

**BOROUGH OF WOODBINE  
REGULAR MEETING**

**AUGUST 16, 2018  
7:30 P.M.**

Mayor Pikolycky called the Regular Meeting to order and read the following statement, "Adequate notice of this meeting was provided in compliance with the Open Public Meetings Act by notifying the Press and The Herald on January 23, 2018 and posting a copy of said notice on the Clerk's bulletin board."

Those present were: Mayor Pikolycky; Councilpersons Ortiz, Johnson, Bennett, Benson and Cruz. Also present were: Richard Tonetta, Borough Solicitor; Bruce Graham, Borough Engineer; Kan Liu, Airport Engineer; and Lisa Garrison, Borough Clerk. Absent: Councilwoman Perez.

Mayor Pikolycky called for approval of the minutes. On motion of Councilman Ortiz, seconded by Councilman Benson to approve the minutes of July 19, 2018, unanimously carried.

Mayor Pikolycky called for a Public Hearing on the following ordinances:

Mayor Pikolycky opened the public hearing on the following ordinance. There being no comment forthcoming the public hearing was then closed. On motion of Councilman Benson, seconded by Councilman Cruz to approve and adopt the following ordinance, unanimously carried upon roll call vote. Ayes: Ortiz, Johnson, Bennett, Benson, Cruz Nays: None Abstain: None Absent: Perez

**ORDINANCE NO. 576- 2018**

**AN ORDINANCE AMENDING CHAPTER XXV DEVELOPMENT FEES AND  
CHAPTER XXVI ZONING, OF THE BOROUGH OF WOODBINE CREATING  
PROVISIONS FOR AFFORDABLE HOUSING**

**WHEREAS**, the purpose of this Ordinance is to amend Chapter XXV Development Fees and Chapter XXVI, Zoning, of the Code of the Borough of Woodbine to incorporate standards for affordable housing in accordance with the adopted Housing Element and Fair Share Plan and Spending Plan; and

**WHEREAS**, the Planning Board of Woodbine Borough, Cape May County, State of New Jersey, adopted a Housing Element, Fair Share Plan and Spending Plan on \_\_\_\_\_, 2018 in accordance with COAH's rules at N.J.A.C. 5:91 et seq. and N.J.A.C. 5:93 et seq., and subsequent applicable laws and regulations such as amendments to the FHA; and

**WHEREAS**, the Borough Planning Board recommends the adoption of this ordinance pursuant to the approval of the Housing Element and Fair Share Plan and Spending Plan to the Borough Council in accordance with the requirements of N.J.S.A. 40:55D-64. The Planning Board found that the proposed ordinance is consistent with the adopted Master Plan Elements and made a favorable recommendation supporting the ordinance amendments at their \_\_\_\_\_, 2018 meeting; and

**NOW THEREFORE, BE IT ORDAINED** by the Governing Body for the Borough of Woodbine, County of Cape May and State of New Jersey, that Chapter XXV Development Fees and Chapter XXVI, Zoning is hereby amended as follows:

**SECTION I.** Within Chapter XXV Development Fees, Delete Section 25-4 COAH Fees and Compliance in its entirety and replace with the following:

**Section 25-4 Development Fee Ordinance**

A. Purpose

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

(2) 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.

(3) 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 low- and moderate-income housing in accordance with a Court-approved Spending Plan.

B. Basic Requirements

(1) This Ordinance shall not be effective until approved by the Court.

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

C. 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 permitted at N.J.A.C. 5:97-8.3.

“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.

#### D. Residential Development Fees

(1) **Imposition of Fees.** Within the Borough of Woodbine, 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 in accordance with the following:

(a) Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one (1%) percent of the equalized assessed value for residential development provided no increased density is permitted.

(b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of two and one-half (2.5%) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four (4) units to be constructed on a site that was zoned for two (2) units, the fees could equal one (1%) percent of the equalized assessed value on the first two (2) units; and the specified higher percentage up to six (6%) percent of the equalized assessed value for the two (2) additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

(2) **Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments**

(a) 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 Woodbine, shall be exempt from the payment of development fees.

(b) 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.

(c) 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.

(d) 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.

#### E. Non-Residential Development Fees

##### (1) Imposition of Fees

(a) 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.

(b) 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.

(c) 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.

##### (2) Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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 Woodbine as a lien against the real property of the owner.

F. Collection Procedures

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.

(5) 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.

(6) 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.

(7) Should the Borough of Woodbine 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).

(8) 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.

(9) **Appeal of Development Fees**

(a) 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 Woodbine. 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.

(b) 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 Woodbine. 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.

G. **Affordable Housing Trust Fund**

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

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

- (a) 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 Woodbine;
  - (b) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  - (c) Rental income from municipally operated units;
  - (d) Repayments from affordable housing program loans;
  - (e) Recapture funds;
  - (f) Proceeds from the sale of affordable units; and
  - (g) Any other funds collected in connection with Woodbine's affordable housing program.
- (3) In the event of a failure by the Borough of Woodbine 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 Woodbine, 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.

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

#### H. Use of Funds

- (1) 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 Woodbine'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.

(2) Funds shall not be expended to reimburse the Borough of Woodbine for past housing activities.

(3) 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 Woodbine is located.

(a) 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.

(b) 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.

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

(4) The Borough of Woodbine 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.

(5) 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.

(a) 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.

(b) 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.

I. Monitoring

The Borough of Woodbine 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 Woodbine's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

J. Ongoing Collection of Fees

(1) The ability for the Borough of Woodbine 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 Woodbine 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.

(2) If the Borough of Woodbine 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).

(3) The Borough of Woodbine 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 Woodbine retroactively impose a development fee on such a development. The Borough of Woodbine also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

**Section II.** Create a new Section 26-4.4 Affordable Housing Overlay zone for the Pinelands Town Residential Districts as follows:

#### Section 26-4.4 Affordable Housing Overlay

1. Purpose. In order to provide for Woodbine Borough's fair share of the region's low- and moderate-income housing, the following standards are provided.
2. Where public sewer and/or sewer treatment plants are provided in a Pinelands Town Residential District which includes ATR, R-1, R-2 and PD, a development shall include affordable housing units in accordance with the following:
  1. The developer of a residential development project in the Pinelands Residential Town Districts containing 20 or more dwelling units or the residential component of a mixed-use development project containing 20 or more dwelling units ("qualifying development project") shall construct, either within such qualifying development project or as a separate project thereto, a minimum of 20% of the total number of residential units as affordable housing units.
  2. The total number of units shall include any development on lots in existence as of the date of this amendment such that a lot may not be subdivided to allow for a lower number of residential units and therefore no requirement for an affordable housing set-aside.
  3. A developer may opt to provide the affordable housing units off-site through the rehabilitation of existing units in the Borough of Woodbine. The rehabilitation of existing units must be for non-deed restricted properties and the rehabilitated units shall meet the requirements as provided for in Section 25-6 Affordable Housing of this Chapter, provided that rehabilitated units meeting the requirement of this Section shall have an affordability control period of at least 30 years. The control period shall start with the date of the first new occupant of the unit after rehabilitation and affirmative marketing is completed in accordance with Section 25-6.
  4. Pursuant to N.J.A.C. 5:93-5.6(f) and Mount Laurel II guidelines, if constructed within a qualifying development project, the affordable housing units shall be disbursed throughout the site plan and shall, to the extent practicable, have an exterior design which is compatible with the surrounding market-rate units. Similarly, affordable units constructed separate from a qualifying development project shall, to the extent practicable, have an exterior design which is compatible with the surrounding housing in the neighborhood.
  5. Where said 20% affordable housing units are to be constructed as part of the qualifying development project, all land use approvals and permits required to construct such units, including, but not limited to, Woodbine Planning Board, Woodbine Zoning Board, County Planning Board, Pinelands, NJDEP/CAFRA and local building permits, shall be obtained under a single series of applications. Where said 20% affordable housing units are to be constructed separately from the qualifying development project, all land use approvals and permits required to construct the qualifying development project and the affordable units shall be

obtained by the filing of separate but simultaneous applications.

6. Regardless of whether constructed as part of a qualifying development project or as separate units, no certificate of occupancy for the market-rate units shall be issued unless a proportionate number of certificates of occupancy are issued for the affordable units. Similarly, where a qualifying development project is proposed to be constructed in phases, the developer shall provide a phasing plan which provides for the affordable housing to be developed proportionately with the market-rate units.

7. The proportion of affordable to market-rate units to be issued certificate of occupancy shall be in accordance with Section 25-6 Affordable Housing regulations in this Chapter.

8. The regulations contained in Section 25-6 Affordable Housing shall also apply.

**SECTION III.** Within Chapter XXVI Zoning Create New Section 25-6 Affordable Housing as follows:

### **Section 25-6 Affordable Housing**

#### **Section 25-6.1 General Program Purposes, Procedures**

##### **A. Affordable Housing Obligation.**

(1) This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing”, *N.J.A.C. 5:93 et seq.*, the Uniform Housing Affordability Controls (“UHAC”), *N.J.A.C. 5:80-26.1 et seq.* except where modified by the terms of a Settlement Agreement between the Borough and Fair Share Housing Center (“FSHC”) such that the statutory requirement to provide very-low income units equal to 13% of affordable units approved and constructed after July 1, 2008, to be affordable to households at 30% of the regional median income, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at *N.J.S.A. 52:27D-329.1*).

(2) This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.

(3) The Woodbine Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at *N.J.S.A. 40:55D-1, et seq.* The Plan has also

been endorsed by the Borough Council of the Borough of Woodbine. The Fair Share Plan describes the ways the Borough shall address its fair share for low- and moderate-income housing as determined by the Superior Court and documented in the Housing Element.

(4) This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of *N.J.A.C. 5:93*, as may be amended and supplemented.

(5) The Borough shall file monitoring and status reports with the Superior Court and place the reports on its municipal website. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring evaluation report prepared by the Special Master in accordance with *N.J.A.C. 5:91* shall be available to the public at the Woodbine Borough Municipal Building, 501 Washington Avenue, Woodbine, New Jersey 08270.

(6) On or about September 27 of each year through the end of the period of Third Round Judgment of Repose, the Borough will 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 all parties to the Borough's Court-approved Settlement Agreements, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and Fair Share Housing Center ("FSHC").

(7) The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection provided in the Borough's agreement with FSHC. The Borough agrees to comply with those provisions as follows:

(a) By July 1, 2020, the Borough must prepare a midpoint realistic opportunity review, as required pursuant to N.J.S.A. 52:27D-313, which 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. 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. In the event the Court determines that a site or mechanism no longer presents a realistic opportunity and should be replaced or supplemented, then the municipality shall have the opportunity to supplement or revise its plan to correct any deficiency.

(b) Within 30 days of September 27, 2020 and September 27, 2023 the Borough shall prepare a review of compliance with the very low income housing requirements required by N.J.S.A. 52:27D-329.1 and its Settlement Agreement with Fair Share Housing Center. 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 the family very low income requirements referenced herein and in the Borough's Settlement Agreement with FSHC. 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 housing obligation.

B. Definitions. As used herein the following terms shall have the following meanings:

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

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

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

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, *N.J.A.C.* 5:91, *N.J.A.C.* 5:93 and *N.J.A.C.* 5:80-26.1 et seq.

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

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

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

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable 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, credited pursuant to *N.J.A.C.* 5:93, 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 where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.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 arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the 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 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, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (*N.J.S.A.* 52:27D-301 et seq.).

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

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

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

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

"Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of *N.J.A.C.* 5:93-5.

"Housing Element" means the portion of the Borough's Master Plan, required by the Municipal Land Use Law ("MLUL"), *N.J.S.A.* 40:55D-28b(3) and the Act, that includes the information required by *N.J.A.C.* 5:93-5.1 and establishes the Borough's fair share obligation.

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

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

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

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

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

“Median income” means the median income by household size for the applicable county, as adopted annually by COAH or approved by the NJ Superior Court.

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

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

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

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

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by adopted/approved Regional Income Limits.

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

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

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

“Special master” means an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

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

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

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

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

C. New Construction. The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

(1) Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

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

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

(3) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

(4) Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:



- (a) The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
  - (b) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
  - (c) Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low income households.
  - (d) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
    - (i) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
    - (ii) At least 30% of all low- and moderate-income units shall be two bedroom units;
    - (iii) At least 20% of all low- and moderate-income units shall be three bedroom units; and
    - (iv) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
  - (e) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- (5) Accessibility Requirements:
- (a) The first floor of all new restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) other dwelling unit shall be subject to the technical design standards of the Barrier Free Subcode, *N.J.A.C. 5:23-7*.
  - (b) All restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) other dwelling unit shall have the following features:
    - (i) An adaptable toilet and bathing facility on the first floor;
    - (ii) An adaptable kitchen on the first floor;
    - (iii) An interior accessible route of travel on the first floor;
    - (iv) An interior accessible route of travel shall not be required between stories within an individual unit;
    - (v) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
    - (vi) An accessible entranceway as set forth at P.L. 2005, c. 350 (*N.J.S.A. 52:27D-311a et seq.*) and the Barrier Free Subcode, *N.J.A.C. 5:23-7*, or evidence that the Borough has collected

funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

[1] 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.

[2] To this end, the builder of restricted units shall deposit funds within the Borough of Woodbine's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

[3] The funds deposited under paragraph [2] herein, shall be used by the Borough for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

[4] The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Woodbine.

[5] 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 of Woodbine's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

[6] 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*.

(6) Maximum Rents and Sales Prices.

(a) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.

(b) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.

(c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.

(i) At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.

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

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

(e) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:

- (i) A studio or efficiency unit shall be affordable to a one-person household;
- (ii) A one-bedroom unit shall be affordable to a one and one-half person household;
- (iii) A two-bedroom unit shall be affordable to a three-person household;
- (iv) A three-bedroom unit shall be affordable to a four and one-half person household; and
- (v) A four-bedroom unit shall be affordable to a six-person household.

(f) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:

- (i) A studio or efficiency unit shall be affordable to a one-person household;
- (ii) A one-bedroom unit shall be affordable to a one and one-half person household; and
- (iii) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

(g) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% 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% of the eligible monthly income of the appropriate size household as determined under *N.J.A.C. 5:80-26.4*, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of *N.J.A.C. 5:80-26.3*, as may be amended and supplemented.

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

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

Income limits for all units for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:

(i) Regional income limits shall be established for the Region 6 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Region 6. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

(ii) The income limits calculated each year shall be the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the relevant fiscal year, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

(iii) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

(j) The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

(k) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

C. Condominium and Homeowners Association Fees.

For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

## **Section 25-6.2. Affordable Unit Controls and Requirements**

A. Purpose. The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.

B. Affirmative Marketing.

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

(2) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 6 and covers the period of deed restriction.

(3) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 6, comprised of Atlantic, Cape May, Cumberland and Salem Counties.

(4) The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.

(5) In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

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

(7) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Woodbine.

C. Occupancy Standards.

(1) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:

- (a) Provide an occupant for each bedroom;
- (b) Provide separate bedrooms for parents and children;
- (c) Provide children of different sexes with separate bedrooms; and
- (d) Prevent more than two persons from occupying a single bedroom.

(2) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

D. Selection of Occupants of Affordable Housing Units.

(1) The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.

(2) A waiting list of all eligible candidates will be maintained in accordance with the provisions of *N.J.A.C. 5:80-26 et seq.*

E. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

(1) Control periods for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.5*, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability.

(2) Rehabilitated owner-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

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

(4) 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.

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

F. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices. Price restrictions for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.1*, as may be amended and supplemented, including:

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

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

(3) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.

(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 capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

#### G. Buyer Income Eligibility.

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

(2) 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% of the household's certified monthly income.

#### H. Limitations on indebtedness secured by ownership unit; subordination.

(1) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.

(2) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with *N.J.A.C. 5:80-26.6(b)*.

#### I. Control Periods for Restricted Rental Units.

(1) Control periods for restricted rental units shall be in accordance with *N.J.A.C. 5:80-26.11*, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability.

(a) Restricted rental units created as part of developments receiving nine percent (9%) Low Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period.

(2) Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

(3) 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 Cape May. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

(4) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:

- (a) Sublease or assignment of the lease of the unit;
- (b) Sale or other voluntary transfer of the ownership of the unit; or
- (c) The entry and enforcement of any judgment of foreclosure.

J. Price Restrictions for Rental Units; Leases.

(1) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

(2) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

(3) Application fees (including the charge for any credit check) shall not exceed 5% 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.

K. Tenant Income Eligibility.

(1) Tenant income eligibility shall be in accordance with *N.J.A.C. 5:80-26.13*, as may be amended and supplemented, and shall be determined as follows:

(a) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.

(b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.

(c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.

(2) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant



to *N.J.A.C. 5:80-26.16*, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- (a) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - (b) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - (c) The household is currently in substandard or overcrowded living conditions;
  - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (e) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances in (2)a through e above with the Administrative Agent, who shall counsel the household on budgeting.

L. Conversions.

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

M. Alternative Living Arrangements.

- (1) The administration of an alternative living arrangement shall be in compliance with *N.J.A.C. 5:93-5.8* and *UHAC*, with the following exceptions:
- (a) Affirmative marketing (*N.J.A.C. 5:80-26.15*), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
  - (b) Affordability average and bedroom distribution (*N.J.A.C. 5:80-26.3*).
- (2) With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with *UHAC*, unless an alternative commitment is approved by the Court.
- (3) The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**Section 25-6.3. Administration.**

A. Municipal Housing Liaison.

(1) The position of Municipal Housing Liaison for the Borough of Woodbine is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Governing Body and be subject to the approval by the Superior Court.

(2) The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Woodbine.

(3) The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in *N.J.A.C. 5:93*.

(4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Woodbine, including the following responsibilities which may not be contracted out to the Administrative Agent:

(a) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

(b) The implementation of the Affirmative Marketing Plan and affordability controls.

(c) When applicable, supervising any contracting Administrative Agent.

(d) Monitoring the status of all restricted units in the Borough of Woodbine's Fair Share Plan;

(e) Compiling, verifying and submitting annual reports as required by the Superior Court;

(f) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and

(g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

B. Administrative Agent.

(1) The Borough shall designate by resolution of the Governing Body, subject to the approval of the Superior Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with *N.J.A.C. 5:93* and UHAC.

(2) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Superior Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

(3) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in *N.J.A.C. 5:80-26.14, 16 and 18* thereof, which includes:

(a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;

- (b) Affirmative Marketing;
- (c) Household Certification;
- (d) Affordability Controls;
- (e) Records retention;
- (f) Resale and re-rental;
- (g) Processing requests from unit owners; and
- (h) Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
- (i) The Administrative Agent shall, as delegated by the Governing Body, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

C. Enforcement of Affordable Housing Regulations.

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

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

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

(i) A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

(ii) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Woodbine Affordable Housing Trust Fund of the gross amount of rent illegally collected;

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

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

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

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

(5) 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.

(6) 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.

(7) 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.

(8) 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.

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

#### **Section 25-6.4 Affirmative marketing Plan**

A. In accordance with the rules and regulations pursuant to N.J.A.C. 5:94 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq., the Borough of Woodbine adopts the following as an affirmative marketing plan.

(1) All affordable housing units shall be marketed in accordance with the provisions herein.

(2) The Borough of Woodbine has an affordable housing obligation. This subsection shall apply to all developments that contain proposed low- and moderate-income units and any future developments that may occur.

(3) In implementing the affirmative marketing program, the Municipal Housing Liaison shall undertake all of the following strategies:

(a) Publication of one advertisement in a newspaper of general circulation within the Housing Region.

(b) Broadcast of one advertisement by a radio or television station broadcasting throughout the Housing Region.

(c) At least one additional regional marketing strategy using one of the other sources listed below.

(4) 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 or sponsor of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the period of deed restriction. The Borough of Woodbine is in the Housing Region 6 consisting of Atlantic, Cape May, Cumberland and Salem Counties. The

affirmative marketing program is a continuing program and shall meet the following requirements:

(a) All newspaper articles, announcements and requests for applications for low- and moderate-income units shall appear in the following daily regional newspaper/publication:

(i) The Atlantic City Press.

(ii) The Herald Times.

(b) The primary marketing shall take the form of at least one press release sent to the above publication and a paid display advertisement in the above newspaper. Additional advertising and publicity shall be on an "as needed" basis. The developer shall disseminate all public service announcements and pay for display advertisements. The developer shall provide proof of publication to the Housing Administrator. The Housing Administrator shall approve all press releases and advertisements in advance. The advertisement shall include a description of the:

(i) Location of the units;

(ii) Direction to the units;

(iii) Range of prices for the units;

(iv) Size, as measured in bedrooms, of units;

(v) Maximum income permitted to qualify for the units;

(vi) Location of applications;

(vii) Business hours when interested households may obtain an application; and

(viii) Application fees, if any.

(c) All newspaper articles, announcements and requests for applications for low- and moderate-income housing shall appear in the following neighborhood-oriented weekly newspapers within the region:

(i) Atlantic City Press.

(ii) Cape May County Herald.

(iii) The Herald Times.

(d) The following regional cable television station or regional radio station shall be used. The developer must provide satisfactory proof of public dissemination:

(i) South Jersey News Channel.

(ii) New Jersey 101.5 FM.

(iii) WNJZ 90.3 Public Radio (WHYY).

(e) The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program:

- (i) Borough of Woodbine Municipal Building.
- (ii) Cape May County Public Library and Branches.
- (iii) Woodbine Borough Web site.
- (iv) Developer's sales office.
- (v) Municipal libraries and municipal administrative buildings in the region.
- (vi) Cape May County Office of Municipal and County Government Services.
- (vii) Cape May County Housing Authority.

(f) The following is a listing of community contact person(s) and/or organizations(s) in Atlantic, Cape May, Cumberland and Salem that will aid in the affirmative marketing program with particular emphasis on contracts that will reach out to groups that are least likely to apply for housing within the region:

- (i) Lions club.
- (ii) Habitat for Humanity.
- (iii) Rotary Club.
- (iv) Houses of worship.
- (v) New Jersey Housing Resource Center.
- (vi) Fair Share Housing Center
- (vii) The New Jersey State Conference of the NAACP
- (viii) Latino Action Network
- (ix) Mainland/Pleasantville, Mizpah, Atlantic City and Cape May County branches of the NAACP

(g) Quarterly flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members:

- (i) Atlantic County Board of Realtors
- (ii) Cape May County Board of Realtors
- (iii) Cumberland County Board of Realtors
- (iv) Salem County Board of Realtors

(5) Applications shall be mailed to prospective applicants upon request. Also, applications shall be available at the developer's sales/rental office.

(6) Additionally, quarterly informational circulars and applications shall be sent to the chief administrative employees of each of the following agencies in the counties of Atlantic, Cape May, Cumberland and Salem:

- (a) Welfare or social services board
- (b) Rental assistance office (local office of DCA)
- (c) Office on Aging
- (d) Housing Agency or Authority
- (e) Library
- (f) Area community action agencies

(7) A random selection method to select occupants of low- and moderate-income housing will be used by the Municipal Housing Liaison, in conformance with N.J.A.C. 5:80-26.16 (1).

B. The Municipal Housing Liaison is the person responsible to administer the program. The Municipal Housing Liaison has the responsibility to income qualify low- and moderate-income households; to place income-eligible households in low- and moderate-income units upon initial occupancy; to provide for the initial occupancy of low- and moderate-income units with income-qualified households; to continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls; to assist with outreach to low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26. The Municipal Housing Liaison within the Borough of Woodbine is the designated housing officer to act as liaison to the Borough Administrator. Also, the Municipal Housing Liaison shall direct qualified low- and moderate-income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law.

C. All developers of low- and moderate-income housing units shall be required to assist in the marketing of the affordable units in their respective developments.

D. The marketing program shall commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program shall continue until all low-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continue to be necessary.

E. The Municipal Housing Liaison will comply with monitoring and reporting requirements as per N.J.A.C. 5:80-26

**NOW THEREFORE, BE IT FURTHER ORDAINED** by the Governing Body for the Borough of Woodbine, County of Cape May and State of New Jersey, that a certified copy of this ordinance is forwarded to the Pinelands Commission for certification.



Mayor Pikolycky opened the public hearing on the following ordinance. There being no comment forthcoming the public hearing was then closed. On motion of Councilman Benson, seconded by Councilman Ortiz to approve and adopt the following ordinance, unanimously carried upon roll call vote. Ayes: Ortiz, Johnson, Bennett, Benson, Cruz Nays: None Abstain: None Absent: Perez

At this time Mayor Pikolycky called for the following resolutions:

**RESOLUTION NO. 8-69-2018**

**TRANSFER OF PROPERTY TAXES FOR 2018**

**WHEREAS**, the Tax Collector of the Borough of Woodbine has reviewed the overpayment and delinquent tax list for the year 2018; and

**WHEREAS**, an overpayment has been created on the below listed; and

**WHEREAS**, the Tax Collector of the Borough of Woodbine has determined that said overpayments should be transferred appropriately which will create a zero balance on the account for the year 2018.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodbine, in the County of Cape May and State of New Jersey, that the following amounts be transferred accordingly.

<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>NAME</u></b>	<b><u>AMOUNT</u></b>
52	15	Lisa Feliciano	\$128.26
112	3 C-003	Dewey Whitehouse	\$320.31

On motion of Councilman Johnson, seconded by Councilman Bennett to approve the foregoing resolution, unanimously carried.

On motion of Councilman Ortiz, seconded by Councilman Johnson to approve the following resolution, unanimously carried.

**RESOLUTION NO. 8-70-2018**

**AUTHORIZING THE TAX COLLECTOR TO PLACE A SPECIAL ASSESSMENT  
AGAINST CERTAIN PROPERTIES**

**WHEREAS**, Ordinance No. 151 of the Borough of Woodbine requires that property owners maintain their property in accordance with said ordinance; and

**WHEREAS**, a Notice of Violation was served on the property owner of the property listed below, and they failed to correct the condition set forth in the Notice of Violation within the time specified; and

**WHEREAS**, the Code Enforcement Official authorized services to be performed to correct the condition at a cost to the Borough of Woodbine as hereinafter provided.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodbine:

1. That the Tax Collector of the Borough of Woodbine is hereby authorized to record the following sums of money on the property listed below as a special assessment and municipal lien to be collected as required by law.

Block 10 Lot 10 626 Jackson Avenue	\$ 140.00
Block 12 Lot 5 713 Jackson Avenue	140.00
Block 25 Lot 6 414 Jackson Ave	140.00
Block 32 Lot 2 341 Washington Ave	200.00
Block 57 Lot 9 716 Monroe Ave	140.00
Block 61 Lot 8 917 Franklin Avenue	140.00
Block 69 Lot 9 306 Madison Ave	140.00

**RESOLUTION NO. 8-71-2018**

**APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT  
CONTRACT WITH THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS  
FOR PEDESTRIAN SIDEWALK AND ADA IMPROVEMENTS**

**SCHEDULE I: RESOLUTION**

**WHEREAS**, the Borough of Woodbine desires to apply for and obtain a grant from the New Jersey Department of Community Affairs, Small Cities Public Facilities Fund for an amount not to exceed \$400,000, for pedestrian sidewalk and ADA improvements;

**BE IT THEREFORE, RESOLVED,**

- 1) that the Borough of Woodbine does hereby authorize the application for such a grant; and,
- 2) recognizes and accepts that the Department may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from the New Jersey Department of Community Affairs, does further authorize the execution of any such grant agreement; and also, upon receipt of the fully executed agreement from the Department, does further authorize the expenditure of funds pursuant to the terms of the agreement between the Borough of Woodbine and the New Jersey Department of Community Affairs.

**BE IT FURTHER RESOLVED**, that the persons whose names, titles, and signatures appear below are authorized to sign the application, and that they or their successors in said titles are authorized to sign the agreement, and any other documents necessary in connection therewith:

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
William Pikolycky

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
Lisa Garrison

\_\_\_\_\_  
Borough Clerk

On motion of Councilman Ortiz, seconded by Councilman Bennett to approve the foregoing resolution, unanimously carried.

On motion of Councilman Bennett, seconded by Councilman Ortiz to approve the following resolution, unanimously carried.

**RESOLUTION NO. 8-72-2018**

**GRANT MANAGEMENT PLAN  
FY 2019 Small Cities Programs**

**Public Facilities Fund: Pedestrian Sidewalk and ADA Improvements**

**WHEREAS**, the Borough of Woodbine is applying for a Small Cities grant from the Public Facilities Fund and, if awarded funding, will entered into a Grant Agreement with the New Jersey Department of Community Affairs; and

**WHEREAS**, the Borough is required to submit a Grant Management Plan as part of each Small Cities application;

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Woodbine, County of Cape May and State of New Jersey, that:

The Grant Management Plan prepared by the Borough and submitted to DCA Small Cities with the application for pedestrian sidewalk and ADA improvements is hereby adopted to identify Todd Noon of Triad Associates as the Project Coordinator and Mayor William Pikolycky as the Program Director and Official Contact Person.

This is to certify that the foregoing Resolution was duly adopted at a Regular Meeting of the Woodbine Borough Council which was held on August 16, 2018.

**RESOLUTION NO. 8-73-2018**

**IDENTIFYING CDBG FAIR HOUSING OFFICER  
Public Facilities Fund: Pedestrian Sidewalk and ADA Improvements**

**WHEREAS**, the Borough of Woodbine is applying for a Small Cities Community Development Block Grant from the New Jersey Department of Community Affairs (hereafter NJDCA) for funds for pedestrian sidewalk and ADA improvements, and;

**WHEREAS**, the Borough of Woodbine must make efforts to affirmatively further fair housing, and;

**WHEREAS**, the Borough of Woodbine has reviewed various actions that would be acceptable to the New Jersey State Department of Community Affairs and the U.S. Department of Housing and Urban Development;, and;

**WHEREAS**, the Borough of Woodbine has made assurances in the grant agreement that:

- (1) It will comply with the Housing and Community Development Act of 1974, as amended, and regulations issued thereto, and;
- (2) It will comply with the Civil Rights Act of 1964, and the regulations issued thereto it, and;
- (3) It will comply with the Fair Housing Act of 1968 and will affirmatively further fair housing, and;
- (4) It will comply with the Age Discrimination Act of 1975 and with the Rehabilitation Act of 1973.

**NOW, THEREFORE, BE IT RESOLVED** that Monserrate Gallardo, shall be designated as the Fair Housing Officer for the Borough of Woodbine, and;

**BE IT FURTHER RESOLVED** that the Fair Housing Officer shall contact USHUD Regional Office of Housing and Equal Opportunity and the NJ Division on Civil Rights, inform those agencies of her appointment as Fair Housing Officer and request Fair Housing Information, and;

**BE IT FURTHER RESOLVED** that the Fair Housing Officer shall provide fair housing advisory services and assistance and referral advice to persons requesting such assistance from the Borough of Woodbine, and;

**BE IT FURTHER RESOLVED** that the Borough of Woodbine will publish in the local newspaper of record and post at the municipal building a public notice announcing the appointment of the Fair Housing Officer and the availability of local fair housing services.

On motion of Councilman Bennett, seconded by Councilman Johnson to approve the foregoing resolution, unanimously carried.

On motion of Councilman Cruz, seconded by Councilman Bennett to approve the following resolution, unanimously carried.

**RESOLUTION NO. 8-74-2018**

**CITIZEN PARTICIPATION PLAN  
FY 2019 Small Cities Programs**

**Public Facilities Fund: Pedestrian Sidewalk and ADA Improvements**

**WHEREAS**, the Borough of Woodbine is applying for a Small Cities grant under the Public Facilities Fund and if awarded intends to enter into Grant Agreements with the New Jersey Department of Community Affairs; and

**WHEREAS**, these Grant Agreements will require the Borough of Woodbine to comply with all federal regulations with respect to citizen participation;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and the Council of the Borough of Woodbine, County of Cape May and State of New Jersey, that:

The Citizen Participation Plan developed by the New Jersey Department of Community Affairs, Small Cities CDBG Program, is adopted by the Borough of Woodbine; and

The Borough of Woodbine will follow all regulations set forth in that document throughout the term of the Grant Agreement cited above, if awarded.

**RESOLUTION NO. 8-75-2018**

**RESOLUTION AMENDING RESOLUTION NO. 6-56-2018  
A RESOLUTION AWARDED A CONTRACT FOR HELICOPTER PARKING APRON  
TO SOUTH STATE, INC.**

**WHEREAS**, sealed bids were received on June 20, 2018 by the Borough for the Helicopter Parking Apron project; and

**WHEREAS**, South State Inc. of Bridgeton, NJ submitted the lowest of two (2) bids received for the Base Bid and Bid Adjustment which are summarized as follows:

<b>Bidder</b>	<b>Base Bid</b>	<b>Bid Adjustment</b>
Charles Marandino, LLC	\$ 431,285	\$ -34,690
South State, Inc.	420,278	-79,390

**WHEREAS**, on June 21, 2018 the Council of the Borough of Woodbine adopted Resolution 6-56-2018 awarding a contract to South State, Inc. in the amount of \$340,888 representing the base bid less the bid adjustment after considering the need to perform all of the services contained in the specifications for the base bid; and

**WHEREAS**, subsequent to the adoption of Resolution 6-56-2018, the Woodbine Borough Airport Engineer recommended the Borough consider approving all of the services which are included in the bid specifications for the base bid without any reductions in services and award the contract to South State, Inc. as the lowest bidder in the amount of the base bid of \$420,278.00 as submitted and received on June 20, 2018; and

**WHEREAS**, the Chief Financial Officer certifies that funds are available for this Contract in accordance with N.J.A.C. 5:30-5.4; and

**WHEREAS**, the bid of South State, Inc. has been submitted in proper form and the contractor appears qualified to perform the work anticipated under this contract;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodbine, that the award of said contract is hereby made to South State, Inc. in the amount of \$420,278.00 comprising the Base Bid, subject to concurrence with said award by the Federal Aviation Administration, the agency funding this project.

**BE IT FURTHER RESOLVED** that upon approval by the above noted funding agencies the Mayor and Clerk are hereby authorized to execute all documents necessary to effectuate a contract with South State, Inc. for this project.

On motion of Councilman Benson, seconded by Councilman Johnson to approve the foregoing resolution, unanimously carried.

On motion of Councilman Ortiz, seconded by Councilman Bennett to approve the following resolution, unanimously carried.

#### **RESOLUTION – 8-76-2018**

#### **REFUND OF HOMESTEAD PROPERTY TAX REBATE**

**WHEREAS,** a Veteran's Exemption was approved on May 12, 2016 for Block 53 Lot 13, Enrique Rodriguez, 624 Clay Street, Woodbine, New Jersey, NJ; and

**WHEREAS,** due to the Veteran's Exemption there are no property taxes billed on Block 53 Lot 13; and

**WHEREAS,** the 2015 Homestead Rebate in the amount of \$54.39 has been received and needs to be refunded to the property owner.

**NOW, THEREFORE, BE IT RESOLVED** that a refund be made to the respective taxpayer whose name and address appears above for the amount set forth therein; and

**BE IT FURTHER RESOLVED** that a copy of this Resolution be filed with the Collector of Taxes and the Borough Treasurer.

#### **RESOLUTION NO. 8-77-2018**

#### **REFUND OVERPAYMENT ON PROPERTY TAXES**

**WHEREAS,** the Tax Collector of the Borough of Woodbine has collected from the below listed excess on their 2018 property taxes; and

**WHEREAS,** an overpayment has been created on the below listed due to the following; and

**WHEREAS,** the Tax Collector of the Borough of Woodbine has determined that said overpayment should be refunded accordingly to the below listed:

<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>NAME</u></b>	<b><u>AMOUNT</u></b>	<b><u>REASON</u></b>
102	1	Allen Osmundsen Jr. 1113 Morris Ave Woodbine, NJ 08270	\$ 1,144.18	Assessment Change/ Veteran Exemption

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodbine, County of Cape May, State of New Jersey that the Chief Financial Officer is hereby authorized to execute said refund and that the Tax Collector should mark her records accordingly.

On motion of Councilman Cruz, seconded by Councilman Johnson to approve the foregoing resolution, unanimously carried.

On motion of Councilman Benson, seconded by Councilman Johnson to approve the following resolution, unanimously carried.

#### **RESOLUTION NO. 8-78-2018**

**ENDORSEMENT OF STREETScape PROJECT  
AND  
AGREEING TO PROVIDE LONG TERM MAINTENANCE OF IMPROVEMENTS  
UNDER THE NJDOT TRANSPORTATION ALTERNATIVES SET-ASIDE PROGRAM**

**WHEREAS**, the Transportation Efficiency Act provides funds to the New Jersey Department of Transportation for a variety of pedestrian and vehicular "Transportation Enhancements: and

**WHEREAS**, the Borough of Woodbine desires to seek funds from the NJ Transportation Alternative Program for continuing development of the Borough's Town Center Streetscape Program which project was previously endorsed in Resolution 6-60-2018; and

**WHEREAS**, the Borough of Woodbine is responsible for the maintenance of the improvements funded by this program including but not limited to curbing, sidewalks, lighting, landscaping and other miscellaneous streetscape improvements;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodbine that:

1. The endorsement of the Streetscape project including improvements on Adams Avenue and Franklin Street in the block surrounding the Borough Complex as spelled out in Resolution 6-60-2018 is hereby reiterated.
2. It is agreed that the Borough will provide the long term maintenance of the proposed improvements that are funded through this program.

**BE IT FURTHER RESOLVED** that the Mayor and Clerk are hereby authorized to sign the application, the agreement and any other required documents in connection with this application and project implementation.

**RESOLUTION NO. 8-79-2018**

**RESOLUTION BY WOODBINE BOROUGH WITH INTENT TO BOND FOR  
UNANTICIPATED SHORTFALL IN FUNDING FOR THE AFFORDABLE  
HOUSING PROGRAM**

**WHEREAS**, Woodbine Borough prepared a Housing Element and Fair Share Plan on in accordance with a Fairness Hearing held June 12, 2018 under Docket No. CPM-L-310-15.; and

**WHEREAS**, the Borough proposes to create a market to affordable program and a housing rehabilitation program to meet its full rehabilitation obligation as per the approved Housing Element and Fair Share Plan; and



**WHEREAS**, Woodbine Borough anticipated that funding for this program will come from the a development fee ordinance; and

**WHEREAS**, in the event that the above funding source prove inadequate to meet Woodbine Borough's funding obligation, the Borough shall provide sufficient funding to make up any shortfalls.

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Borough of Woodbine, County of Cape May, State of New Jersey, that the governing body does hereby agree to fund any shortfalls in its affordable housing program that may arise either due to inadequate funding from any other sources, or for any other reason;  
And

**BE IT FURTHER RESOLVED** that said shortfalls shall be funded by bonding or any other vehicle, which the governing body deems reasonable, and appropriate to meet said needs.

On motion of Councilman Bennett, seconded by Councilman Johnson to approve the foregoing resolution, unanimously carried.

On motion of Councilman Ortiz, seconded by Councilman Bennett to approve the following resolution, unanimously carried.

#### **RESOLUTION NO. 8-80-2018**

#### **A RESOLUTION ADOPTING THE THIRD ROUND 2018 HOUSING ELEMENT AND FAIR SHARE PLAN**

**WHEREAS**, on August 15, 2018 the Planning Board of the Borough of Woodbine adopted a housing Element and Fair Share Plan; and

**WHEREAS**, the Housing Element and Fair Share Plan addresses the Borough's Mount Laurel Obligations as delineated in the court-approved Settlement Agreement between the Borough of Woodbine and Fair Share Housing Center, dated April 20, 2018; and

**WHEREAS**, the Borough of Woodbine remains committed to comply with its constitutional Mount Laurel obligations by voluntarily providing for its "fair share" of affordable housing.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Woodbine as follows:

1. The Borough Council hereby endorses the Housing Element and Fair Share Plan as adopted by the Planning Board of the Borough of Woodbine on August 15, 2018.
2. Pursuant to the provisions of N.J.S.A. 52: 27D-201 et seq. the Borough Council

hereby authorizes its professionals to immediately file the adopted and endorsed Housing Element and Fair Share Plan and other relevant documents with the Court.

3. The Borough Council hereby authorizes its professionals to take any and all action as reasonable and necessary to secure a Final Round 3 Judgment of Compliance and Repose to maintain the Borough's immunity from any Mount Laurel lawsuits.

On motion of Councilman Bennett, seconded by Councilman Johnson to approve the following resolution, unanimously carried.

### **RESOLUTION NO. 8-82-2018**

#### **A RESOLUTION SUPPORTING THE CONCEPT OF AN ALTERNATIVE TREATMENT CENTER IN THE BOROUGH OF WOODBINE IN ACCORDANCE WITH THE NEW JERSEY COMPASSIONATE USE MEDICAL MARIJUANA ACT, N.J.S.A. 24: 61-1 ET SEQ.**

**WHEREAS**, N.J.S.A. 24:61-1 et seq. cited as the "New Jersey Compassionate Use of Medical Marijuana Act" establishes that modern medical research has discovered a beneficial use for medical marijuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions: and

**WHEREAS**, the Statute provides for medical marijuana alternative treatment centers approved by the State of New Jersey Department of Health and Human Services; and

**WHEREAS**, Governor Philip Murphy has executed Executive Order No. 6 which directs the Department of Health undertake a review of all aspects of New Jersey's compassionate Use Medical Marijuana Act to include siting new licenses for the growing, manufacturing and dispensing of medical marijuana to adequately serve those residents who need treatment for debilitating medical conditions for which medical marijuana may be authorized; and

**WHEREAS**, on July 2, 2018 the Department of Health issued a summary which states that the State's medical marijuana program is providing greater access to treatment for medical conditions including anxiety, migraines, Tourette's Syndrome, chronic pain related to musculoskeletal disorders and chronic visceral pain and that the number of patients receiving prescriptions for medical marijuana is growing: and

**WHEREAS**, the Department of Health has found that studies have shown that medical marijuana has benefitted patients with chronic pain, cancer, HIV, Epilepsy, Multiple Sclerosis, IBD and Rheumatoid Arthritis, among many other conditions and more importantly, found that "studies have shown a strong correlation between the availability of medical marijuana and the reduction of opioid prescriptions, saving many from a lifetime of addiction and possible overdose death. Two studies in the Journal of the American Medical Association showed a 6% decrease in opioid prescriptions in states with strong medical marijuana laws"; and

**WHEREAS**, as a result of the findings of the Department of Health, it is apparent that

the need for medical marijuana is growing far beyond the number of licensed facilities which supply the same and therefor has recommended additional licenses be created, two of which shall be located within the southern part of the state; and

**WHEREAS**, entities wishing to operate alternative treatment centers must apply to obtain a permit from the New Jersey Department of Health and Human Services and may be non-profit or for-profit entities, and are thoroughly investigated during the application process, including background checks; and

**WHEREAS**, physicians, patients and caregivers are strictly regulated and registered by the New Jersey Department of Health and Human Services to qualify for certification in a bona fide physician-patient relationship; and

**WHEREAS**, the Council of the Borough of Woodbine accepts Executive Order No. 6 and the findings of the State of New Jersey Department of Health regarding the benefits of medical marijuana and the need associated with its use as prescribed by a licensed physician and further recognizes the economic benefit of the location of an alternative treatment center in the Borough including tax ratables and job creation.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Woodbine that the Borough supports the concept of an Alternative Treatment Center within the meaning of N.J.A.C. 8:64-1.1 et seq. locating within the Borough subject to all requisite State and local approvals, including land use approvals and compliance with all present and future Borough Ordinances which may be enacted to address such operation.

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to execute a letter in support of the location of an Alternative Treatment Center license within the Borough.

Unfinished Business: None

New Business:

Engineer's Report – nothing further to report

Airport Utility Engineer's Report – nothing further to report

Solicitor's Report – nothing further to report.

Public Comment: None

Payment of Bills: On motion of Councilman Johnson, seconded by Councilman Cruz to approve the bills for payment, unanimously carried.

Adjournment: On motion of Councilman Ortiz, seconded by Councilman Bennett to adjourn, unanimously carried.

Respectfully submitted,

Lisa Garrison  
Borough Clerk