #8 Sewer Rates/Problems  
 10/13/15 #2 Water/Sewer Rates  
 10/13/15 #3 Phillipsburg Colts  
 10/13/15 #4 D.R. Horton  
 10/27/15 #2 Wayne St  
 10/27/15 #4 Library  
 11/10/15 #1 Water/Sewer Bills  
 11/10/15 #2 Water/Sewer  
 11/10/15 #3 Christy Rose  
 11/10/15 #9 Manholes  
 11/10/15 #10 Engineer  
 11/10/15 #11 Rooks  
 11/24/15 #4 Water/Sewer  
 12/8/15 #1 Jerry Kern-Pohatcong W/S  
 12/29/15 #1 Jerry Kern  
 02/08/16 #1 Fence Agreement  
 02/08/16 #3 Rose-Unemployment  
 02/22/16 #1 Car Dealer License

### Contractual:

12/10/13 (#5) DEP Firm Capacity  
 12/10/13 (#6) Water Softener  
 12/10/13 (#7) Sewer  
 12/30/13 (#1) Road Improvement Program-Engineer  
 01/14/14 (#2) Shared Services-Pohatcong –Police  
 01/14/14 (#3) Shared Services-Court  
 01/14/14 (#5) HVAC System  
 02/11/14 (#2) Shared Services-Court  
 02/14/14 (#5) Shared Services Court  
 02/25/14 (#2) PEG Bandwidth  
 03/11/14 (#1) Shared Services  
 03/11/14 (#2) Court  
 04/08/14 (#1) Garbage  
 04/08/14 (#2) Courts Shared Serv  
 04/8/14 (#4) Water Frace St Bids  
 04/8/14 (#5) Lease of Boro Property  
 04/08/14 (#6) DR Horton  
 04/08/14 (#7) Open Space  
 05/13/14 (#2) Debt Limit  
 05/21/14 (#1) Library  
 6/10/14 (#4) DPW  
 6/10/14 (9) Shared Services Court  
 6/10/14 (#10) DPW-Fence Repairs  
 6/24/14 (#3) Sprint Metro PC  
 7/8/14 #5 Alpha St Pump House  
 7/8/14 # 7 Redundancy  
 7/8/14 #8 T-Mobile  
 7/8/14 #10 Solar Panels  
 7/22/14 #1 Penn Bower  
 7/22/14 #2 Penn Bower-Emergency Call Out  
 7/22/14 #3 Open Space  
 7/22/14 #4 Solar Panels  
 7/22/14 #6 Fire Truck Purchase  
 8/12/14 #1 Shared Service-Pohatcong  
 8/12/14 #2 Penn Bower  
 8/12/14 #3 Metro PCS  
 8/12/14 #4 DPW  
 8/12/14 #5 River Edge  
 8/12/14 #6 Trane  
 9/9/914 # 2 Fire truck Purchase  
 9/23/14#1 Root Control Bid  
 9/23/14 # 5 Professionals  
 9/23/14 #6 Engineer Inspector  
 9/23/14 #4 Shared Services Greenwich  
 01/12/15 #3 Contract EMS-Post Office  
 01/12/15 #4 Contractual-DPW  
 01/12/15 #5 Contractual-Police  
 01/12/15 #6 Contractual-Shared Service-CFO  
 01/26/15 #2 DPW Contract  
 02/09/15 #1 DPW  
 02/09/15 #2 Emergency Squad  
 02/09/15 #4 CFO  
 02/23/15 #3 Police Contract  
 02/23/15#5 DPW  
 03/10/15 #1 CFO Shared Services  
 03/10/15#3 Redundancy  
 03/10/15 #4 Police Shared Services  
 03/10/15 #35 Norfolk  
 03/10/15 #6 Postage Machine  
 03/10/15 #8 DPW  
 03/24/15 #1 Emergency Squad  
 03/24/15 #2 Porta-John Contract  
 03/24/15 #3 Shared Services Police/Court  
 07/28/15 #1 Phase II Water Project  
 07/28/15 #2 Old Fire Truck  
 07/28/15 #3 Fieldhouse/Football Field

### Personnel:

11/12/13 (#3) Library Titles  
 11/26/13 (#2) N2 Discharge Operator  
 11/26/13 (#7) DPW Laptop  
 12/10/13 (#1) Deputy Clerk  
 12/10/13 (#2) Civil Service-Library  
 12/30/13 (#2) William Packer  
 12/30/13 (#3) Adminsitratve Clerk Request  
 12/30/13 (#5) Library Employees-Funds  
 12/30/13 (#6) Password Policy  
 01/14/14 (#6) ACO Budget for Rabies Clinic  
 01/14/14 (#7) Library Resolution Appointments  
 02/11/14 (#2) Monitor Position  
 02/25/14 (#3) Library Pensions  
 02/25/14 (#6) Clerks Office  
 03/11/14 (#3) ACO  
 03/11/14 (#4) Library Personnel  
 05/13/14 (#1) Chief Faulborn Power Cat Purchase  
 05/21/14 (#2) Shared Services-Pohatcong-Clerk  
 6/10/14 (#5) Dunwell  
 6/24/14 (#2) Sidewalk Project Appointment  
 7/8/14 #3 CFP as LPA  
 7/8/14 #9 ACO  
 7/22/14 # 5 DPW Employee-Fire Calls  
 9/9/14 # 5 Field House  
 9/23/14 # 2 Deputy Clerk  
 01/12/15 #2 Temporary CFO-Personnel  
 01/26/15 #1 Deputy OEM  
 01/26/15 #3 Snow Plowing Employee  
 02/09/15 #3 Finance  
 02/23/15 #6 Water/Sewer Collector  
 02/23/15 #8 CFO Position  
 03/10/15 #2 Finance Clerk  
 03/10/15 #7 Temp CFO Appointment  
 04/14/15 #1 Payroll  
 04/14/15 #2 Mercantile Fees  
 08/11/15 #1 Code Enforcement Officer  
 09/21/15 #2 Tax Assessor  
 9/21/15 #3 Former CFO  
 10/13/15 #1 Tax Assessor  
 10/27/15 #5 Tax Assessor  
 12/8/15 #2 CFO  
 12/8/15 #3 Dunwell-Appointments  
 01/25/16 #3 Rose  
 01/25/16 #5 Code Enforcement  
 01/25/16 #7 Library  
 02/08/16 #6 Conflict Attorney  
 02/08/16 #7 Clerk

09/8/15 31 5<sup>th</sup> Ave  
09/8/15 #4 Bob Canace  
09/21/15 Shared Services Police  
09/21/15 #6 Engineer R&V  
09/21/15 #7 Engineer R&V  
09/21/15 #9 DPW-Third Hire  
10/27/15 #1 LMR  
10/27/15 Engineer  
11/10/15 #4 Troxell  
11/10/15 #5 D.R. Horton  
11/10/15 #8 LMR Disposal  
11/24/15 #1 Shared Service-Police  
11/24/15 #2 Engineer  
11/24/15 #3 Cohen-Highlands  
11/24/15 #5 Open Space  
12/29/15 #2 Personnel  
01/25/16 #1 Emergency Force Main Break  
01/25/16 #2 LMR Contract  
01/25/16 #4 ACO Shared Services  
01/25/16 #6 Rocco  
02/08/16 #2 Highlands Grant  
02/08/16 #4 Dumpsters  
02/08/16#5 Rocco  
02/22/16 #2LMR  
02/22/16 #3 DR Horton  
02/22/16 #4 Rocco

**ORDINANCE 2017-12**  
**AN ORDINANCE SETTING THE SALARY RANGES**  
**FOR ALL OF THE EMPLOYEES OF THE BOROUGH OF ALPHA.**

Section I

**BE IT ORDAINED** by the Mayor and Council of the Borough of Alpha, County of Warren, State of New Jersey that the annual salaries of the officers and employees of the Borough of Alpha, County of Warren, and State of New Jersey named herein:

Acting Borough Clerk	\$15.00 - \$30.00/hour
Administrative Clerk	\$15.00 - \$25.00/hour
Air Quality	\$1.00 - \$2000
Animal Control Officer	\$4,000 - \$7,500
Assistant Municipal Clerk	\$14.00 - \$23.00/hour
Building Service Worker	\$13.00 - \$18.50/hour
Chief Financial Officer	\$40.00 - \$65.00/hour
Clean Communities Coord.	\$1.00 - \$500
Clean Communities Worker	\$8.00 - \$16.00/hour
Clerk/Typist Part Time	\$10.00 - \$18.00/hour
Construction Official	\$15,000 - \$24,000
Code Enforcement Officer	\$2,000 - \$6,000
Court Attendant	\$50 - \$150 per session
Court Clerk	\$10.00 - \$16.00/hour
Court Clerk Call Out	\$20.00 - \$50.00 per call
Court Security	\$50.00 - \$200.00 per session
Council Member	\$1,500 - \$3,000
Deputy Borough Clerk	\$13.00 - \$18.50/hour
Emergency Mgmt. Coordinator & Deputy 911 Coordinator	\$1,500 - \$3,000
911 Coordinator & Deputy Emergency Mgmt. Coordinator	\$1,000 - \$2,500
Emergency Equipment Operator	\$12.00 - \$30.00/hour
File Clerk	\$8.50 - \$12.00/hour
Fire Inspector	\$500 - \$1,500
Grease Trap Inspector	\$1.00 - \$2,500
Insurance Fund Commissioner	\$1 - \$500
Laborer I	\$49,000.00 - \$55,000.00
Laborer II	\$45,000.00 - \$52,000.00
Laborer III	\$42,000.00 - \$48,000.00
Laborer IV	\$40,000.00 - \$45,000.00
Land Use Board Secretary	\$400-\$600 per month, plus \$900- \$1,100 per meeting for attendance
Supervising Library Assistant	\$35,000 - \$55,000
Library Page	\$10 - \$15/hour
Mayor	\$1,500 - \$3,500
Mercantile Enforcement Officer	\$1.00 - \$2,500
Monitor	\$12.00 - \$18.00/hour

Municipal Attorney	\$40,000 - \$60,000
Municipal Court Administrator	\$1 - \$15,000
Municipal Judge	\$1 - \$10,000
Municipal Housing Liaison	\$1 - \$2,500
Municipal Prosecutor	\$1 - \$5,000
Park Attendant I	\$9.00 - \$15.00/hour
Park Attendant II	\$10.00 - \$15.00/hour
Plumbing Sub-Code Off/Inspector	\$1,000 - \$5,000
Public Defender	\$100 - \$150 per use
Public Works & Utilities Manager	\$60,000 - \$100,000
Public Works Repairer I	\$59,000.00 - \$68,000.00
Public Works Repairer II	\$54,000.00 - \$62,000.00
Public Works Repairer III	\$52,000.00 - \$58,000.00
Public Works Repairer IV	\$49,000.00 - \$55,000.00
PW Superintendent/Lic. Water Operator	\$7,500 - \$25,000
Pumping Station Operator	\$10.00 - \$16.00/hour
Pumping Stat. Operator Retainer	\$200 - \$300 per quarter
Recycling Coordinator	\$2,000 - \$8,000
Registered Municipal Clerk	\$45,000 - \$80,000
School Crossing Guard	\$20.00 - \$30.00/day
Senior Public Works Repairer	\$79,363.00 - \$85,905.08
Sewer C-2 Operator	\$8,000 - \$16,000
Tax Assessor	\$13,000 - \$20,000
Tax Collector	\$17,500 - \$25,000
Tax Search Officer	\$500 - \$1,000
Temporary CFO	\$40.00 - \$60.00/hour
Utility Collector	\$1,000 - \$22,000
Water Meter Repairer	\$10.00 - \$25.00/hour
Zoning Officer	\$2,000 - \$6,000
Mileage Allowance Personal Car	.30 - .65/mile

Section II

Longevity: \$500 - \$2,500.00 per contract, if any.

Section III

Any ordinance or sections of the ordinance of the Borough of Alpha, New Jersey inconsistent herein shall be and the same hereby repealed.

Section IV

This ordinance shall become effective upon second reading and adoption thereof.

**PUBLIC NOTICE** is hereby given that the above-entitled Ordinance was introduced and passed at first reading at a meeting of the Borough Council of the Borough of Alpha held on November 28th, 2017 at



the Municipal Building, 1001 East Boulevard, Alpha, New Jersey. A public hearing regarding same will be held at a meeting beginning at 7:00 p.m. on December 27th, 2017 at the Municipal Building, 1001 East Boulevard, Alpha, New Jersey at which time all persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same.

---

Donna L. Messina, Acting Borough Clerk, CMR

**CERTIFICATION**

*I, Donna L. Messina, Acting Borough Clerk, Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Common Council at a meeting of said Common Council on December 27th, 2017 and that said Ordinance was adopted by not less than the legal vote needed of the members of the Council.*

---

Donna L. Messina, Acting Borough Clerk

*Witness my hand and seal of the Borough of Alpha  
This 27th day of December 2017.*

**ORDINANCE 2017-13**

**AN ORDINANCE TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF FACILITATING THE ADMINISTRATION OF THE BOROUGH OF ALPHA'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT**

**BE IT ORDAINED** by the Common Council of the Borough of Alpha in the County of Warren and State of New Jersey that the Code of the Borough of Alpha be amended by adding Article XXVI, Chapter 7, Section 7-99 as follows:

**A. Purpose.**

The purpose of this Article is to create part of the required administrative mechanism for the execution of the responsibility of the Borough of Alpha to provide its fair share of the region's need for affordable housing pursuant to the Fair Housing Act of 1985.

**B. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**MUNICIPAL HOUSING LIAISON** – The municipal employee charged by the program for the Borough of Alpha.

**ADMINISTRATIVE AGENT** – The entity responsible for administering the affordability controls on the very low-, low- and moderate-income units created in the Borough of Alpha to ensure that all such restricted units are affirmatively marketed and sold or rented, as applicable, only to duly qualified very low-, low- and moderate-income households.

**C. Establishment of Municipal Housing Liaison position and compensation; powers and duties.**

- (1) Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Borough of Alpha.
- (2) Subject to the approval of the Superior Court In the Matter of the Borough of Alpha, County of Warren, Docket No. HNT-L-316-15, the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- (3) The Municipal Housing Liaison shall be responsible for the oversight of the administration of the affordable housing program for the Borough of Alpha, including all of the following responsibilities which may not be contracted out:
  - (a) Serving as Alpha's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
  - (b) Monitoring the status of all restricted affordable housing units in Alpha;
  - (c) Compiling, verifying, submitting to Fair Share Housing Center and posting on the municipal web site all required annual, mid-point and three-year look-back monitoring reports as required by the Court, consistent with the adopted Affordable Housing Ordinance;
  - (d) Coordinating meetings with affordable housing providers and the Administrative Agent(s), as applicable; and
  - (e) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing offered by the Affordable Housing Professionals of New Jersey in conjunction with Rutgers University.
- (4) Subject to the Court's approval, Alpha may contract with or authorize a consultant, authority, governmental agency or other qualified entity charged by the Governing Body with all other responsibilities of administering the affordable housing program of the Borough of Alpha, except for those responsibilities which may not be contracted out pursuant to subsection C above. The Municipal Housing Liaison shall supervise the contracting Administrative

Agent(s), who shall provide regular updates to the Municipal Housing Liaison of their activities.

- (5) Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.

**D. Severability.**

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

**E. Inconsistent Ordinances Repealed.**

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

**PUBLIC NOTICE** is hereby given that the above-entitled Ordinance was introduced and passed at first reading at a meeting of the Borough Council of the Borough of Alpha held on November 28, 2017 at the Municipal Building, 1001 East Boulevard, Alpha, New Jersey. A public hearing regarding same will be held at a meeting beginning at 7:00 p.m. on December 27th, 2017 at the Municipal Building, 1001 East Boulevard, Alpha, New Jersey at which time all persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same.

---

Donna L. Messina, Acting Borough Clerk

**CERTIFICATION**

*I, Donna L. Messina, Acting Borough Clerk, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Common Council at a meeting of said Common Council on December 27th, 2017 and that said Ordinance was adopted by not less than the legal vote needed of the members of the Council.*

---

Donna L. Messina, Acting Borough Clerk

*Witness my hand and seal of the Borough of Alpha  
This 27th day of December 2017.*

**ORDINANCE 2017-14**  
**AFFORDABLE HOUSING ORDINANCE**  
**BOROUGH OF ALPHA, WARREN COUNTY**

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF ALPHA TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the Borough Council of the Borough of Alpha, Warren County, New Jersey, that the Code of the Borough of Alpha, Chapter 410, Article XI is hereby repealed and replaced entirely to include new provisions addressing Alpha'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 Alpha Borough Land Use Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Council. 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.

**§ 410-67 Monitoring and Reporting Requirements**

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

- (1) Beginning on February 1, 2018, and on every anniversary of that date through February 1, 2025, the Borough agrees to 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 (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- (2) Beginning on February 1, 2018, and on every anniversary of that date through February 1, 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- (3) By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan

and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity 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 FSHC, 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.

- (4) By March 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

#### **§ 410-68 Definitions**

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

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

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

“Administrative agent” means the entity designated by the Borough 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” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

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

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

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough'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)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

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

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

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

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

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

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

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

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

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

residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

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

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

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

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

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

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

“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 duly adopted Regional Income Limits published annually by COAH or a successor entity.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation 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 an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

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

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

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

#### **§ 410-69 Applicability**

A. 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 Borough of Alpha pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

B. Moreover, this Ordinance shall apply to all developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

C. Any property in the Borough of Alpha that is currently zoned for nonresidential uses and subsequently receives a zoning change or use variance or approval of a redevelopment plan to permit residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment plan to permit higher density residential development, provided such density is at least twice the density previously permitted, shall provide an affordable housing set-aside of 15% if the affordable units will be for rent and 20% if the affordable units will be for sale. No property shall be subdivided so as to avoid compliance with this requirement. Moreover, this provision governs municipal actions and shall not entitle any property owner or developer to such action by the Borough. All affordable units created pursuant to this paragraph shall be governed by the provisions of this Ordinance.

#### **§ 410-70 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. 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.



C. 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.

**§ 410-71 Phasing Schedule for Inclusionary Zoning**

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

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

**§ 410-72 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 regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development.

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

(3) 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.

(4) 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-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Alpha has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

(i) 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.

(ii) To this end, the builder of restricted units shall deposit funds within the Borough of Alpha's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

(iii) The funds deposited under paragraph 6)b) above shall be used by the Borough of Alpha 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.

(iv) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Alpha for the conversion of adaptable to accessible entrances.

(v) 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 in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

(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 most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures set forth in the Consent Order entered on December 16, 2016, by the Honorable Douglas K. Wolfson, JSC, in In the Matter of the Borough of East Brunswick for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan, Docket No.: MID-L-004013-15.

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

(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;

and (d) A three-bedroom unit shall be affordable to a four and one-half person household;

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

### **§ 410-73 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 HUD for the Section 8 program.

### **§ 410-74 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.

### **§ 410-75 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 Alpha takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- 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 N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**§ 410-76 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices**

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

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

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

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

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

**§ 410-77 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, 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.

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.

#### **§ 410-78 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).

#### **§ 410-79 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 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.

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.

#### **§ 410-80 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 Alpha takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

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 with the records office of the County of Warren. 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.

#### **§ 410-81 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% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

#### **§ 410-82 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 the regional median household income by household size.
- (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
- (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.



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.

#### **§ 410-83 Municipal Housing Liaison**

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

B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Alpha, including the following responsibilities which may not be contracted out to the Administrative Agent:

(1) Serving as Alpha'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 Alpha's Fair Share Plan;

(3) Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;

(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 Borough of Alpha shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

### **§ 410-84 Administrative Agent**

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

(1) Affirmative Marketing:

(a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Alpha and the provisions of N.J.A.C. 5:80-26.15; and

(b) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

(2) Household Certification:

(a) Soliciting, scheduling, conducting and following up on interviews with interested households;

(b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

(c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

(d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

(e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;

(f) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Alpha when referring households for certification to affordable units; and

(g) Notifying the following entities of the availability of affordable housing units in the Borough of Alpha: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

**B. 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 Warren County Register of Deeds or Warren 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.

**C. 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 rental; and

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

**D. 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.

E. 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) 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;

(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 Borough Council and the Court, setting forth procedures for administering the affordability controls.

F. 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 the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

(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.

## **§ 410-85 Affirmative Marketing Requirements**

- A. The Borough of Alpha 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. 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 3, comprised of Warren, Essex, Union and Warren 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 re-rentals. The Administrative Agent designated by the Borough of Alpha 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. Applications shall be mailed to prospective applicants upon request.
- I. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Alpha, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.
- J. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

## **§ 410-86 Enforcement of Affordable Housing Regulations**

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

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:

(a) 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;

(b) 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 Borough of Alpha Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) 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.

(2) 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 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.

(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.

### **§ 410-87 Appeals**

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

### **REPEALER**

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies. **PUBLIC NOTICE** is hereby given that the above-entitled Ordinance was introduced and passed at first reading at a meeting of the Borough Council of the Borough of Alpha held on November 28, 2017 at the Municipal Building, 1001 East Boulevard, Alpha, New Jersey. A public hearing regarding same will be held at a meeting beginning at 7:00 p.m. on December 27th, 2017 at the Municipal Building, 1001 East

Boulevard, Alpha, New Jersey at which time all persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same.

---

Donna L. Messina, Acting Borough Clerk

**CERTIFICATION**

*I, Donna L. Messina, Acting Borough Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Common Council at a meeting of said Common Council on December 27th, 2017 and that said Ordinance was adopted by not less than the legal vote needed of the members of the Council.*

---

Donna L. Messina, Acting Borough Clerk

*Witness my hand and seal of the Borough of Alpha  
This 27th day of December 2017.*



**ORDINANCE 2017-15**  
**DEVELOPMENT FEE ORDINANCE**  
**BOROUGH OF ALPHA, WARREN COUNTY**

AN ORDINANCE AMENDING CHAPTER 410 OF THE CODE OF THE BOROUGH OF ALPHA TO  
PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES  
IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED  
BY THE NEW JERSEY FAIR HOUSING ACT

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

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

BE IT ORDAINED by the Borough Council of the Borough of Alpha, Warren County, New Jersey, that Chapter 410 of the Code of the Borough of Alpha is hereby amended to include new Article XII, regulating the collection and disposition of mandatory development fees to be used in connection with the Borough's affordable housing programs, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1, *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

**§ 410-88 Purpose.**

A. This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

**§ 410-89 Basic Requirements.**

A. This Ordinance shall not be effective until approved by the Court.

B. The Borough of Alpha shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

**§ 410-90 Definitions.**

The following terms, as used in this Ordinance, shall have the following meanings:

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“COAH” or the “Council” means the New Jersey Council on Affordable Housing established under the Fair Housing Act.

“Development fee” means money paid by a developer for the improvement of property as authorized by Holmdel Builder’s Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH Rules.

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

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

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

## **§ 410-91 Residential Development Fees.**

### **A. Imposition of Fees**

(1) Within the Borough of Alpha, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

(2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of six percent (6%) percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

### **B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments**

(1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Alpha, shall be exempt from the payment of development fees.

(2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.

(3) Improvements or additions to existing one and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.

(4) Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

#### **§ 410-92 Non-Residential Development Fees.**

##### **A. Imposition of Fees**

(1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

(2) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

(3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

##### **B. Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development**

(1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and a half percent (2.5%) development fee, unless otherwise exempted below.

(2) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

(3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.

(4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.

(5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Alpha as a lien against the real property of the owner.

#### **§ 410-93 Collection Procedures.**

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

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

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

D. Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.

E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

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

G. Should the Borough of Alpha fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the

amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).

H. Except as provided in Section 5.A.3) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

I. Appeal of Development Fees

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

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

**§ 410-94 Affordable Housing Trust Fund.**

A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Alpha for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

(1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Alpha;

(2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;

(3) Rental income from municipally operated units;

(4) Repayments from affordable housing program loans;

(5) Recapture funds;

(6) Proceeds from the sale of affordable units; and

(7) Any other funds collected in connection with Alpha's affordable housing program.

C. In the event of a failure by the Borough of Alpha to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Alpha, or, if not practicable, then within the County or the Housing Region.

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

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

#### **§ 410-95 Use of Funds.**

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Alpha's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Borough of Alpha for past housing activities.

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of the median income for Housing Region 3, in which Alpha is located.

(1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or

condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.

(2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.

(3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Alpha, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough of Alpha may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.

E. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

(1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.

(2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

#### **§ 410-96 Monitoring.**

The Borough of Alpha shall provide annual reporting of Affordable Housing Trust Fund activity to the State of 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 sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Alpha's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

#### **§ 410-97 Ongoing Collection of Fees.**

A. The ability for the Borough of Alpha to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Borough of Alpha has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

B. If the Borough of Alpha fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

C. The Borough of Alpha shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Borough of Alpha retroactively impose a development fee on such a development. The Borough of Alpha also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

### **REPEALER**

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

**PUBLIC NOTICE** is hereby given that the above-entitled Ordinance was introduced and passed at first reading at a meeting of the Borough Council of the Borough of Alpha held on December 12, 2017 at the Municipal Building, 1001 East Boulevard, Alpha, New Jersey. A public hearing regarding same will be held at a meeting beginning at 7:00 p.m. on December 27th, 2017 at the Municipal Building, 1001 East Boulevard, Alpha, New Jersey at which time all persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same.



---

Donna L. Messina, Acting Borough Clerk

**CERTIFICATION**

*I, Donna L. Messina, Acting Borough Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Common Council at a meeting of said Common Council on December 27th, 2017 and that said Ordinance was adopted by not less than the legal vote needed of the members of the Council.*

---

Donna L. Messina, Acting Borough Clerk

*Witness my hand and seal of the Borough of Alpha  
This 27th day of December 2017.*

**RESOLUTION 2017-113**  
**RESOLUTION AWARDING A CONTRACT**  
**FOR SWIMMING POOL RECONSTRUCTION AND REHABILITATION**

**WHEREAS**, the Mayor and Council of the Borough of Alpha have determined that the municipal swimming pool and pump house building are in need of reconstruction and renovations; and

**WHEREAS**, the Mayor and Council of the Borough of Alpha, through the Borough Engineer, have openly and publicly solicited bids (now, a second time) for such reconstruction contract for said pool work, pursuant to New Jersey law; and

**WHEREAS**, the Borough of Alpha has, this second time, received the lowest responsible bid from Ray Palmer Associates, Inc. of Dover, New Jersey, based on the recommendation of the Borough Engineer.

**NOW, THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Alpha, County of Warren, State of New Jersey that the said contract for the contemplated work –reconstruction of the municipal swimming pool and renovations to the pump house building – is hereby awarded to Ray Palmer Associates, Inc. of Dover, New Jersey, having submitted a bid, Alternate Bid #1, of \$277,600.00 for said work, upon written certification of funds by the Borough CFO.

**BE IT FURTHER RESOLVED**, that the Mayor, Clerk, Borough Attorney, and/or Borough Engineer are authorized to execute all necessary documents to effectuate the contract.

**CERTIFICATION**

*I, Donna L. Messina Acting Borough Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Common Council at a meeting of said Common Council on December 12th, 2017 and that said Resolution was adopted by not less than the legal vote needed of the members of the Council.*

---

*Donna L. Messina, Acting Borough Clerk*

*Witness my hand and seal of the Borough of Alpha  
This December 12th, 2017.*

---

*Donna L. Messina, Acting Borough Clerk*

**RESOLUTION 2017-152**

**A RESOLUTION URGING GOVERNOR CHRISTIE AND THE NEW JERSEY STATE LEGISLATURE TO ENACT LEGISLATION THAT WILL PERMANENTLY EXTEND THE 2% CAP ON BINDING INTERSET ARBITRATION AWARDS BEFORE DECEMBER 31, 2017.**

**WHEREAS**, pursuant to the sunset provision contained in P.L. 2014, c. 11 the 2% cap on interest arbitration awards is set to expire on December 31, 2017; and,

**WHEREAS**, this law empowers county governments and local governments throughout the State to effectively control public safety employment salaries and personnel costs by capping interest arbitration awards at 2% for base salaries, which includes step increments and longevity pay; and,

**WHEREAS**, governmental entities dedicate a substantial portion of their overall annual operating expenses for employee salaries, wages, health benefits, and other personnel costs; and,

**WHEREAS**, governmental entities face a restrictive 2% property tax cap levy where they must prepare two comprehensive cap calculations and use the more restrictive one; and,

**WHEREAS**, failure to extend the 2% cap on interest arbitration awards will force governmental entities to further reduce or even eliminate essential services, critical personnel, and long-overdue infrastructure improvement projects; and,

**WHEREAS**, it is in the best interest of municipalities and property taxpayers throughout the State struggling to make ends meet to permanently extend the 2% cap on interest arbitration awards.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough of Alpha does in fact hereby support and urge Governor Chris Christie and the New Jersey State Legislature to enact legislation that will permanently extend the 2% cap on interest arbitration awards before December 31, 2017; and,

**BE IT FURTHER RESOLVED** that certified copies of this Resolution are to be forwarded to the Governor of the State of New Jersey - Chris Christie, the President of the New Jersey State Senate - Steve Sweeney, and the Speaker of the General Assembly - Vincent Prieto.

**CERTIFICATION**

*I, Donna L. Messina, Acting Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Common Council at a meeting of said Common Council on December 12, 2017 and that said Resolution was adopted by not less than the legal vote needed of the members of the Council.*

---

Donna L. Messina, Acting Borough Clerk

*Witness my hand and seal of the Borough of Alpha  
This 12<sup>th</sup> day of December, 2017.*

**RESOLUTION 2017-153**

**A RESOLUTION TO APPROVE AN INTERLOCAL MUNICIPAL AGREEMENT AND RIDER WHEREBY THE TOWN OF PHILLIPSBURG WILL PROVIDE POLICE COVERAGE FOR THE BOROUGH OF ALPHA**

**WHEREAS**, the Common Council of the Borough of Alpha (“Borough” or “Alpha”) believes it is in the best interests of the Borough to contract pursuant to N.J.S.A. 40A:65-1, et seq. (the “Uniform Shared Services and Consolidation Act”) to enable the Town of Phillipsburg (“Phillipsburg” or “Phillipsburg Town”) to afford protection and coverage through Phillipsburg’s police department to the Borough on a full-time basis; and

**WHEREAS**, the Borough wishes to ensure the safety and welfare for its residents by having police protection and continuous coverage on a 24-hour per day, 7-day per week basis, which is economical; and,

**WHEREAS**, N.J.S.A. 40A:65-1, et seq. (the “Uniform Shared Services and Consolidation Act”) provides a mechanism for making such contracts between public entities and/or agencies; and,

**WHEREAS**, Phillipsburg already has in place a police department which is adequately staffed and qualified to serve as the Borough’s police protection and coverage;

**NOW, THEREFORE BE IT RESOLVED** that the Borough shall enter into an agreement and rider with Phillipsburg Town to allow Phillipsburg’s police department to service and afford the Borough police protection and coverage on a full-time basis in the attached agreement and rider, and in pertinent part for the following sums:

2018	\$425,000
2019	\$425,000
2020	\$425,000
2021	\$425,000
2022	\$425,000

**BE IT FURTHER RESOLVED**, that the Mayor, Borough Clerk, and/or Borough Labor Counsel are authorized to execute all necessary documents to effectuate the terms of the above-referenced Shared Services Agreement.

**CERTIFICATION**

*I, Donna L. Messina, Acting Municipal Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Common Council at a meeting of said Common Council on December 12, 2017 and that said Resolution was adopted by not less than the legal vote needed of the members of the Council.*

\_\_\_\_\_  
*Donna L. Messina, Acting Borough Clerk*  
*Witness my hand and seal of the Borough of Alpha*  
*this 12<sup>th</sup> day of December, 2017*

**RESOLUTION 2017-154**

**RESOLUTION BY THE MAYOR AND COUNCIL OF THE BOROUGH OF ALPHA, WARREN COUNTY, STATE OF NEW JERSEY, IN REGARD TO THE SHARED SERVICES AGREEMENT BETWEEN THE TOWN OF PHILLIPSBURG AND THE BOROUGH OF ALPHA**

**WHEREAS**, the “Uniform Shared Services and Consolidated Act” at N.J.S.A. 40A:651 *et seq.*, allows a local unit to enter into an agreement with any other local unit or units to provide or receive any service that each local unit participating in this agreement is empowered to provide or receive within its own jurisdiction, including services incidental to the primary purposes of any participating local units; and

**WHEREAS**, Chapter 12, Municipal Courts, at N.J.S.A. 2B:12-1(c) provides that “two or more municipalities, by ordinance or resolution, may agree to provide jointly for courtrooms, chambers, equipment, supplies and employees for their municipal courts and to agree to appoint judges and administrators without establishing a joint municipal court. Where municipal courts share facilities in this manner, the identities of the individual courts shall continue to be expressed in the captions of orders and process”; and

**WHEREAS**, a proposed shared services agreement has been negotiated with the Town of Phillipsburg and approved by the Honorable Yolanda Ciccone, A.J.S.C. subject to the submission of an acceptable security plan, court office address, session hours, and a 2018 Calendar Year Budget.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Alpha, County of Warren, and State of New Jersey that the Borough of Alpha has agreed to enter into an agreement with the Town of Phillipsburg to share Phillipsburg’s municipal court facilities and/or services pursuant the Shared Services Agreement attached hereto and incorporated herein by reference.

**BE IT FURTHER RESOLVED**, that the Mayor, Borough Clerk, and/or Borough Labor Counsel are authorized to execute all necessary documents to effectuate the terms of the above-referenced Shared Services Agreement.

**CERTIFICATION**

I, Donna L. Messina, Acting Municipal Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Common Council at a meeting of said Common Council on December 12, 2017 and that said Resolution was adopted by not less than the legal vote needed of the members of the Council.

---

Donna L. Messina, Acting Borough Clerk

Witness my hand and seal of the Borough of Alpha  
this 12th day of December, 2017

**RESOLUTION 2017-155**  
**SHARED SERVICES AGREEMENT BETWEEN THE BOROUGH OF ALPHA AND TOWN OF PHILLIPSBURG FOR CONTINUED TEMPORARY USE OF FACILITES**

**WHEREAS**, the Borough of Alpha previously entered into a shared services agreement in 2014 with the Town of Phillipsburg where it was agreed that Phillipsburg would provide the use of its courtroom, court staff and Municipal Court Judge for the provision of the hearing and adjudication of municipal court matters related to the Borough of Alpha; and

**WHEREAS**, certain conditions have arisen which adversely affect the habitability of the Phillipsburg courtroom and which necessitate the emergent relocation of the Phillipsburg and Alpha court services until such time as the aforementioned conditions may be alleviated; and

**WHEREAS**, Alpha has agreed to extend the use of its courtroom facilities to the Town of Phillipsburg for the purposes of hearing and adjudicating both Phillipsburg and Alpha municipal court matters, subject to the terms and restrictions set forth in an Agreement delineating such terms; and

**WHEREAS**, the Administrative Office of the Courts (hereinafter, "the AOC") and the Assignment Judge of Vicinage XIII (hereinafter, "the Assignment Judge"), have approved the relocation of the Shared Municipal Court on an interim basis; and

**WHEREAS**, the Governing Bodies of both Alpha and Phillipsburg find that it would be in the best interest of both parties for Phillipsburg to temporarily utilize the facilities located in Alpha for the provision of shared municipal court services under the same terms and conditions of the 2014 Agreement, except as modified in the Agreement recently negotiated between the parties, and agreed to previously in its Resolution February 7, 2017.

**NOW, THEREFORE BE IT RESOLVED**, by the Council of the Borough of Alpha, County of Warren, State of New Jersey that Alpha agrees to the proposed terms set forth in the Shared Services Agreement between the Borough of Alpha and the Town of Phillipsburg dated February 7, 2017 permitting temporary use of the courtroom facilities in Alpha pursuant to its terms, including the terms as set forth by any subsequent successor Agreement and;

**BE IT FURTHER RESOLVED**, that during Phillipsburg's utilization of the Alpha facilities, Phillipsburg will remit the sum of \$5,500 in quarterly payments to Alpha.

**BE IT FURTHER RESOLVED**, that the Mayor, Borough Clerk, and/or Borough Labor Counsel are authorized to execute all necessary documents to effectuate the terms of the above-referenced Shared Services Agreement.

**CERTIFICATION**

*I, Donna L. Messina, Acting Municipal Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Common Council at a meeting of said Common Council on December 12, 2017 and that said Resolution was adopted by not less than the legal vote needed of the members of the Council.*

---

*Donna L. Messina, Acting Borough Clerk*

*Witness my hand and seal of the Borough of Alpha  
this 12<sup>th</sup> day of December, 2017.*