

**Millburn Township Committee Meeting Minutes**

Minutes of the Regular Meeting of the Township Committee of the Township of Millburn, in Essex County, New Jersey, held in Town Hall and remotely starting at 7:00 PM on the above date.

Mayor Miggins opened the meeting and read the following statement:

In accordance with Section 5 of the Open Meetings Act, Chapter 231, Public Laws, 1975, are advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and serving the officially designated newspapers, a notice stating that this meeting would take place at the Town Hall at 7:00 PM on March 1, 2022.

A moment of silence was taken for Ukraine.

Mayor Miggins asked all those present to stand for the Salute to the Flag.

Upon call of the roll, the following Committee members were recorded present: Dianne Thall Eglow, Sanjeev Vinayak, Richard J. Wasserman, Maggee Miggins.

Also present were Business Administrator Alexander McDonald, Township Clerk Christine Gatti, Township Counsel Andrew Brewer, and Assistant Business Administrator Jesse Moehlman.

Absent: Tara B. Prupis

**Approval of Agenda**

Mayor Miggins asked for a motion to approve the amended agenda with public comment moved to the beginning of the agenda. The motion was offered by Mr. Vinayak and seconded by Mr. Wasserman

Vote: All Ayes

**Minutes**

Mayor Miggins asked for a motion to approve the December 7, 2021 Regular Township Committee meeting minutes. The motion was made by Ms. Thall Eglow and seconded by Mr. Wasserman. Vote: All Ayes.

Mayor Miggins asked for a motion to approve the December 7, 2021 Special Township Committee meeting minutes. The motion was made by Ms. Thall Eglow and seconded by Mr. Vinayak. Vote: All Ayes.

Mayor Miggins asked for a motion to approve the December 21, 2021 Regular Township Committee meeting minutes. The motion was made by Ms. Thall Eglow and seconded by Mr. Wasserman. Vote: All Ayes.

Mayor Miggins asked for a motion to approve the December 21, 2021 Special Township Committee meeting minutes. The motion was made by Ms. Thall Eglow and seconded by Mr. Vinayak. Vote: All Ayes.

Mayor Miggins asked for a motion to approve the December 22, 2021 Special Township Committee meeting minutes. The motion was made by Ms. Thall Eglow and seconded by Mr. Vinayak. Vote: All Ayes.

**Reports**

Ms. Thall Eglow reported on the Finance Subcommittee and advised Millburn was in good shape financially. She reviewed capital municipal projects and commented on the Taylor Park Gateway Subcommittee. She added that the subcommittee had met with MKW; however, no decisions were yet made on the roses, and the elm tree would not be removed.

Mr. Vinayak reported on the Finance Subcommittee, Flood Mitigation Advisory Committee, and the Recreation Commission.

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Mr. Wasserman reported on the Flood Mitigation Advisory Committee and thanked the volunteers. He reported on Explore Millburn Short Hills and reviewed upcoming activities and events for the SID and CEDA.

Mayor Miggins reported on the Library and upcoming activities and events. She provided an update on the Library's renovations which had been delayed.

**Public Comment**

Mayor Miggins made the following statement: "When invited to speak, please come to the microphone, clearly state your name and address, and speak loudly so that your comments may be understood by all and properly recorded. There was a properly noticed remote option for those who could not attend the meeting in person. If you called in and would like to comment please press \*6 now. If you are attending by computer or electronic device please click the raise hand button. All members of the public wishing to speak would be put into the queue to address the Committee. Whenever an audience or Committee member reads from a prepared statement, please email a copy to the Township Clerk's Office at [townclerk@millburntp.org](mailto:townclerk@millburntp.org). To help facilitate an orderly meeting and to permit all to be heard, speakers are asked to limit their comments to one 3 minute session. You would be prompted when there was 30 seconds remaining. This was a business meeting and please do not address professionals or staff directly and please direct all comments to me. Each individual would be given one opportunity to make their public comment. Please be patient and we would address each member of the public that wishes to speak."

Mayor Miggins opened the public comment period.

Jeffrey Feld, resident, mourned the closure of the downtown movie theatre. He reviewed correspondence and reviewed various questions he sent to the Committee. He reviewed various litigation and mentioned the occurrences in Ukraine.

Jay Morreale, resident, thanked the Committee for moving public comment to the beginning. He announced on an upcoming Happy Millburn non-partisan event. He posed various questions in regard to the proposed overlay zone ordinance.

Jane Greenwald, resident, thanked the Committee for confirming the elm tree would not be moved. She made comments on preservation in the township. She reviewed the history of the elm tree.

A resident, commented on Fair Share Housing regulations, law and background. He reviewed his recommendations.

Jean Pasternak, resident, voiced her support of Mr. Feld and Mr. Morreale's comments. She asked about the Crescent Park deed and voiced various questions.

Perri Urso, resident/business owner, voiced her discontent with the SID and the SID ordinance.

Al Carlin, resident, reviewed emails sent to Administration in regard to an ongoing building issue. He commented on Fair Share Housing and its history.

Mayor Miggins closed the public comment period.

Mayor Miggins asked if any Committee members had any comments.

Mr. Vinayak spoke in reference to Fair Share Housing and the selection of a developer. He asked residents with questions to please email him.

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Ms. Thall Eglow reiterated the elm tree would be protected and encouraged the public to attend the meetings for Taylor Park. She voiced her comments on her disapproval if the use of the DPW site for 100% affordable housing. She advised that the 9/11 Memorial at Crescent Park was paid for via donations. She asked for an update on Mr. Feld’s legal bills and litigation with the township and Committee members.

Mr. Wasserman advised the Committee met regularly with the Board of Education. He advises he carefully reviewed the numbers on affordable housing; he reviewed the history of affordable housing and the negotiation process.

Mr. McDonald reviewed the Capital Bond Ordinance and Chapter 159 which would be needed for projects. He reviewed Mr. Felds litigation cases. Ms. Thall Eglow and Mr. McDonald reviewed the Bond Ordinance.

Mr. Vinayak and Mr. McDonald reviewed public funds and funding for certain projects. Ms. Thall Eglow advised wording was changed in the Taylor Park Gateway Project specifications.

Mayor Miggins advised that she was not in favor of removing the rose garden and asked if other improvements were available to be made instead. She recalled a petition with about one-thousand signatures of residents who did not want the rose garden touched.

A discussion ensued among the Committee in reference to the Taylor Park rose garden and affordable housing.

Mr. McDonald addressed the overlay zones and when it would be taking place. He asked the public to attend on March 10 at the Middle School for an information center and he reviewed additional dates.

A brief recess was taken.

Ms. Thall Eglow voiced her frustration with the process moving forward in reference to affordable housing.

Mayor Miggins advised that she asked the SID not to market her business and it was done automatically seeing the office was in the district.

**Consent Agenda**

Mayor Miggins asked if any of the Committee members had any questions or concerns regarding agenda items. Receiving none, Mayor Miggins asked for a motion to approve the items on the consent agenda Resolutions 22-079 - 22-085; except 22-081 which would be voted on separately. Mr. Vinayak made a motion to approve the consent agenda which was seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

**RESOLUTION 22-079  
APPROVE BILLS PAYABLE**

**RESOLVED** that the Township Treasurer be and hereby is authorized to accept for payment and pay bills or items as they appear on Schedule dated March 1, 2022, in the following accounts:

General Fund	\$ 563,483.43
Capital Fund	3,106.50
Parking Utility - Operating Fund	10,316.13
Dog Fund Trust	2,600.00
Donation Trust Fund	1,737.50
Escrow Trust Fund	20,335.37
Police Off Duty Trust Fund	602.00
PATFA II	3,327.00

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RESOLUTION 22-080  
 AUTHORIZE THE REFUND OF TAX OVERPAYMENTS

NOW, THEREFORE BE IT RESOLVED that the Treasurer of the Township of Millburn be and he is hereby authorized and directed to the draw warrants to pay the payees listed below in the specified amounts;

<u>Make check payable to:</u>	<u>Type</u>	<u>Amount</u>
Valerie Hofer Attorney Trust Account & Karl Johansson P.O. Box 787 Montville, NJ 07045 Block 1401 Lot 7 14 Park Road	Tax Appeal 2020 Taxes (\$2,257.27) 2021 Taxes (\$2,271.34)	\$4,528.61
Ventura, Miesowitz et al Trust Account & Alexander Gerardo 783 Springfield Ave Summit, NJ 07901 Block 1805 Lot 21 10 Canterbury Lane	Tax Appeal 2019 Taxes (\$1,067.29) 2020 Taxes (\$1,065.08) 2021 Taxes (\$587.21)	\$2,719.58
Wolf Vespasiano Attorney Trust Account & Ankur Mehta 331 Main Street Chatham, NJ 07928 Block 2108 Lot 10 205 Hobart Ave	Tax Appeal 2019 Taxes (\$10,012.84) 2020 Taxes (\$9,992.09) 2021 Taxes (\$10,054.34)	\$30,059.27
Ventura, Miesowitz et al Trust Account & Paul & Emily Sutton 783 Springfield Ave Summit, NJ 07901 Block 2701 Lot 4 21 Fairfield Dr.	Tax Appeal 2018 Taxes (\$1,475.95) 2019 Taxes (\$1,497.68) 2020 Taxes (\$1,976.08) 2021 Taxes (\$1,988.39)	\$6,938.10
Wolf Vespasiano Attorney Trust Account & Frederick & Barbara Austin 331 Main Street Chatham, NJ 07928 Block 3503 Lot 18 26 Colonial Way	Tax Appeal 2018 Taxes (\$4,488.72) 2019 Taxes (\$5,886.50)	\$10,375.22
Wolf Vespasiano Attorney Trust Account & Siddhart & Shirva Mehta 331 Main Street Chatham, NJ 07928 Block 3503 Lot 18 26 Colonial Way	Tax Appeal 2020 Taxes	\$1,328.94
Wolf Vespasiano Attorney Trust Account & Anatoly Pikman 331 Main Street Chatham, NJ 07928	Tax Appeal 2018 Taxes (\$1,633.82) 2019 Taxes (\$1,657.87)	\$6,126.36

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Block 3606 Lot 28 202 White Oak Ridge Rd	2020 Taxes (\$1,654.43) 2021 Taxes (\$1,180.24)	
Wolf Vespasiano Attorney Trust Account & John & Jennifer Bu 331 Main Street Chatham, NJ 07928 Block 3704 Lot 44 322 Hartshorn Dr.	Tax Appeal 2020 Taxes (\$7,390.06) 2021 Taxes (\$7,436.11)	\$14,826.17
Valerie Hofer Attorney Trust Account & Patrick & Altagracia Chang P.O. Box 787 Montville, NJ 07045 Block 4204 Lot 8 116 Silver Spring Rd.	Tax Appeal 2021 Taxes	\$625.97
Valerie Hofer Attorney Trust Account & Gil and Esther Eagles P.O. Box 787 Montville NJ 07045 Block 4803 Lot 12 30 Westview Rd.	Tax Appeal 2019 Taxes (\$1,225.55) 2020 Taxes (\$1,223.01) 2021 Taxes (\$1,230.63)	\$3,679.19
Wolf Vespasiano Attorney Trust Account & Mary McLaughlin 331 Main Street Chatham, NJ 07928 Block 4902 Lot 9 10 Farmstead Rd	Tax Appeal 2019 Taxes (\$4,736.22) 2020 Taxes (\$5,300.35)	\$10,036.57
Irwin & Heinze P.A. Attorney Trust Account & Hyun Ji 383 Main Street Suite 101 Chatham, NJ 07928 Block 5001 Lot 10 47 Harvey Dr.	Tax Appeal 2021 Taxes	\$484.50
Joanne & Loren Balady 12 Browning Rd. Short Hills, NJ 07078 Block 5108 Lot 7 12 Browning Rd.	Tax Refund 2022 Taxes Duplicate Pymt Overcollection	\$5,875.54

**RESOLUTION 22-082  
AUTHORIZE FIVE (5) YEAR CONTRACT OF COLLECTIVE BARGAINING AGREEMENT [PBA Local  
34]**

**WHEREAS**, the Township of Millburn has reached an agreement with the PBA Local 34 collective bargaining unit for a five (5) year period from January 1, 2021 through December 31, 2025; and

**WHEREAS**, it is necessary to set forth the terms and conditions of the settlement in a duly authorized Collective Bargaining Agreement with PBA Local 34 and the Township agrees to a cost of

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living adjustment in the following manner for covered employees; 2021- 2.5%, 2022-2.5%, 2023-2.5%, 2024-2.5%; 2025-2.5%; and

**WHEREAS**, PBA Local 34 will add two additional steps to their salary guide for personnel hired after January 1, 2022;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Millburn, in the County of Essex, that the Mayor, Business Administrator and Municipal Clerk are authorized to execute any necessary documentation and to take all other actions necessary or desirable to effectuate the agreement, in a form subject to the approval of the Township Labor Attorney, between the Township of Millburn PBA Local 34 for 2021-2025.

**RESOLUTION 22-083  
AUTHORIZE EXECUTION OF STORM SEWER INDEMNIFICATION AGREEMENTS**

**NOW, THEREFORE BE IS RESOLVED** that the Millburn Township Mayor and Township Clerk are hereby authorized to execute the Indemnification Agreements for Storm Sewer Connections for 30 Undercliff Road, Block: 601, Lot: 13 and 17 Park Circle, Block: 2406, Lot: 24, as per the recommendation of the Superintendent of Public Works.

**RESOLUTION 22-084  
TEMPORARY WAIVER OF ROAD MORATORIUM AND STREET OPENING FEES FOR  
LEAD WATER SERVICE LINE REPLACEMENT PROGRAM**

**WHEREAS**, the State of New Jersey signed into law A5343/SS3398 which requires public community water systems to inventory and replace lead service lines within 10 years; and

**WHEREAS**, New Jersey American Water Company (“NJAWC”), Millburn Township’s water supply utility, has identified approximately ten percent of properties, both residential and commercial, within the Township that receive water service through lead or galvanize material; and

**WHEREAS**, the Millburn Township Committee desires to incentivize the expedited replacement of water lines in the township identified by NJAWC that are required to be replaced over the next ten (10) years; and

**WHEREAS**, the Millburn Township Committee may take steps to ease impediments to NJAWC and their replacement program by waiving the roadway moratorium requirements under 15-1.1 of the Millburn Township General Code for any work directly related to the replacement of lead water service lines; and

**WHEREAS**, further incentive to expedite required water line replacement can be achieved by waiving road opening permit fees under 15-1.1 for work directly related to the replacement of lead or galvanized water service lines in the Township; and

**WHEREAS**, NJAWC would still be required to apply for and receive road opening permits from the Department of Public Works, attest that the work being done is directly related to lead service line replacement and restore roadways in accordance with Township ordinance; and

**WHEREAS**, the Township Committee would permit such waivers described herein for a period of three (3) years;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN:**

- 1.) The Township’s Business Administrator, Public Works and Engineering Departments have authority to waive both the moratorium on newly paved streets and the fees related to road opening permits and;
- 2.) Such waiver of the Township’s roadway moratorium and road opening permit fees shall not last more than three (3) years from the effective date of this resolution or until all lead service lines have been replaced, whichever is sooner.

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RESOLUTION 22-085
APPROVE RAFFLE LICENSES

WHEREAS, the following have submitted application to the Township Clerk to conduct a raffle, providing all required identification and the appropriate fees; and

WHEREAS, the Police Department is in receipt of a copy of the application per the regulation of the Legalized Games of Chance Control Commission.

NOW, THEREFORE, BE IT RESOLVED that the following be approved:

Millburn PBA Local 34 Civic Association, Inc. – as amended

RESOLUTIONS

Resolution 22-081

Resolution 22-081 was brought forth for consideration. Mr. McDonald reviewed the resolution. Ms. Thall Eglow voiced concerns on the increase for Barton Ross’ contract.

Mayor Miggins asked for a motion to approve Resolution 22-081. Mr. Wasserman made a motion to approve Resolution 22-081 which was seconded by Mr. Vinayak.

Roll Call Vote: Ayes: Miggins, Wasserman, Vinayak
Nays: Thall Eglow

RESOLUTION 22-081
AUTHORIZING AMENDMENT TO THE CONTRACT FOR
HISTORIC PRESERVATION CONSULTANT SERVICES
[BARTON ROSS & PARTNERS LLC]

WHEREAS, the Township of Millburn entered into a professional service contract by Resolution 22-023 approved by the Millburn Township Committee on January 4, 2022 with Barton Ross & Partners LLC, for the performance of historic preservation consultant services as set forth in its Proposal of Barton Ross & Partners LLC, dated November 8, 2021; and

WHEREAS, the Township Committee wishes to add to the original scope of services to include additional historic preservation consulting services outlined in the proposal dated February 15, 2022 for the additional amount of \$7,500.00; and

WHEREAS, the additional work is necessitated by comments received in connection with the Township’s current Certified Local Government grant application to complete a survey of the Short Hills Park Historic District; and

WHEREAS, the additional review, revisions and comments received from the State Historic Preservation Office was not anticipated and is critical to the approval, acceptance and payment of the Township’s grant application in the amount of \$24,950;

NOW, THEREFORE, BE IT RESOLVED that the Millburn Township Committee hereby authorizes the amendment to the contract of January 4, 2022 in the amount of \$49,950.00 to include the services included in the proposal dated February 15, 2022 in the additional amount of \$7,500.00 with Barton Ross & Partners LLC;

BE IT RESOLVED FURTHER RESOLVED that the Township Committee of the Township of Milburn in the County of Essex as follows:

- 1. The Mayor and the Township Clerk are hereby authorized and directed to execute the

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amendment to the agreement in a form subject to the approval of the Township Attorney with Barton Ross, of Barton Ross & Partners, LLC, 184 S. Livingston Avenue, Suite 9-140, Livingston, NJ 07039 for this professional through December 31, 2022.

- 2. This contract is made without competitive bidding as a "professional service" under the provisions of the Local Public Contracts Law because of the qualitative nature of the service provided.
3. Fees for all services are authorized as per proposal dated November 8, 2021 and February 15, 2022, and the Chief Financial Officer has certified funds in an updated amount of not to exceed \$57,450.00.
4. A copy of this resolution shall be published in The Item of Millburn Short Hills as required by law, within ten (10) days of its passage.

Resolution 22-086

Resolution 22-086 was brought forth for consideration. Ms. Thall Eglow questioned why so soon. Mr. McDonald advised the closer of Main Street would take place beginning May 1st. Ms. Thall Eglow and Mr. McDonald review the proposed closure.

Mr. Wasserman voiced support and advised that the closure was a great success last year. Ms. Thall Eglow agreed but noted her concerns with traffic.

Mayor Miggins asked for a motion to approve Resolution 22-086. Mr. Wasserman made a motion to approve Resolution 22-086 which was seconded by Mr. Vinayak.

Roll Call Vote: All Ayes

RESOLUTION 22-086
TEMPORARY CLOSURE OF A SECTION OF MAIN STREET TO CREATE A PEDESTRIAN MALL

WHEREAS, the Township of Millburn utilized the closure of Main Street between Millburn Avenue and Essex Street to promote economic vitality, place making and outdoor dining space during the COVID-19 pandemic; and

WHEREAS, the Main Street closure has been positively received by residents, visitors and the business community as a way to promote Millburn as a destination and increase foot traffic to businesses in the downtown business district; and

WHEREAS, there remains a need to support the business community and build on the success that has been achieved with the creation of a pedestrian mall area on Main Street; and

WHEREAS, the Township Committee desires to authorize the closure of a section of Main Street between Millburn Avenue and Essex Street from May 6, 2022 through June 24, 2022 on weekends, which is Friday afternoon at approximately 4:00pm through Sunday night; and

WHEREAS, the purpose of the closure is to offer restaurants and eateries additional space to set up tables and chairs for outdoor dining and create a vibrant atmosphere to attract patrons for all downtown businesses;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN:

- 1.) Main Street shall be closed to vehicular traffic between Millburn Avenue and Essex Street, on weekends beginning May 6, 2022 through June 24, 2022;
2.) During the temporary closure of Main Street to accommodate a pedestrian mall, the detour routes shall be made on Millburn Avenue, Lackawanna Place and Essex Street.
3.) The Township Business Administrator has worked with the Police Department to prepare a plan to minimize any traffic issues, including all proper notifications to emergency personnel.
4.) Restaurants and eateries located on Main Street who wish to utilize outdoor dining must



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- apply for and receive a café license from the Township.
- 5.) Restaurants and eateries with a liquor license must also have a valid Expansion of Premises Permit as required by the New Jersey Division of Alcoholic Beverage Control.
- 6.) The Township Business Administrator shall have the discretion to create additional standards as appropriate to maintain order and safety.
- 7.) The Township will reopen Main Street at any time prior to the stated closure date should the closure no longer prove effective or for any other safety or traffic issues that may arise.

**Ordinance/Introduction**

**Ordinance 2596-22**

Mayor Miggins brought forth Ordinance 2596-22 for introduction. A brief explanatory statement about the ordinance was made by Mayor Miggins. Mayor Miggins moved the ordinance to be taken up and passed on first reading noting that the public hearing would take place on April 5, 2022, Mr. Wasserman seconded the motion. Mayor Miggins requested a roll call vote.

Roll Call Vote: All Ayes, except Thall Eglow, abstain

**ORDINANCE NO. 2596-22  
AN ORDINANCE CREATING CHAPTER 501 "AFFORDABLE HOUSING"**

**STATEMENT OF PURPOSE:** *Ordinance 2596-22 updates the Township's affordable housing regulations to be consistent with the terms of the Settlement Agreement between the Township and Fair Share Housing Center, as well as with the Uniform Housing Affordability Control rules (N.J.A.C. 5:80-26.1), COAH's substantive rules (N.J.A.C. 5:93), and the Fair Housing Act (N.J.S.A. 52:27D-301. et seq.)*

**WHEREAS**, the Township of Millburn executed a Settlement Agreement with the Fair Share Housing Center on August 17, 2021 (hereinafter the "Settlement Agreement") that determines the municipality's affordable housing obligation and the preliminary compliance plan for how the obligation will be addressed; and

**WHEREAS**, the Settlement Agreement requires that the Township update its affordable housing regulations to be consistent with the terms of Settlement Agreement, as well as with the Uniform Housing Affordability Control rules (N.J.A.C. 5:80-26.1), COAH's substantive rules (N.J.A.C. 5:93), and the Fair Housing Act (N.J.S.A. 52:27D-301. et seq.); and

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Township of Millburn, in the County of Essex and State of New Jersey as follows:

**Section I. Chapter DRZ, Article 5, Section DRZ-501 entitled "Affordable Housing" is hereby created and shall be added to the Code to read as follows:**

***Section DRZ- 501 "Affordable Housing"***

**§ 501.1 Affordable Housing Obligation: General Program Purposes, Procedures**

- a. This section of the Township Code sets forth regulations regarding the low and moderate income housing units in the Township consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing", N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., except where modified by the requirements for very-low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at N.J.S.A. 52:27D-329.1) as reflected in the terms of a Settlement Agreement between the Township and Fair Share Housing Center ("FSHC") such that the statutory requirement to provide very-low income units equal to 13% of affordable units approved and constructed after July 17, 2008, to be affordable to households at 30% of the regional median income, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and the Township's constitutional obligation to provide a fair share of affordable housing for low and moderate income households.

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- b. This Ordinance is intended to assure that very low, low- and moderate-income units ("affordable units") are created with controls on affordability and that very- low, low- and moderate-income households shall occupy these units. This Ordinance shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.
- c. The Millburn 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 Plan has also been endorsed by the Mayor and Committee of the Township of Millburn. The Fair Share Plan describes the ways the Township shall address its fair share for low- and moderate- income housing as determined by the Superior Court and documented in the Housing Element.
- d. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of *N.J.A.C. 5:93*, as may be amended and supplemented.

**§ 501.2 Definitions.** As used herein the following terms shall have the following meanings:

Act

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

Adaptable

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

Administrative agent

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

Affirmative marketing

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

Affordability average

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

Affordable

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

*N.J.A.C. 5:80-26.12*, as may be amended and supplemented.

Affordable housing development

A housing development of which all or a portion of which consists of restricted units.

Affordable housing program(s)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

Affordable unit

A housing unit proposed or created pursuant to the Act, credited pursuant to *N.J.A.C. 5:93*, and/or funded through an affordable housing trust fund.

Agency

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

Age-restricted unit

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

Alternative living arrangement

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

Assisted living residence

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

Certified household

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

COAH

The Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (*N.J.S.A. 52:27D-301 et seq.*).

DCA

The State of New Jersey Department of Community Affairs.

Developer

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

Development

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.

Development Fee

Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.

Equalized Assessed Value

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 (N.J.S.A. 54:1-35a through 54:1-35c).

Fair Share Plan

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

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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**

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

**Low-income household**

A household with a total gross annual household income equal to 50% or less of the median household income.

**Low-income unit**

A restricted unit that is affordable to a low-income household.

**Market-rate units**

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

**Median income**

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

**Moderate-income household**

A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

**Moderate-income unit**

A restricted unit that is affordable to a moderate-income household.

**Non-exempt sale**

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

**Random selection process**

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

**Regional asset limit**

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

**Rehabilitation**

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

**Rent**

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

**Restricted unit**

A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include

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a market-rate unit financed under UHORP or MONI.

Special master

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

UHAC

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

Very-low income household

A household with a total gross annual household income equal to 30% or less of the median household income.

Very-low income unit

A restricted unit that is affordable to a very-low income household.

**§ 501.3 Administration of Affordable Units.** The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

- a. The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.
- b. Phasing. Affordable housing developments shall meet the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

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

- c. Design. In inclusionary developments, low- and moderate- income units shall be integrated with the market units and shall have access to all of the same common elements and facilities as the market units.
- d. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- e. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
  - 1. The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least thirteen percent (13%) of all restricted units shall be very-low income units (affordable to a household earning thirty percent (30%) or less of the regional median income by household size). The very-low-income units shall be counted as part of the required number of low income units in the development.
  - 2. In each affordable housing development, the total number of units within each bedroom distribution shall have at least 50% of the units restricted for low-income households, with at least 13% affordable to very-low-income households.

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3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
  - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;
  - (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and
  - (d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
  
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

f. Accessibility Requirements:

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

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with adaptable entrances.

- (3) The funds deposited under paragraph (2) herein, shall be used by the Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- (4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of Millburn.
- (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Millburn's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
- (6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

g. Maximum Rents and Sales Prices.

- 1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.
- 2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
- 3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
  - (a) At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
- 4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- 5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:

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- (a) A studio or efficiency unit shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
  - (c) A two-bedroom unit shall be affordable to a three-person household;
  - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
  - (e) A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:
- (a) A studio or efficiency unit shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
  - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under *N.J.A.C. 5:80-26.4*, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of *N.J.A.C. 5:80-26.3*, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under *N.J.A.C. 5:80-26.4*, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of *N.J.A.C. 5:80-26.3*, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

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

- (a) Regional income limits shall be established for the Region 2 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



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the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Region 2. 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 income limits calculated each year shall be the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the relevant fiscal year, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- (c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

- 10. The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.
- 11. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

h. Condominium and Homeowners Association Fees.

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

i. Affirmative Marketing.

- 1. The Township shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- 2. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is

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also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 2 and covers the period of deed restriction.

3. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 2, comprised of Essex, Morris, Union, and Warren.
4. The development's Administrative Agent shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
5. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, , the Morris County Chapter of the NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions of Morristown, the Supportive Housing Association and the New Jersey Housing Resource Center, and shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
5. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
7. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of Millburn.

j. Occupancy Standards.

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

k. Selection of Occupants of Affordable Housing Units.

1. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
2. A waiting list of all eligible candidates will be maintained in accordance with

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the provisions of N.J.A.C. 5:80-26 et seq.

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

1. Control periods for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.5*, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability.
2. Rehabilitated owner-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
3. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
4. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
5. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under *N.J.A.C. 5:80-26.5(a)*, as may be amended and supplemented.
6. 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.

m. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

1. 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:
2. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
3. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
4. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
5. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

n. 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

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supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.

2. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.
3. 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.
4. 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.

o. Limitations on indebtedness secured by ownership unit; subordination.

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

p. 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

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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.

q. Control Periods for Restricted Rental Units.

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years, until the municipality takes action to release the controls on affordability.
  - (a) Restricted rental units created as part of developments receiving nine percent (9%) Low Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period.
2. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
3. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Essex. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
4. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
  - (a) Sublease or assignment of the lease of the unit;
  - (b) Sale or other voluntary transfer of the ownership of the unit; or
  - (c) The entry and enforcement of any judgment of foreclosure.

r. Price Restrictions for Rental Units; Leases.

1. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
3. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

s. Tenant Income Eligibility.

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13,

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as may be amended and supplemented, and shall be determined as follows:

- (a) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
  - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
  - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (a) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - (b) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - (c) The household is currently in substandard or overcrowded living conditions;
  - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (e) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in r.2.(a) through e above with the Administrative Agent, who shall counsel the household on budgeting.

t. Conversions.

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

u. 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-

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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.

**§ 501.4 Municipal Housing Liaison.**

- a. The position of Municipal Housing Liaison for the Township of Millburn is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Township Mayor and Council and be subject to the approval by the Superior Court.
- b. The Municipal Housing Liaison must be either a full-time or part-time employee of the Township of Millburn.
- c. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in *N.J.A.C. 5:93*.
- d. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Millburn, including the following responsibilities which may not be contracted out to the Administrative Agent:
  1. Serving as the municipality’s primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  2. When applicable, supervising any contracting Administrative Agent.
  3. Monitoring the status of all restricted units in the Township of Millburn’s Fair Share Plan;
  4. Compiling, verifying and submitting annual reports as required by the Superior Court;
  5. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
  6. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

**§ 501.5 Administrative Agent.**

- a. The Township shall designate by resolution of the Township Mayor and Council, one or more Administrative Agents to administer newly constructed affordable units in accordance with *N.J.A.C. 5:93* and UHAC.
- b. Developers of affordable housing units shall utilize the Township’s appointed administrative agent for the administration of affordable units, unless specifically authorized to do otherwise by the Township Mayor and Council or Planning or Zoning Board. All administration costs, including those of the administrative agent, shall be paid by the developer.

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- c. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Superior Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- d. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in *N.J.A.C. 5:80-26.14, 16 and 18* thereof, which includes:
  - 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;
  - 2. Affirmative Marketing;
  - 3. Household Certification;
  - 4. Affordability Controls;
  - 5. Records retention;
  - 6. Resale and re-rental;
  - 7. Processing requests from unit owners; and
  - 8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
  - 9. The Administrative Agent shall, as delegated by the Township Mayor and Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

**§ 501.6 Enforcement of Affordable Housing Regulations.**

- a. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- b. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - 1. The municipality may file a court action pursuant to *N.J.S.A. 2A:58-11* alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
    - (a) A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
    - (b) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing



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units, payment into the Township of Millburn Affordable Housing Trust Fund of the gross amount of rent illegally collected;

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

2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
  - c. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
  - d. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
  - e. 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.
  - f. 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.
  - g. 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

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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.

- h. 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.

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

Section II. Severability

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the Township of Millburn declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section III. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

Ordinance 2597-22

Mr. Wasserman brought forth Ordinance 2597-22 for introduction. A brief explanatory statement about the ordinance was made by Mr. McDonald. Mr. Wasserman moved the ordinance to be taken up and passed on first reading noting that the public hearing would take place on April 5, 2022, Mr. Vinayak seconded the motion. Mayor Miggins requested a roll call vote.

Roll Call Vote: All Ayes; except Thall Eglow, abstain

ORDINANCE NO. 2597-22

AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWNSHIP OF MILLBURN TO AMEND CHAPTER DRZ, DEVELOPMENT REGULATIONS AND ZONING ORDINANCE, TO REQUIRE AN AFFORDABLE HOUSING SET-ASIDE CONSISTENT WITH THE TOWNSHIP’S ADOPTED 2021 THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, the Township of Millburn executed a Settlement Agreement with Fair Share Housing Center on August 17, 2021 that determines the municipality’s affordable housing obligation and the preliminary compliance plan for how the obligation will be addressed; and

WHEREAS, the Settlement Agreement called for adoption of a mandatory set-aside ordinance in order to capture unanticipated affordable housing opportunities and to satisfy a portion of Millburn’s unmet need obligation; and

WHEREAS, the Township adopted a Third Round Housing Element and Fair Share Plan that also set forth adoption of a mandatory set-aside ordinance, consistent with the Settlement Agreement; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Committee of the Township of Millburn, in the County of Essex and State of New Jersey as follows:

Section 1. Chapter DRZ, Article 5 Section DRZ-502 entitled “Mandatory Affordable Housing Set-Aside” is hereby created and shall be added to the Code to read as follows:

- a. A mandatory affordable housing set-aside requirement shall apply beginning with the effective date of this ordinance to any multi-family or attached dwelling residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units that becomes permissible through a “(d)1” use variance, a “d(5)” density variance increasing the permissible density at the site, a rezoning permitting multi-family or attached residential housing where not previously permitted, or a new or amended redevelopment plan as set forth below:

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1. The set aside of affordable units for all developments will be 20%.
2. This requirement does not apply to any sites or specific zones otherwise identified in the Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.
3. For any such development for which the Township’s land use ordinances (e.g. zoning or an adopted Redevelopment Plan) already permit residential development as of the effective date of this Ordinance No. 2597-22, adopted April 5, 2022, this requirement shall only apply if the Township permits an increase of five (5) or more residential units beyond that which is currently permitted (e.g. zoning or an adopted Redevelopment Plan).
4. The affordable units shall comply with the Township’s affordable housing regulations in §DRZ-501. This includes, but is not limited to, affordability controls of not less than thirty (30) years, proper distribution of one, two, and three bedroom affordable units, proper distribution of very-low, low and moderate income units, and affirmative marketing.
5. A property shall not be permitted to be subdivided so as to avoid meeting this requirement. The Board may impose any reasonable conditions to ensure such compliance.
6. Nothing in this subsection precludes the Township from imposing an affordable housing set aside in a development not required to have a set-aside pursuant to this subsection consistent with N.J.S.A. 52:27D-311(h) and other applicable law.
7. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.

**Section III. Repealer.** All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section IV. Severability.** If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

**Section V. Effective Date.** This ordinance shall take effect upon its passage and publication, as required by law.

**RESOLUTION**

**Resolution 22-087**

Resolution 22-087 was brought forth for consideration. Mr. McDonald reviewed the resolution. Ms. Thall Eglow and Mr. McDonald review the resolution. Mr. McDonald advised there would be a consultant managing the process.

Mayor Miggins asked for a motion to approve Resolution 22-087. Mr. Wasserman made a motion to approve Resolution 22-087 which was seconded by Ms. Thall Eglow.

Roll Call Vote: All Ayes

**RESOLUTION NO. 22-087**

**RESOLUTION OF THE COMMITTEE OF THE TOWNSHIP OF MILLBURN ADOPTING AN “AFFIRMATIVE MARKETING PLAN” FOR THE TOWNSHIP OF MILLBURN**

**WHEREAS**, in accordance with applicable Council on Affordable Housing (“COAH”) regulations, the New Jersey Uniform Housing Affordability Controls (“UHAC”)(N.J.A.C. 5:80-26., et seq.), and the terms of a Settlement Agreement between the Township of Millburn and Fair Share Housing Center (“FSHC”), which was entered into as part of the Township’s Declaratory Judgment action entitled In the Matter of the Application of the Township of Millburn, County of Essex, Docket No. ESX-L-2778-18, which was filed in response to Supreme Court decision In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(“Mount Laurel IV”), the Township of Millburn is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created are affirmatively marketed to low and moderate income households,

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particularly those living and/or working within Housing Region 2, the COAH Housing Region encompassing the Township of Millburn.

**NOW, THEREFORE, BE IT RESOLVED**, that Township Committee of the Township of Millburn, County of Essex, State of New Jersey, do hereby adopt the following Affirmative Marketing Plan:

**Affirmative Marketing Plan**

- A. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Township of Millburn is located in COAH Housing Region 2, consisting of Essex, Morris, Union, and Warren Counties.
- B. The Township of Millburn has a plan to address both its Prior Round Obligation (1987-1999) and its Third Round Obligation (1999-2025). This Affirmative Marketing Plan shall apply to all developments that contain or will contain very low, low and moderate income units, including those that are part of the Township's Housing Element and Fair Share Plan, and those that may be constructed in future developments not yet anticipated by the Housing Element and Fair Share Plan.
- C. The Affirmative Marketing Plan shall be implemented by the Administrative Agent under contract to the Township of Millburn, or the Administrative Agent of any specific developer approved by the Township.
- D. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developers/sellers/owners of affordable unit(s), and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Township Administrative Agent.
- E. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very low, low and moderate income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.
- F. The Affirmative Marketing Plan is a continuing program that shall be followed throughout the entire period of affordability restrictions. In implementing the Affirmative Marketing Plan, the Administrative Agent, whether acting on behalf of the Township of Millburn or on behalf of a specific developer, shall meet the following requirements and shall undertake, at the minimum, all of the following strategies:
  - 1. The primary marketing shall take the form of at least one press release and a paid display advertisement in the below newspapers the first week of the marketing program and each month thereafter until all units are leased or sold. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.
  - 2. The advertisement shall, at a minimum, include a description of the:
    - a. Location of the units;
    - b. Directions to the units;
    - c. Range of prices for the units;
    - d. Size, as measured in bedrooms, of units;
    - e. Maximum income permitted to qualify for the units;
    - f. Location of applications;

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- g. Business hours when interested households may obtain an application;
  - h. Application fees.
3. All newspaper articles, announcements, and requests for applications for very low, low- and moderate-income units shall appear in the Item of Millburn and Short Hills, a weekly newspaper, and the Star-Ledger, a daily newspaper.
  4. Publication of the advertisement or application on the New Jersey Housing Resource Center’s website (www.njhrc.gov).
  5. One or more of the regional cable television stations or regional radio stations shall be used. The developer must provide satisfactory proof of public dissemination on at least one station that covers entire region.
  6. Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program shall provide for posting in the following locations:
    - a. Millburn Municipal Building
    - b. Millburn Township Web Site
    - c. Millburn Library
    - d. Developer’s Sales/Rental Offices
    - e. Essex County Administration Building
    - f. Morris County Administration Building
    - g. Union County Administration Building
    - h. Warren County Administration Building
    - i. Essex County Library (all branches)
    - j. Morris County Library (all branches)
    - k. Union County Library (all branches).
    - l. Warren County Library (all branches)
  7. The Township’s Administrative Agent, or the Administrative Agent of a specific developer, shall comply with all requirements set forth in N.J.S.A. 52:27D-321.3 et seq. with regard to the affirmative marketing of affordable housing units.
- G. Applications shall be mailed by the Township’s Administrative Agent and Municipal Housing Liaison, or by the Administrative Agent of any specific developer, to prospective applicants upon request. Also, applications shall be available at the developer’s sales/rental office and application forms shall be mailed to Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002); the New Jersey State Conference of the NAACP; the Latino Action Network (P.O. Box 943, Freehold, NJ 07728); the Morris County Chapter of the NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions of Morristown, and the Supportive Housing Association
- H. The Township’s Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Essex, Morris, Union, and Warren Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers.
- I. The Township’s Administrative Agent shall develop, maintain and update a list of major employers in Essex, Morris, Union, and Warren Counties that will aid in the affirmative marketing program.
7. A random selection method to select occupants of very low, low- and moderate-income housing will be used by the Township’s Administrative Agent, or the Administrative Agent of any specific developer, in conformance with N.J.A.C. 5:80-26.16 (l). This Affirmative Marketing Plan provides

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- L. a regional preference for very low, low and moderate income households that live and/or work in COAH Housing Region 2, which is comprised of Essex, Morris, Union, and Warren Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low, low and moderate income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the Township prior to the affirmative marketing of the units.
- M. The Township's Administrative Agent, or the Administrative Agent of any specific developer, shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify very low, low and moderate income households; to place income eligible households in very low, low and moderate income units upon initial occupancy; to provide for the initial occupancy of very low, low and moderate income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to very low, low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26-1, et seq.
- N. The Township's Administrative Agent, or the Administrative Agent of any specific developer, shall provide or direct qualified very low, low and moderate income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.
- O. All developers/owners of very low, low and moderate income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Township's Administrative Agent.
- P. The Township's Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C. 5:80-26-1, et seq.

**BE IT FURTHER RESOLVED** that the appropriate Township officials and professionals are authorized to take all actions required to implement the terms of this Resolution.

**BE IT FURTHER RESOLVED** that this Resolution shall take effect pursuant to law.

### Old Business

#### Proposed Ordinance on Bamboo and Other Invasive Species

Reade Kem, Environmental Commission Chair, reviewed the Environmental Commission's approved resolution on invasive species. Ms. Thall Eglow advised she does not support asking existing residents to remove their bamboo if it was not affecting the environment. Mr. Kem suggested education over enforcement. Mayor Miggins agreed on educating the public. Mr. Wasserman asked for information to be posted on the township's website.

The Committee reached consensus to support the Environmental Commission to educate and promote information on invasive species be provided to the public and posted on the township's website.

#### Short Hills Train Station Safety and Pedestrian Improvements

Ms. Thall Eglow advised there was still continued concerns with safety at the Short Hills Train Station. She hoped the traffic consultant could provide a formal plan focused on pedestrian safety. Mr. McDonald advised that he could request a formal report. Mr. Vinayak advised he was in favor. Mr. Wasserman pointed out that he wanted to see more enforcement.

Ms. Thall Eglow reviewed improvements to be made for the community perhaps with the help of the beautification league. Mr. McDonald and Mr. Wasserman reviewed enforcement. Mr. McDonald noted that he would ask the Police Department to provide accident and ticket numbers in the area. The Committee agreed.

Ms. Thall Eglow asked if there was an update on the cell towers on JFK. Mr. McDonald provided an update; however, he advised they were still waiting for feasibility studies. Ms. Thall Eglow asked for an

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update in regard to the telephone pole in front of the Millburn Standard and Mr. McDonald provided and update but advised there were no current plans.

Mr. Vinayak asked for an update in reference to the traffic light on Hobart Gap Road. Mr. McDonald stated that he was waiting on homeowner to execute the documents.

Mr. Wasserman asked in reference to the sound system in downtown. Mr. McDonald advised there was no update at this time.

**New Business**

**Cora Hartshorn Arboretum and Bird Sanctuary Lease Renewal**

Mr. McDonald advised the Cora Harshorn Arboretum lease was up for renewal this summer. He reviewed the history. He added that would be pleased to welcome the leased for another 10-year contract with 5-year renewals. He advised he requested their annual report in order to share with the Committee.

**Adjournment**

Mayor Miggins asked for a motion to adjourn the meeting. Mr. Wasserman made a motion to adjourn and the motion was seconded by Mr. Vinayak to adjourn the meeting at 9:00 PM. Vote: All Ayes, except Ms. Prupis who was absent.

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Christine A. Gatti, RMC  
Township Clerk

Approved as revised: September 20, 2022