

**CINNAMINSON TOWNSHIP COMMITTEE**  
**REGULAR SESSION MINUTES**  
**September 16, 2019**

Mayor McGill announced that the Regular Meeting of the Township Committee was being held at 6:30 p.m. in the Municipal Building, 1621 Riverton Road, Cinnaminson, NJ 08077. This meeting is being held in accordance with the "Open Public Meetings Act," P.L. 1975 c.231, having been duly noticed to the Burlington County Times and the Courier Post on January 11, 2019.

In attendance: Mr. Conda, Mrs. Kravil, Mr. Segrest, Deputy Mayor Horner, Mayor McGill. Also present: Eric Schubiger, Administrator; Julia Edmondson, CFO; Stuart Platt, Solicitor; Lisa Passione, Municipal Clerk, Linda Galella, Parker McCay

Mr. Platt suggested beginning the meeting with the public hearing of ordinances for adoption. Ordinances are read into the record by Mayor McGill. Mayor McGill requested that Linda Galella give an explanation of each ordinance.

**ORDINANCE PUBLIC HEARING:**

Ms. Galella reviews each ordinance. The compliance hearing is scheduled for October 2, 2019. Approval of this settlement will immunize the Township from lawsuits on affordable housing until July 1, 2025. If this settlement and these ordinances are not approved, a builder could potentially sue the township, allowing them to build where they chose to build, not where the Township has designated.

Mayor McGill opens public comment on Ordinances 2019-10, 2019-12, 2019-13 and 2019-14.

Richard Dietrich, 19 Emerson Drive – Asks where and how the taxes will increase or decrease. Also asks the monetary definition of low income and moderate income. Ms. Galella explains that it is by region; Cinnaminson is housing region 5. Moderate income is 50% of median income, low income is 30% and very low income is 15%. Median income is \$83,200.

Ben Young, 116 Woodview Lane – Questions whether the zone between Union Landing and Taylors lane is correct. He also believes the zone for Bannard is from Bannard to Hunter's Farm. Also comments on the height of the units allowed in the ordinances. Ms. Galella states that she will verify.

Thomas Chichester, 702 Wood Lane – Asked what constitutes a unit? Ms. Galella states that it is considered a residential dwelling, whether it's an apartment, townhome or single family dwelling. He asks what a multiplex is. Ms. Galella states it is three or more units under a common roof.

Richard Ransome, 825 Pear St. – Questions how the areas were chosen, specifically the light rail area. Ms. Galella explains the process, that they were recommended by Fair Share Housing and the Township Planner. Because land is scarce, having multi story units is necessary to achieve appropriate density. Ms. Galella adds that this is a maximum height but that a developer would not be required to build the three or four stories.

Richard Dietrich, 19 Emerson Drive – Has there been any discussion with the Fire District regarding the three and four stories in terms of what they can handle? Mayor McGill states that he has spoken to them and they are fine with the height. Mr. Conda adds this is because they are building with concrete, not stick.

Karon Branch, 802 Pear St. – Asks if this is to stop the developers from building affordable housing in other locations. Ms. Galella confirms that it is.

Mr. Minton comments that for the transit village the Township envisions the first floor as retail, mixed use with living space above. Ms. Galella adds that Fair Share Housing prefers overlay zones near public transportation to make it more beneficial for low/moderate income persons who may not have transportation.

Seeing no one else come forward Mayor McGill closes public comment on Ordinances 2019 – 10, 2019 – 12, 2019 – 13 and 2019 – 14.

**Ordinance 2019 – 10** Amending Chapter 243 Development Fees to Provide for The Collection of Development Fees in Support of Affordable Housing as Permitted by The New Jersey Fair Housing Act  
*Linda Galella – This ordinance designates developer fees at 2 ½ % for commercial, 1 ½ % for residential to trust fund for COAH and what these fees can be used for.*

MOTION TO ADOPT ORDINANCE 2019 – 10 MADE BY MR. SEGREST, seconded by Mayor McGill. Roll call vote. All aye. Ordinance 2019 – 10 is adopted.

**ORDINANCE NO. 2019-10**

**AN ORDINANCE OF THE TOWNSHIP OF CINNAMINSON  
AMENDING CHAPTER 243 DEVELOPMENT FEES TO PROVIDE  
FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT  
OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW  
JERSEY FAIR HOUSING ACT**

WHEREAS, In Holmdel Builder’s Association v. Holmdel 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); and

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

BE IT ORDAINED by the Township Committee of the Township of Cinnaminson, Burlington County, New Jersey, that the Code of the Township of Cinnaminson is hereby amended to include the following provisions regulating the collection and disposition of mandatory development fees to be used in connection with the Township’s affordable housing programs, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1, *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

Chapter 243 entitled “Development Fees” is repealed in its entirety and a new Chapter 243 entitled “Development Fees” is added as follows:

1. Purpose

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

2. Basic Requirements

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

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

3. Definitions

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

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

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

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

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

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

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

#### 4. Residential Development Fees

##### A. Imposition of Fees

1) Within the Township of Cinnaminson, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

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

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

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

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

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

#### 5. Non-Residential Development Fees

##### A. Imposition of Fees

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

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

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

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

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

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

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

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

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

6. Collection Procedures

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

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

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

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

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

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

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

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

I. Appeal of Development Fees

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

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Cinnaminson. 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.

7. Affordable Housing Trust Fund

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

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

- 1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Cinnaminson;
- 2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
- 3) Rental income from municipally operated units;
- 4) Repayments from affordable housing program loans;
- 5) Recapture funds;
- 6) Proceeds from the sale of affordable units; and
- 7) Any other funds collected in connection with Cinnaminson's affordable housing program.

C. In the event of a failure by the Township of Cinnaminson 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 Township of Cinnaminson, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds

in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

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

## 8. Use of Funds

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Cinnaminson'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; conversion of existing non-residential buildings to create new affordable units; building improvements that reduce utility costs (including but not limited to green building improvements designed to be cost saving); purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Township of Cinnaminson for past housing activities.

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance

to those households earning 30 percent or less of the median income for Housing Region 5, in which Cinnaminson is located.

1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.

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

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

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

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

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

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

## 9. Monitoring

On or about October 2<sup>nd</sup> of each year through 2025, the Township of Cinnaminson 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 Township), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Township owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Cinnaminson's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

10. Ongoing Collection of Fees

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

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

C. The Township of Cinnaminson 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 Township of Cinnaminson retroactively impose a development fee on such a development. The Township of Cinnaminson also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

**REPEALER**

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

**SEVERABILITY**

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

**EFFECTIVE DATE**

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

**Ordinance 2019 – 12** Amending and Replacing Chapter 145 Affordable Housing Sections 1 through 12 to Address the Requirements of the New Jersey Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the Townships' Affordable Housing Obligations

*Linda Galella explains this updates the affordable housing ordinance to be in compliance with Fair Share Housing. This is more detailed then current ordinance showing number of bedrooms, marketing, rents, sales prices etc.*

MOTION TO ADOPT ORDINANCE 2019 – 12 MADE BY MR. SEGREST, seconded by Mayor McGill. Roll call vote. All aye. Ordinance 2019 – 12 is adopted.

**ORDINANCE NO. 2019-12**

**AN ORDINANCE OF THE TOWNSHIP OF CINNAMINSON  
AMENDING AND REPLACING CHAPTER 145 AFFORDABLE  
HOUSING, SECTIONS 1 THROUGH 12 TO ADDRESS THE  
REQUIREMENTS OF THE NEW JERSEY FAIR HOUSING ACT AND  
THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC)  
REGARDING COMPLIANCE WITH THE TOWNSHIP'S  
AFFORDABLE HOUSING OBLIGATIONS**

BE IT ORDAINED by the Township Committee of the Township of Cinnaminson, Burlington County, New Jersey, that the Code of the Township of Cinnaminson Chapter 145-1 through 145-12 is hereby amended and replaced to include provisions addressing Cinnaminson's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

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

**Section 1. Monitoring and Reporting Requirements**

The Township of Cinnaminson shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Housing Element and Fair Share Plan:

1. On the first anniversary of the entry of the Order granting Cinnaminson a Final Judgment of Compliance and Repose in IMO Application of Cinnaminson Township, Docket No.BUR-L-450-14 and every anniversary thereafter through the end of the Repose period, the Township agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
2. On the first anniversary of the entry of the Order granting Cinnaminson a Final Judgment of Compliance and Repose in IMO Application of Cinnaminson Township, Docket No.BUR-L-450-14 and every anniversary thereafter through the end of the Repose period, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
3. On July 1, 2020, which is the midpoint realistic opportunity review, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
4. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the Order granting Cinnaminson Final Judgment of Compliance and Repose in IMO Application of Cinnaminson Township, Docket No.BUR-L-450-14, and every third year thereafter, the Township will post on its municipal website, with copies

provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, on the issue of whether the municipality has complied with its very low income housing obligation.

## **Section 2. Definitions**

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

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

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

“Administrative agent” means the entity designated by the Township to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Fair Share Plan” means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township 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 Township’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 Township’s fair share obligation.

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

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

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

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

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

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

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

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

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

“Present need” means an estimate of low-and moderate-income households living in substandard housing as calculated through the use of census surrogates.

“Prior Round housing obligation” is the 1987 - 1999 fair share based on N.J.A.C. 5:93-1.

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

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

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

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

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

“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.

“Superior Court” or “the Court” means the Superior Court of New Jersey.

“Third round housing obligation” means the 1999 – 2025 housing obligation as determined by the Superior Court.

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

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

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

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

### **Section 3. Applicability**

1. The provisions of this Ordinance shall apply to all affordable housing developments, affordable housing units and 100 percent affordable housing projects financed with low income tax credits or other federal or state programs and that currently exist and that are proposed to be created within the Township of Cinnaminson pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.

2. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units, including 100 percent affordable housing projects financed with low income tax credits or other federal or state programs

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

4. Projects receiving Federal Low Income Housing Tax Credit financing shall comply with the income and bedroom distribution requirements of UHAC (with the exception that the UHAC requirement for 10 percent of the affordable units in rental projects being required to be at 35 percent of median income be modified as required by the statutory requirement, N.J.S.A. 52:27D-329.1 to 13 percent of affordable units in such projects shall be required to be at 30 percent of median income).

### **Section 4. 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 5. Phasing Schedule for Inclusionary Zoning**

In inclusionary developments the following schedule shall be followed:

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

**Section 6. New Construction**

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

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

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

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

1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;

2) At least 30 percent of all low- and moderate-income units shall be two bedroom units;

3) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

4) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

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

2. Accessibility Requirements:

a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

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

1) An adaptable toilet and bathing facility on the first floor; and

2) An adaptable kitchen on the first floor; and

3) An interior accessible route of travel on the first floor; and

4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

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

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

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

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

c) The funds deposited under paragraph 6(b) above shall be used by the Township of Cinnaminson for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Cinnaminson for the conversion of adaptable to accessible entrances.

e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

### 3. Design:

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

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

### 4. Maximum Rents and Sales Prices:

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

Regional income units shall be established for the region that the Township is located within (i.e. Region 5) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on

multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

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

c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

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

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

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

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

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

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

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

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

## **Section 7. Utilities**

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

## **Section 8. Occupancy Standards**

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

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

## **Section 9. Control Periods for Restricted Ownership Units and Enforcement Mechanisms**

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Cinnaminson takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

## **Section 10. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices**

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

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

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

### **Section 11. Buyer Income Eligibility**

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

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

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

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

### **Section 12. Limitations on Indebtedness Secured by Ownership Unit; Subordination**

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

### **Section 13. Capital Improvements To Ownership Units**

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

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

### **Section 14. Control Periods for Restricted Rental Units**

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of

this Ordinance for a period of at least 30 years, until Cinnaminson takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

- a. Restricted rental units created as part of developments receiving nine percent (9%) Low Income Tax Credits must comply with a control period of not less than a 30-year period.
  - b. Rehabilitation renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Burlington. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
- a. Sublease or assignment of the lease of the unit;
  - b. Sale or other voluntary transfer of the ownership of the unit; or
  - c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

#### **Section 15. Rent Restrictions for Rental Units; Leases**

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

#### **Section 16. Tenant Income Eligibility**

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

- b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - c. The household is currently in substandard or overcrowded living conditions;
  - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

**Section 17. Municipal Housing Liaison**

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

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

- a. Serving as Cinnaminson's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- b. Monitoring the status of all restricted units in Cinnaminson's Fair Share Plan;
- c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
- d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
- e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

**Section 18. Administrative Agent**

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

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

1. Affirmative Marketing:

- a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Cinnaminson and the provisions of N.J.A.C. 5:80-26.15; and
- b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

- a. Soliciting, scheduling, conducting and following up on interviews with interested households;
- b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
- f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Cinnaminson when referring households for certification to affordable units.

3. Affordability Controls:

- a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Burlington County Register of Deeds or Burlington County Clerk's office after the termination of the affordability controls for each restricted unit;
- d. Communicating with lenders regarding foreclosures; and
- e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resales and Rerentals:

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

5. Processing Requests from Unit Owners:

- a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
- b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- c. Notifying the municipality of an owner's intent to sell a restricted unit; and
- d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

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

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

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

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

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

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

7. Additional Responsibilities:

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

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

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

**Section 19. Affirmative Marketing Requirements**

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

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 5 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Burlington, Camden and Gloucester Counties.

4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Township of Cinnaminson shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

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

6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

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

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region;

the municipal administration building in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Cinnaminson, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Supportive Housing Association, the New Jersey Housing Resource Center, the Southern Burlington County Branch of the NAACP, Willingboro NAACP, Moorestown Ecumenical Neighborhood Development (MEND), Lutheran Social Ministries (LSM), and the Burlington County Community Action Program (BCCAP).

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

## **Section 20. Enforcement of Affordable Housing Regulations**

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

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

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

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

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

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

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

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

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

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

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

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

and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

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

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

## **Section 21. Appeals**

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

## **REPEALER**

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

## **SEVERABILITY**

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

## **EFFECTIVE DATE**

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

**Ordinance 2019 – 13** Amending Chapter 525 Entitled “Zoning” (IR-Inclusionary Residential District) *Linda Galella – Overlay ordinance IR Inclusionary Residential Union Landing Road S to Taylors Lane North This increases the density from 6 units to 15 units per acre. If sold 20% set aside. No development is currently planned for this zone in 2019. The Planning Board found that it is consistent with the master plan. This zoning allows for townhomes, multiplexes and garden apartments. Duplexes will no longer be allowed.*

MOTION TO ADOPT ORDINANCE 2019 – 13 MADE BY MR. SEGREST, seconded by Mayor McGill. Roll call vote. Mr. Conda – aye, Mrs. Kravil – aye, Mr. Segrest – aye, Mayor McGill - aye. Mr. Horner abstains. Ordinance 2019 – 13 is adopted.

**ORDINANCE 2019-13**

**AN ORDINANCE AMENDING CHAPTER 525 OF THE CODE OF THE TOWNSHIP OF CINNAMINSON ENTITLED “ZONING” (IR-Inclusionary Residential District)**

**WHEREAS**, the Township of Cinnaminson was a party to prior round affordable housing litigation before the Superior Court in 1996 which was assigned Docket No. BUR-L-1999-96 (Mount Laurel), the resolution of which, to facilitate affordable housing production, required the rezoning of a 16.42-acre parcel in Cinnaminson Township adjoining Union Landing Road to the south and Taylor’s Lane to the north which was and remains designated on the Township’s Tax Map as Block 702, Lot 2; and

**WHEREAS**, the subject property was rezoned pursuant to the Court’s directives and placed in an Inclusionary Residential (“IR”) zoning district with use and area regulations set forth in Chapter 525 (“Zoning”), Sections 40 and 41 of the Code of the Township of Cinnaminson; and

**WHEREAS**, the Township of Cinnaminson is currently a petitioner in third round declaratory judgment proceedings before the Superior Court pursuant to N.J.S.A. 52:27D-313 encaptioned In the Matter of the Township of Cinnaminson, Docket No. BUR-L-0450-14 (Mount Laurel), the resolution of which requires amendments to the density and set-aside regulations applicable to Block 702, Lot 2 as set forth in Chapter 525, Sections 40 and 41 of the Township Code to facilitate affordable housing production during the third round; and

**WHEREAS**, the purpose of this Ordinance is to comply with the Court’s directives.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, by the Township Committee of the Township of Cinnaminson, County of Burlington, State of New Jersey, that Chapter 525 of the Code of the Township of Cinnaminson entitled “Zoning” be and is hereby amended as set forth herein.

**§ 525-40 IR INCLUSIONARY RESIDENTIAL DISTRICT USE RESTRICTIONS AND REGULATIONS.**

In the IR Inclusionary Residence District, the following uses (and no others) of lands and buildings are permitted:

- A. Multifamily housing, provided that 20% of the units are set-aside for low- and moderate-income qualified households if the units are sale units and that 15% of the units are set-aside for low- and moderate-income households if the units are rental units. The following multifamily dwellings are permitted:
  - 1. Townhouse. The townhouse is an attached individual dwelling unit from ground to roof, having individual outside access. Rows of attached townhouses shall contain no more than eight dwelling units.
  - 2. Multiplex. The multiplex is a building consisting of three or more dwelling units under a common roof. In general, all units have independent outside access, but this is not necessary. Units may be arranged in a variety of configurations: side by side, back to back or vertically. The essential feature is the small number of units attached. No more than five units shall be attached in any group. The total of all groups shall average four units per structure.

3. Garden apartments. Garden apartments are multifamily buildings where individual dwelling units share a common outside access. They also share a common yard area, which is the sum of the required lot areas of all dwelling units within the building. Garden apartments shall contain more than three and no more than **30** dwellings in a single structure.

**§525-41 IR DISTRICT AREA RESTRICTIONS AND REGULATIONS**

A. Density for multifamily housing is fifteen (15) units per gross acre for sale units and seventeen point five (17.5) units per gross acre for rental units as density is defined in N.J.S.A. 40:55D-4.

B. Tables of dimensional requirements by multifamily dwelling type are as follows:

1. Townhouse.

- a. Requirements.

- 1) Lot area, minimum, per unit: 2,200 square feet.
    - 2) Parking, off-street per RSIS (N.J.A.C. 5:21-4.14).
    - 3) Minimum lot width at building setback: 22 feet.
    - 4) Maximum height: three stories, but not to exceed 45 feet.

- b. General

- 1) Maximum impervious surface ratio (on lot): 60%.
    - 2) Minimum front building setback from street right-of-way: 30 feet.
    - 3) Minimum building spacing: 30 feet.
    - 4) Minimum side yard setback of end unit: 15 feet.
    - 5) Minimum rear yard setback: 30 feet.
    - 6) Minimum fifteen-foot-wide unobstructed emergency access easement in rear of townhouse units to be placed in common area. If a common open space area does not exist, the easement may be part of the required lot size but shall not be placed in any required setback area.

2. Multiplex.

- a. Requirements.

- 1) Lot area, minimum, per unit: 2,200 square feet.
    - 2) Parking, off-street (per unit): per RSIS (N.J.A.C. 5:21-4.14).

- b. General.

- 1) Maximum impervious ratio (on lot): 60%.
    - 2) Minimum front building setback from street right-of-way: 30 feet.
    - 3) Common parking areas: 20 feet.
    - 4) Minimum building spacing: 30 feet.
    - 5) Minimum lot width for building at setback line: 80 feet.
    - 6) Maximum height: three stories, not to exceed 45 feet.
    - 7) Minimum setback of side yards: 20 feet.
    - 8) Minimum setback of rear yards (no road): 30 feet.

3. Garden apartment.

- a. Requirements.

Number of Bedrooms	Minimum Apartment Size (square feet)
1	655
2	950
3	1,125

- b. General.

- 1) Minimum impervious surface ratio (on lot): 70%.
    - 2) Minimum building setback:
      - a) From street right-of-way: 50 feet.
      - b) From common parking: 20 feet.
    - 3) Maximum units per building: **30** units.
    - 4) Building spacing (side to side on same lot): **40** feet.
    - 5) Minimum street frontage: 100 feet.
    - 6) Maximum building height: three stories, but not to exceed 45 feet.
    - 7) Minimum rear yard setback: 50 feet.
    - 8) Minimum side yard setback: 30 feet.

## §525-42 DESIGN REQUIREMENT IN IR DISTRICT.

Miscellaneous design requirements in the IR District are as follows:

### A. Buffer area requirements.

1. Buffer areas shall be provided between all residential land uses and nonresidential land use or nonresidential zone districts. Buffer areas shall be a minimum of 20 feet wide in the IR District and are to be in addition to the required yard setbacks. Buffer areas shall be increased to 50 feet for residential land use adjacent to the landfill. Buffer areas shall be designed, planted, graded and landscaped to provide an aesthetically pleasing separation of uses. In meeting this standard, the applicant may employ one or more of the following:
  - a. Fencing or wall screening in landscaped areas.
  - b. Evergreen tree or shrubbery screening in a landscaped area.
  - c. A landscaped berm having a maximum height of six feet with side slopes of 4:1.

### B. Buffer material and natural foliage. All buffer areas shall be planted and maintained with either grass or ground cover, together with a screen of live shrubs or scattered planting of live trees, shrubs or other plant material. The preservation of all natural wooded tracts shall be an integral part of all development plans and may be calculated as part of the required buffer area, provided that the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Additional plantings may be required by the approving authority to establish an appropriate tone for an effective buffer.

### C. Screening.

1. Screening shall be provided with buffer strips or as required elsewhere in this chapter so as to provide a year-round visual or partial acoustical barrier to conceal the view or sounds of various utilitarian operations and uses from the street or adjacent properties.
2. Screening shall be so placed that at maturity it will not be closer than two feet to any right-of-way, property line or access easement.
3. All plants for screening shall be of a species common to the area, be of balled and burlapped nursery stock and be free of insects and disease. Plants which do not live shall be replaced within two years or two growing seasons. Buffered screen plantings shall be broken at points of vehicular and pedestrian ingress and egress to assure a clear sight triangle at all street and driveway intersections.
4. Screening shall consist of the following materials:
  - a. Solid masonry. A solid masonry wall, a maximum of six feet above ground level.
  - b. Solid fencing. A solid fencing of natural durable material, such as cedar, cypress or redwood, a maximum height of six feet above ground level and open to the ground to a height of not more than four inches above ground level.
  - c. Shrubby.
    - 1) Low-type shrubby screening may be used in and around parking areas, roadways or accessways where sight distances for vehicular and pedestrian traffic are a prime consideration. Shrubby shall be a minimum of three feet high when planted and be of such density as will obscure, throughout the full course of the year, the glare of automobile headlights emitted from the premises.
    - 2) All other shrubby for screening shall be a minimum of five feet high at the time of planting.
    - 3) Dense hedges of shrubby planted at a maximum of 30 inches on center may be used.
  - d. Trees. Trees for screening shall be evergreens having a minimum height of eight feet

above the ground when planted. Trees shall be placed five feet on center in a single row, or five feet on center in two or more staggered rows with a five-foot separation between rows. Evergreens may be supplemented with deciduous trees having a minimum height of eight feet at time of planting, with a minimum caliper of 2 inches

- D. Each multiple-dwelling complex of dwelling units shall have a compatible architectural theme with variations in design to provide attractiveness to the development, which shall include considerations of landscaping techniques, building orientation to the site and to other structures, topography, natural features, including individual dwelling unit design, such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing rooflines and roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combination of each dwelling unit.
- E. Multifamily dwelling units shall be grouped in clusters. Private parking areas should be located near dwelling unit entrances. Any outdoor living areas or patios should adjoin open space or paths leading to open space. Dwelling units should not front on a through street. Screening of such outdoor living areas may be accomplished with plant materials, masonry structures or wood fences. Architectural elements, such as masonry walls and fences, shall be compatible in both style and materials with the dwelling unit of which it is part.
- F. For apartment buildings, refuse collection may be managed within the building or, in the alternative, there shall be provided at least one outdoor refuse storage area of at least 100 square feet for each 20 dwelling units. The refuse storage area shall be screened and suitably located and arranged for access and ease of collection and shall not be part of, restrict or occupy any parking aisle and shall not be located further than 300 feet from the entrance to any multifamily unit which it is intended to serve.
- G. Where private garages are provided, they must be constructed as part of a dwelling unit. Detached garages are not permitted in the IR District.

#### § 525-42.1 Affordable housing requirements in IR District

- A. Inclusionary developments in the IR Zone shall conform to standards of the Fair Housing Act, the Rules of the Council on Affordable Housing (COAH) and the Uniform Housing Affordability Controls (UHAC) as enumerated in the Cinnaminson Affordable Housing Ordinance (Ord. 2019-12).
- B. Affordable units shall not be located in a single affordable building or buildings but rather affordable units shall be distributed among the market units.

#### **REPEALER, SEVERABILITY AND EFFECTIVE DATE.**

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law and the filing of same with the County Planning Board pursuant to N.J.S.A. 40:55D-16.

#### **Ordinance 2019 – 14** Amending Chapter 525 Entitled “Zoning” (IR-2 and IR-3 Zones)

*Linda Galella – This creates two new zones, IR 2 and IR 3. There is no current development planned. These are overlay zones; the underlying zoning remains the same. The Planning Board found that it is consistent with the master plan. IR 2 Route 130 N from Pennsauken to Church Rd. Height allowed is three stories. IR-3 Light Rail / Transit Village overlay. 20 units per acre. Height allowed is four stories. 43-acre parcel from Broad to Bannard near light rail.*

MOTION TO ADOPT ORDINANCE 2019 – 14 MADE BY MR. SEGREST, seconded by Mayor McGill. Roll call vote. All aye. Ordinance 2019 – 14 is adopted.

**ORDINANCE 2019-14**

**AN ORDINANCE AMENDING CHAPTER 525 OF THE CODE OF  
THE TOWNSHIP OF CINNAMINSON ENTITLED “ZONING” (IR-2  
and IR-3 ZONES)**

**WHEREAS**, the Township of Cinnaminson is currently a petitioner in third round declaratory judgment proceedings before the Superior Court pursuant to N.J.S.A. 52:27D-313 encaptioned In the Matter of the Township of Cinnaminson, Docket No. BUR-L-0450-14 (Mount Laurel), the resolution of which requires the Township to amend certain provisions to Chapter 525 of the Code of the Township of Cinnaminson entitled “Zoning” in order to facilitate affordable housing production during the third round; and

**WHEREAS**, the purpose of this Ordinance is to comply with the Court’s directives.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, by the Township Committee of the Township of Cinnaminson, County of Burlington, State of New Jersey, that Chapter 525 of the Code of the Township of Cinnaminson entitled “Zoning” be and is hereby amended as set forth herein as follows:

**§ 525-43.1 IR-2 District area restrictions and regulations**

The purpose of the IR-2 overlay zone is to promote inclusionary housing development along Route 130 in an area close to open space with convenient regional roadway access that can address a portion of the Township’s affordable housing need. When IR-2 inclusionary development is proposed, expedited development application review and cooperation in the granting reasonable variances is to be provided, pursuant to N.J.A.C. 5:93-10.1.

**A.** Density and affordable housing set-asides for multifamily housing shall be:

If for sale -15 units per gross acre with a 20% set-aside of affordable units

**B.** Tables of dimensional requirements for multi-family apartments are as follows:

**Multi-family apartments.**

**(a)** Requirements.

Number of Bedrooms	Minimum Apartment Size (square feet)
1	655
2	850
3	1,000

**(b)** General.

[1] Maximum impervious surface ratio (on tract): 70%.

[2] Minimum lot size: three acres.

[3] Minimum building setback:

[a] From street right-of-way: 50 feet.

[b] From common parking: 20 feet.

[4] Building spacing (side to side on same lot): 40 feet.

[5] Minimum street frontage: 100 feet.

[6] Maximum building height: three stories, not to exceed 45 feet.

[7] Minimum rear yard setback: 50 feet.

[8] Minimum side yard setback: 30 feet.

§ 525-43.2 **Design requirements in IR-2 District.**

Miscellaneous design requirements in the IR-2 District are as follows:

**A. Buffer area requirements.**

(1) Buffer areas shall be provided between all residential land uses and nonresidential land use or nonresidential zone districts. Buffer areas, which may be bisected by roads and driveways and which may contain landscaped stormwater basins shall be a minimum of 20 feet wide in the IR-2 District and are to be in addition to the required yard setbacks. Buffer areas shall be designed, planted, graded and landscaped to provide an aesthetically pleasing separation of uses. In meeting this standard, the applicant may employ one or more of the following:

(a) Fencing or wall screening in landscaped areas.

(b) Evergreen tree or shrubbery screening in a landscaped area.

(c) A landscaped berm having a maximum height of six feet with side slopes of 4:1.

**B. Buffer material and natural foliage.**

All buffer areas shall be planted and maintained with either grass or ground cover, together with a screen of live shrubs or scattered planting of live trees, shrubs or other plant material. The preservation of all natural wooded tracts shall be an integral part of all development plans and may be included as part of the required buffer area, provided that the growth is of a density and the area has sufficient width to serve the purpose of a buffer. Additional plantings may be required by the approving authority to establish an appropriate tone for an effective buffer.

**C. Screening.**

(1) Screening shall be provided with buffer strips or as required elsewhere in this chapter so as to provide a year-round visual or partial acoustical barrier to conceal the view or sounds of various utilitarian operations and uses from the street or adjacent properties.

(2) Screening shall be so placed that at maturity it will not be closer than two feet to any right-of-way, property line or access easement.

(3) All plants for screening shall be of a species common to the area, be of balled and burlapped nursery stock and be free of insects and disease. Plants which do not live shall be replaced within two years or two growing seasons. Buffered screen plantings shall be broken at points of vehicular and pedestrian ingress and egress to assure a clear sight triangle at all street and driveway intersections.

(4) Screening shall consist of the following materials:

(a) Solid masonry. A solid masonry wall, a maximum of six feet above ground level.

(b) Solid fencing. A solid fencing of natural durable material, such as cedar, cypress or redwood, a maximum height of six feet above ground level and open to the ground to a height of not more than four inches above ground level.

(c) Shrubby.

[1] Low-type shrubby screening may be used in and around parking areas, roadways or accessways where sight distances for vehicular and pedestrian traffic are a prime consideration. Shrubby shall be a minimum of three feet high when planted and be of such density as will obscure, throughout the full course of the year, the glare of automobile headlights emitted from the premises.

[2] All other shrubby for screening shall be a minimum of five feet high at the time of planting.

**[3]** Dense hedges of shrubbery planted at a maximum of 30 inches on center may be used.

**(d)** Trees. Trees for screening shall be evergreens having a minimum height of eight feet above the ground when planted. Trees shall be placed ten feet on center in a single row, or fifteen feet on center in two or more staggered rows with a five-foot separation between rows. Evergreens may be supplemented with deciduous trees having a minimum height of eight feet at time of planting, with a minimum caliper of 2 inches.

**D. Architectural Theme.**

Each multiple-dwelling complex shall have a compatible architectural theme with variations in design to provide attractiveness to the development, which shall include considerations of landscaping techniques, building orientation to the site and to other structures, topography, natural features, including individual dwelling unit design, such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing rooflines and roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combination of each dwelling unit.

**E. Refuse storage.**

For apartment buildings, refuse collection may be managed within the building or, in the alternative, there shall be provided at least one outdoor refuse storage area of at least 100 square feet for each 20 dwelling units. The refuse storage area shall be screened and suitably located and arranged for access and ease of collection and shall not be part of, restrict or occupy any parking aisle and shall not be located further than 300 feet from the entrance to any multifamily unit which it is intended to serve.

**F. Private garages.**

Where private garages are provided, they must be constructed as part of a dwelling unit. Detached garages are not permitted in the IR-2 District.

**§ 525-43.3 Open space requirements in IR-2 District.**

**A.** Open space areas resulting from development in the IR-2 District shall weave between dwelling units generally respecting a minimum width of 50 feet and periodically widening out into significant and usable recreation areas. The configuration of the open space areas should be arranged so that connections can be made to existing or future adjacent open spaces and other community facilities, if applicable.

**B.** The developer may be required to plant trees or other similar landscaping improvements. Said improvements may include removal of dead or diseased growth, thinning of trees or other growth to encourage more desirable growth, removal of trees in areas planned for active recreational facilities, grading and seeding and improvements or protection of the natural drainage system by the use of protective structures, stabilization measures and similar improvements.

**C.** Portions of the open space should be developed to afford both passive and active recreational opportunities. Passive recreational activities may include but are not limited to pedestrian paths, sitting areas and naturally preserved areas. Active recreational areas may include but are not limited to such facilities as swimming pools, tennis courts, bicycle paths and play fields but should be carefully located to avoid problems of noise, lights and similar nuisance elements affecting residential units. They shall be located not less than 50 feet from any boundary line.

**D.** Every parcel so set aside shall be conveyed by deed at the time final plat approval is granted.

**E.** The land to be set aside shall be offered to the Township Committee for acceptance. Land offered for dedication but not accepted by the Township Committee shall be transferred to a homeowners' association or similar organization in accordance with N.J.S.A. 40:55D-43.

**F.** Any open space offered to the Township Committee shall be subject to review by the Planning Board, which shall be make a recommendation based on the Master Plan, the ability to assemble the land with other open space parcels, the physical features of the property and the potential utility of the land. The Planning Board may request an opinion from other public agencies or individuals as to the advisability of accepting any lands to be offered.

**§ 525-43.4 Affordable housing requirements in IR-2 District**

**A.** Inclusionary developments in the IR-2 Zone shall conform to standards of the Fair Housing Act, the Rules of the Council on Affordable Housing (COAH) and the Uniform Housing Affordability Controls (UHAC) as enumerated in the Cinnaminson Affordable Housing Ordinance (Ord. 2019-12).

The purpose of the IR-3 overlay zone is to promote inclusionary housing developments with easy transit access that can address a portion of the Township's affordable housing need. When IR-3 inclusionary development is proposed, expedited development application review and cooperation in the granting reasonable variances is to be provided, pursuant to N.J.A.C. 5:93-10.1.

**A.** Density and affordable housing set-asides for multifamily housing shall be:

If for sale - 20 units per gross acre with a 20% set-aside of affordable units

If for rent – 20 units per gross acre with a 15% set-aside of affordable units

**B.** Table of dimensional requirements: **Multi-family apartments.**

(a) Requirements.

Number of Bedrooms	Minimum Apartment Size (square feet)
1	655
2	850
3	1,000

(b) General.

[1] Maximum impervious surface ratio (on lot or tract): 70%.

[2] Minimum lot size: three (3) acres.

[3] Minimum building setback:

[a] From street right-of-way: 50 feet.

[b] From common parking: 20 feet.

[4] Maximum units per building: 60 units.

[5] Building spacing (side to side on same lot): 50 feet.

[6] Minimum street frontage: 100 feet.

[7] Maximum building height: four stories, not to exceed 60 feet.

[8] Minimum rear yard setback: 50 feet.

[9] Minimum side yard setback: 30 feet.

§ 525-43.6 **Design requirements in IR-3 District.**

Miscellaneous design requirements in the IR-3 District are as follows:

**A. Buffer area requirements.**

(1) Buffer areas shall be provided between all residential land uses and nonresidential land use or nonresidential zone districts. Buffer areas, which may be bisected by roads and driveways and which may contain landscaped stormwater basins, shall be a minimum of 20 feet wide in the IR-3 District and are to be in addition to the required yard setbacks. Buffer areas shall be designed, planted, graded and landscaped to provide an aesthetically pleasing separation of uses. In meeting this standard, the applicant may employ one or more of the following:

(a) Fencing or wall screening in landscaped areas.

(b) Evergreen tree or shrubbery screening in a landscaped area.

(c) A landscaped berm having a maximum height of six feet with side slopes of 4:1.

## **B. Buffer material and natural foliage.**

All buffer areas shall be planted and maintained with either grass or ground cover, together with a screen of live shrubs or scattered planting of live trees, shrubs or other plant material. Plantings may be required by the approving authority to establish an appropriate tone for an effective buffer.

## **C. Screening.**

**(1)** Screening shall be provided with buffer strips or as required elsewhere in this chapter so as to provide a year-round visual or partial acoustical barrier to conceal the view or sounds of various utilitarian operations and uses from the street or adjacent properties.

**(2)** Screening shall be so placed that at maturity it will not be closer than two feet to any right-of-way, property line or access easement.

**(3)** All plants for screening shall be of a species common to the area, be of balled and burlapped nursery stock and be free of insects and disease. Plants which do not live shall be replaced within two years or two growing seasons. Buffered screen plantings shall be broken at points of vehicular and pedestrian ingress and egress to assure a clear sight triangle at all street and driveway intersections.

**(4)** Screening shall consist of the following materials:

**(a)** Solid masonry. A solid masonry wall, a maximum of six feet above ground level.

**(b)** Solid fencing. A solid fencing of natural durable material, such as cedar, cypress or redwood, a maximum height of six feet above ground level and open to the ground to a height of not more than four inches above ground level.

**(c)** Shrubbery.

**[1]** Low-type shrubbery screening may be used in and around parking areas, roadways or accessways where sight distances for vehicular and pedestrian traffic are a prime consideration. Shrubbery shall be a minimum of three feet high when planted and be of such density as will obscure, throughout the full course of the year, the glare of automobile headlights emitted from the premises.

**[2]** All other shrubbery for screening shall be a minimum of five feet high at the time of planting.

**[3]** Dense hedges of shrubbery planted at a maximum of 30 inches on center may be used.

**(d)** Trees. Trees for screening shall be evergreens having a minimum height of eight feet above the ground when planted. Trees shall be placed ten feet on center in a single row, or fifteen feet on center in two or more staggered rows with a five-foot separation between rows. Evergreens may be supplemented with deciduous trees having a minimum height of eight feet at time of planting, with a minimum caliper of 2 inches.

## **D. Architectural Theme.**

Each multiple-dwelling complex shall have a compatible architectural theme with variations in design to provide attractiveness to the development, which shall include considerations of landscaping techniques, building orientation to the site and to other structures, topography, natural features, including individual dwelling unit design, such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing rooflines and roof designs, altering building heights and changing types of windows, shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combination of each dwelling unit.

## **E. Refuse storage.**

For apartment buildings, refuse collection may be managed within the building or, in the alternative, there shall be provided at least one outdoor refuse storage area of at least 100 square feet for each 20 dwelling units. The refuse storage area shall be screened and suitably located and arranged for access and ease of collection and shall not be part of, restrict or occupy any parking aisle and shall not be located further than 300 feet from the entrance to any multifamily unit which it is intended to serve.

**F. Private garages.**

Where private garages are provided, they must be constructed as part of a dwelling unit. Detached garages are not permitted in the IR-3 District.

**§ 525-43.7 Open space requirements in IR-3 District.**

**A.** Open space areas resulting from development in the IR-3 District shall weave between dwelling units generally respecting a minimum width of 50 feet and periodically widening out into significant and usable recreation areas. The configuration of the open space areas should be arranged so that connections can be made to existing or future adjacent open spaces and other community facilities, if applicable.

**B.** The developer may be required to plant trees or other similar landscaping improvements. Said improvements may include removal of dead or diseased growth, thinning of trees or other growth to encourage more desirable growth, removal of trees in areas planned for active recreational facilities, grading and seeding and improvements or protection of the natural drainage system by the use of protective structures, stabilization measures and similar improvements.

**C.** Portions of the open space should be developed to afford both passive and active recreational opportunities. Passive recreational activities may include but are not limited to pedestrian paths, sitting areas and naturally preserved areas. Active recreational areas may include but are not limited to such facilities as swimming pools, tennis courts, bicycle paths and play fields but should be carefully located to avoid problems of noise, lights and similar nuisance elements affecting residential units. They shall be located not less than 50 feet from any boundary line.

**D.** Every parcel so set aside shall be conveyed by deed at the time final plat approval is granted.

**E.** The land to be set aside shall be offered to the Township Committee for acceptance. Land offered for dedication but not accepted by the Township Committee shall be transferred to a homeowners' association or similar organization in accordance with N.J.S.A. 40:55D-43.

**F.** Any open space offered to the Township Committee shall be subject to review by the Planning Board, which shall be guided by the Master Plan, the ability to assemble and relate such lands to an overall plan, the accessibility and potential utility of such lands and such existing features as topography, soils, wetlands and tree cover, as these features may enhance or detract from the intended use of the lands. The Planning Board may request an opinion from other public agencies or individuals as to the advisability of accepting any lands to be offered.

**§ 525-43.8 Affordable housing requirements in IR-3 District**

**A.** Inclusionary developments in the IR-3 Zone shall conform to standards of the Fair Housing Act, the Rules of the Council on Affordable Housing (COAH) and the Uniform Housing Affordability Controls (UHAC) as enumerated in the Cinnaminson Affordable Housing Ordinance (Ord. 2019-12).

**REPEALER, SEVERABILITY AND EFFECTIVE DATE.**

**D.** Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

**E.** Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

**F.** Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law and the filing of same with the County Planning Board pursuant to N.J.S.A. 40:55D-16.

## **Liaison Reports:**

### **Administration and Health & Senior Services – Committee Member Conda**

This month's newsletter has been posted on website. Meetings with our IT company continue regarding website overhaul. Meetings will continue over next few weeks. Hopefully in a short time we will see a brand new website. I also want to remind everyone that Cinnaminson Day is September 29<sup>th</sup> from 12-3:00 pm at Wood Park. The rain date is October 6<sup>th</sup>. This completes my report.

### **Public Works – Committee Member Segrest**

I want to thank everyone that was involved in our 9/11 Memorial. I thought it was an awesome ceremony.

Public works has started with the maintenance of parks including cutting grass, landscaping and daily dragging and lining of the sports fields. Industrial Highway will be milled and paved beginning on September 20<sup>th</sup>. The work should last approximately three days, weather permitting. We had our first Drainage Improvement Subcommittee meeting on September 12<sup>th</sup>. We had an open discussion about short term and long term solutions. We discussed swale maintenance, pipe jetting of drain lines, dredging and grading along with upgrades along to headwalls and installation of duck bills which are a fancy backflow preventer that doesn't allow water from tidal water to come back into the system. Brush pickup starts in October and leaf pickup starts in November using the same pickup schedule as brush. As a reminder, do not put leaves and brush in the same pile. Do not put leaves in the trash. Leaves must be recycled by law. Put leaves in paper bags for curbside pickup. Plastic bags will not be picked up. Brown bag leaves can also be dropped off Monday through Friday, 7:30 am to 12 noon at Public Works. Cinnaminson Fall Cleanup Day went great. We had 175 families come in. Some came back several times. We filled a thirty-yard container and half of another one. Magnum Recycling took out two big box trucks full of TV's and electronics. DPW employees got the yard cleaned up quite a bit as well. And as always continued daily recycling from 7:30 am to 12:00 pm collecting electronics, TV's, unused paint, leaves, tires and brush.

### **Finance and Veterans Affairs – Committee Member Kravil**

The Committee review of the annual municipal audit is complete and we are happy to see no findings. Soon the CFO and administrator will be gathering initial department head requests for 2020 and starting preparation for the 2020 budget.

I'd like to thank everyone for their support and participation in our 9/11 Remembrance ceremony. I was truly inspired as to how we stand together as a community. I would also like to thank those on the 9/11 subcommittee, Committeeman Segrest, Mr. Schubiger, Chief of Police Calabrese, Fire Chief Kramer, EMS Chief Norman and Sgt. Czarzasty.

### **Economic Development – Committee Member Horner**

Good Evening. I would like to take just a few minutes to briefly update you on some Economic Development Activities over the past few months. As you probably are aware, Bagelati had their official opening a few weeks ago. We are particularly proud of re-purposing this building, converting it into a novel and vibrant enterprise while avoiding a low-end retailer at that location. Neighboring Dunkin Donuts has been approved for some much-needed remodeling which will include drive through service. Soon, McDonalds will too go through a much-needed face lift. In addition, we have been advised that AT&T has signed a lease in Cinnaminson and will be opening up a store before the holidays. As recently as this weekend, we continue to discuss with the Jersey Diner about restaurateurs who have expressed interest in their property. Also, plans will soon be unveiled for the Rite-Aid building at New Albany Road. Finally, we have been approached to consider a premier, national fast food restaurant along the Route 130 corridor. Negotiations are proceeding and the parties are in their confidential, due diligence period. The Economic Development committee is considering recommending limited technical assistance to evaluate traffic concerns and circulation. I will be pleased to update you with some more details next month.

During the summer months, we have spent considerable time on various planning issues. First, we have been planning for the court ordered housing requirements focused on developing these plans with the minimal impacts to our community. Our goal has always been to preserve the character of our neighborhoods and maintain a prosperous business corridor. Second, we have been evaluating new design standards for the industrial park, thinking particularly about how to redevelop the Hoeganaes parcel. We have had dissuasions with local businesses along with national light industrial companies about that location. In our planning for this site, we are ever mindful of the stormwater impact and our goal is to not only contain all stormwater within property boundaries but lessen it, perhaps accept it, from other concerned areas in East Riverton.

Finally, we are in middle of reexamining our Master Plan. This undertaking is required every ten years and is a great opportunity to reflect on what has been accomplished along with developing a vision for the town. Some of the priorities for the coming years that we have identified include:

- Promote our existing, well established housing stock which is ideal and attractive for new families looking to relocate or return to Cinnaminson.
- Recognizing that new, younger families generate a greater demand for family, social, recreational and community supported activities.
- Develop housing for active seniors as well as transitional facilities for those who may require assisted living.
- Retain Township Committee's emphasize balancing attracting national retailers and at the same time supporting local businesses.
- Continue to enhance Cinnaminson's image and upgrade facades of various centers and businesses that are not compliant with current standards along the 130 corridors. Our section of Route 130 looks the best along the corridor and we are committed to keeping it looking that way.
- Repurpose our aged structures within the Industrial Zone which in many cases are too limited in building design and mass and possess significant challenges to today's manufacturing and commercial needs.
- Continue to upgrade dated infrastructure including highway, traffic and stormwater concerns throughout the town.

Mr. Mayor, I look forward to expanding on these concepts in the coming months. That concludes my report.

**Public Safety – Mayor McGill**

Public Safety August activity report – Total Incidents responded to by police is 1239, total arrests 101, total quick calls 1112, total motor vehicle stops 333, total motor vehicle summonses 294, DUI arrests were 2.

It is back to school time again. That means a lot of school buses picking up and dropping off students. To ensure their safety the Cinnaminson Township Police Department in conjunction with the Burlington County Sheriff's Department conducted "Operation Safe Stop". They had officers out on multiple days, at numerous bus stops making sure our children were safe. Our goal is to ensure that all children get to school safely and to educate the public on the dangers of passing a stopped school bus.

**DISCUSSION ITEMS**

Update of Best Practices Survey – Sewerage Authority

Mr. Conda advised that he met with the Sewerage Authority to ensure that they are still in line with best practices and still the preferred method of delivery for that service. He worked with the Sewerage Authority and reviewed their budget and audit reports and found nothing out of the ordinary. Costs have remained stable. He also spoke to the chairman and others in the Sewerage Authority. He has determined that the current arrangement is still the most cost effective and efficient means for providing this service.

**CONSENT AGENDA**

- |                              |  |
|------------------------------|--|
| <b>Resolution 2019 – 123</b> | Annual review of Audit   |
| <b>Resolution 2019 – 124</b> | Release of Maintenance Bond CN Development, Olmsted Place  |
| <b>Resolution 2019 – 125</b> | Authorizing Cancellation of Taxes for Totally Disabled Veteran, Johnson, Block 307.05, Lot 1, Qualifier C1478      |
| <b>Resolution 2019 – 126</b> | Authorizing Application for 2019 Burlington County Parks Development Grant – Field Lighting at Wood Park \$300,000 |
| <b>Resolution 2019 – 127</b> | Authorizing Shared Services Agreement with Riverton Borough for Leaf Disposal                                      |

- Approval of Raffle for Riverton PTO (10/14/19)
- Approval of Raffle St. Charles Borromeo Church (11/23/19)

**END OF CONSENT AGENDA**

Mayor McGill opens public comment on consent agenda items only. Seeing no one come forward Mayor McGill closes public comment on consent agenda.

MOTION TO APPROVE CONSENT AGENDA MADE BY MR. SEGREST, seconded by Mayor McGill. Roll call vote. All aye. Consent agenda is approved.

**Approval of Minutes:**

Mayor McGill asks for a motion to approve the minutes of August 19, 2019 and August 19, 2019 Closed. MOTION TO APPROVE MINUTES MADE BY MR. CONDA, seconded by Mayor McGill. Roll call vote. Mr. Conda – aye, Mr. Horner – aye, Mrs. Kravil – aye, Mayor McGill – aye Mr. Segrest abstains. Minutes are approved.

**Approval of Bill List**

MOTION TO APPROVE THE BILL LIST MADE BY MRS.KRAVIL, seconded by Mayor McGill. Roll call vote. All aye. Bill list is approved.

**Staff and Professional Comments:**

Mr. Schubiger thanks Mrs. Kravil for leading the charge with the 9/11 Remembrance Ceremony.

**Comments from Committee – None**

**Public Comment:**

Cindy Pierson 622 S. Pompess Ave. – As a note from prior meetings, states that the fence at the end of N. Randolph was installed by Cinnaminson Sewerage Authority. Also asked if there is an option for viewing meetings on the website? Mr. Conda stated that it is something they are looking at. She also requests for committee members to read the Riverton ordinance and send to the Drainage Improvement Committee. Thanks Ben Young for coming to all the meetings.

Richard Dietrich, 19 Emerson - Echoes comments on the 9/11 ceremony. Applauds and commends committee as well as everyone else that participated.

Ben Young, 116 Woodview Lane – Mrs. Kravil did a terrific job, a real achievement. The curbs are not finished on Fork Landing Road. On Union Landing this year, did not continue curb, thinks it should be done.

Thomas Chichester, 702 Wood Lane – Asks questions about the new trash collection containers. He feels that the 96-gallon trash container is too big. Discussion regarding options for additional trash containers or containers that are smaller sizes for those who desire them.

Seeing no one else come forward Mayor McGill closes public comment.

MOTION TO GO INTO CLOSED SESSION FOR CONTRACT NEGOTIATIONS, LITIGATION AND ECONOMIC DEVELOPMENT MADE BY MAYOR MCGILL, seconded by Mr. Horner. Voice vote. All aye

8:05 pm

MOTION TO RETURN TO OPEN SESSION MADE BY MR. HORNER, seconded by Mr. Conda. Voice vote. All aye.

MOTION TO ADJOURN MADE BY MAYOR MCGILL, seconded by Mr. Horner. Voice vote. All aye. Meeting is adjourned.

8:38pm

Duly passed and adopted:

Respectfully submitted:

Oct 7, 2019



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Lisa A. Passione, RMC  
Municipal Clerk