

MINUTES
Special Meeting of the Mayor and Council
Tuesday, August 27, 2019
7:00 PM

CALL THE MEETING TO ORDER –

Mayor Marana called the meeting to order at 7:00 PM in the Council Chambers of the Municipal Building located at 116 Paris Avenue, Northvale, New Jersey 07647.

STATEMENT –

Mayor Marana read the “Sunshine Statement” into the record, as follows

“This is a Special Meeting of the Mayor and Council of the Borough of Northvale. The date, time and location of this meeting has been advertised in the official Newspaper of the Borough, filed with the Borough Clerk and posted on the bulletin board in the Municipal Building. All notice requirements of the Open Public Meetings Act for this meeting have been fulfilled. Please note the fire exits as required by law at public meetings.”

SALUTE TO THE FLAG & SILENT PRAYER –

Mayor Marana asked all in attendance to rise and join him in a Salute to the Flag and then called for a moment of silent prayer.

ROLL CALL –

Name	Present	Absent
Mayor Marana	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilman McGuire	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Councilman McGuire arrived at 7:15 PM.

Also present: Ms. Deena Rosendahl, Borough Attorney; Mr. Carl O’Brien, Borough Engineer and Wanda A. Worner, Borough Clerk.

PROMOTIONS –

Approve the promotion of Howard Ostrow from Captain to Chief, effective September 1, 2019.

Motion	Second	Name
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman Small
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Approve the promotion of Robert Pizzi from Sergeant to Captain, effective September 1, 2019

Motion	Second	Name
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman Argiro

<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input type="checkbox"/>	Councilman McGuire
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OATHS OF OFFICE –

Mayor Marana administered the Oath of Office to the newly appointed Chief and Captain.

ORDINANCES – 2nd reading –

Mayor Marana stated that when he first came into office this year, he learned that the Borough still had not settled on a plan for Affordable Housing. He stated that there were many meetings with the Planner, Ms. Darlene Green and the Planning/Zoning Board and the Mayor and Council. As a result; after many months and many meetings, the Borough finally has a plan that has been accepted by the State. He stated that these Ordinances are necessary in order to be in compliance with the plan as accepted by the State.

Motion	Second	Name
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input type="checkbox"/>	Councilman McGuire
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman Sotiropoulos

ORDINANCE #1003-2019 - AN ORDINANCE OF THE BOROUGH OF NORTHVALE AMENDING AND SUPPLEMENTING CHAPTER 200 ENTITLED “ZONING” TO ESTABLISH A NEW ZONE ENTITLED “PARIS AVENUE INCLUSIONARY OVERLAY DISTRICT” IN A NEW SECTION 19.1 AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

WHEREAS, the area along Paris Avenue between Livingston Street and Veterans Drive is home to a variety of uses; and

WHEREAS, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in *In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (201) (“Mt. Laurel IV”)* seeking approval of a Housing Element and Fair Share Plan that satisfied the Borough’s obligation to provide for its fair share of the regional need of low and moderate income housing; and

WHEREAS, a Fairness Hearing was held on April 12, 2018 by Hon. Menelaos W. Toskos, J.S.C. who approved a settlement agreement between the Borough of Northvale and the Fair Share Housing Center, which established the Borough’s affordable housing obligations; and

WHEREAS, the Borough is desirous of adopting an Ordinance intended to implement the provisions of the Settlement Agreement and the July 22, 2019 Housing Element and Fair Share Plan, which has been endorsed by the Borough Council; and

WHEREAS, the Borough Council has determined that Block 909, Lots 1, 2, 3, 4, 5, 6, 7, 23, and 24; Block 910, Lots 1, 2, and 3; Block 911, Lots 1, 2, 3, 11, 12, and 13; Block 912, Lot 1; and Block 914, Lots 1 and 2 are suited for overlay zoning to permit multi-family inclusionary zoning.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Northvale, as follows:

Section 1. Chapter 200 of the Code of the Borough of Northvale, Article II entitled “Districts”, Section 5 entitled “Enumeration of districts; boundaries, map”, subsection A(1) is hereby amended and supplemented by adding the following text alphabetically:

PAI Paris Avenue Inclusionary Overlay

Section 2. Chapter 200 of the Code of the Borough of Northvale, Article IV entitled “Multi-Family Housing Districts” is hereby amended by creating a new subsection 19.1 entitled “Paris Avenue Inclusionary Overlay District”, said Section to read as follows:

§200-19.1 Paris Avenue Inclusionary Overlay District

- A. Purpose. It is the purpose of this overlay zone to provide opportunities for the creation of inclusionary housing developments, which will provide a variety of housing types and affordability levels.
- B. Conditionally permitted principal uses.
 - (1) Multi-family dwelling unit buildings, subject to the following conditions:
 - (a) The minimum lot area shall be 22,000 square feet.
 - (b) The maximum density shall be 30 units to the acre.
 - (c) Parking for the residential units shall be in accordance with Residential Site Improvement Standards.
 - (d) Where the property abuts a single-family detached home, a solid screen comprised of either a six-foot-tall fence or evergreen shrubs six feet in height shall be installed.
 - (e) No dumpster or trash facilities shall be located within 15 feet of a property line shared with an existing single-family detached home.
 - (f) A minimum of 15% of the residential units shall be reserved for affordable households if the tenure is rental. A minimum of 20% of the residential units shall be reserved for affordable households if the tenure is sale.
 - (g) The following bulk standards are required, but any deviations shall be treated as “c” bulk variances:
 - [1] Minimum lot width: 100 feet
 - [2] Minimum lot depth: 100 feet
 - [3] Minimum front yard setback – 5 feet
 - [4] Minimum side yard setback – 10 feet
 - [5] Minimum rear yard setback – 40 feet
 - [6] Maximum lot coverage – 75%
 - [7] Minimum green area – 10%

[8] Maximum height – 40 feet and 3 stories

- C. Permitted accessory uses.
 - (1) Signs as regulated.
 - (2) Off-street parking.
 - (3) Garages under or incorporated into the building design.
 - (4) Fences and walls.
 - (5) Tenant amenities including, but not limited to, recreational and fitness facilities, lobbies, leasing and management offices and mail rooms.

- D. Affordable housing requirements.
 - (1) Affordable units in the PAI Overlay District shall be deed-restricted affordable units complying with the Uniform Housing Affordability Controls and Article IX Affordable Housing Regulations of Chapter 200 Zoning.
 - (2) The affordable units shall be deed restricted for at least 30 years.
 - (3) The units shall be family affordable units.
 - (4) The developer shall be responsible for the costs associated with marketing the units.

- E. Landscaping.
 - (1) Street trees shall be provided along the street frontage at an interval of 40 to 50 feet on center. Said trees shall be a minimum of three inches caliper at installation.
 - (2) The front building wall foundation area shall be planted with a variety of shrubs with an installation height of at least three feet.
 - (3) Surface parking areas shall be landscaped at a rate of one tree per 15 parking spaces. Said tree shall be a minimum three inches caliper in a pervious area of at least 162 square feet.
 - (4) Required green areas shall be landscaped with low ground cover and grass.

- F. Lighting.
 - (1) All off-street parking areas shall provide a minimum average 0.5 footcandle illumination.
 - (2) Building entrances shall be well-lit.
 - (3) Footcandles at the property line shall not exceed one footcandle, except where there are driveways.

- G. Fences. Fences and walls shall comply with §200-15A.

- H. Architectural standards.
 - (1) Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a

simple, long wall. Similarly, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

- (2) The maximum spacing between building wall offsets shall be 40 feet.
- (3) The minimum projection or depth of any individual vertical offset shall be 1.5 feet.
- (4) All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
- (5) Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.
- (6) All rooftop mechanical equipment shall be screened from view from all vantage points at or below the level of the roof.

I. Trash.

- (1) Trash enclosures shall be located to the rear or side of the building.
- (2) All trash enclosures shall be screened by a solid masonry wall on three sides and a heavy-duty gate on the fourth.

J. Utilities. All utilities shall be underground.

K. Signage.

- (1) One wall sign per street frontage shall be permitted to identify the development.
- (2) Said sign shall be a maximum of 20 square feet.
- (3) The sign may be internally illuminated.

Section 3. The Official Zoning Map shall be changed for the following Block and Lots to reflect the new zoning designation of PAI Paris Avenue Inclusionary Overlay District:

Block 909	Lots 1, 2, 3, 4, 5, 6, 7, 23, and 24
Block 910	Lots 1, 2, and 3
Block 911	Lots 1, 2, 3, 11, 12, and 13
Block 912	Lot 1
Block 914	Lots 1 and 2

Section 4. All other sections of this Ordinance shall remain in full force and effect.

Section 5. All Ordinances and parts of Ordinances inconsistent with the provisions hereof are hereby repealed.

Section 6. This Ordinance shall take effect immediately upon passage and publication as required by law.

OPEN PUBLIC HEARING –

Mayor Marana opened the public hearing on Ordinance #1003-2019.

CLOSE PUBLIC HEARING –

There being no questions or comments; Mayor Marana closed the public hearing on Ordinance #1003-2019.

ROLL CALL VOTE –

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion	Second	Name
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

ORDINANCE #1004-2019 -AN ORDINANCE OF THE BOROUGH OF NORTHVALE RENAMING ARTICLE IX “ADMINISTRATION OF AFFORDABLE HOUSING PROGRAM” TO “AFFORDABLE HOUSING REGULATIONS” WITHIN CHAPTER 200 “ZONING” AND REPLACING THE ENTIRE CONTENTS OF ARTICLE IX TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC)

WHEREAS, the Borough of Northvale has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

WHEREAS, the Borough Council of the Borough of Northvale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

WHEREAS, after a Fairness Hearing held on April 12, 2018, by Order dated February 12, 2018, Hon. Menelaos W. Toskos, J.S.C. approved a settlement agreement between the Borough of Northvale and Fair Share Housing Center, which established the Borough’s affordable housing obligations; and

WHEREAS, the Northvale Planning Board has adopted a Housing Element and Fair Share Plan dated July 22, 2019 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, the Borough is desirous of amending and supplementing the Borough Code to include provisions addressing Northvale’s constitutional obligation to provide for its fair share of low and moderate income housing consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income households shall occupy those units.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Northvale, as follows:

Section 1. Chapter 200 entitled “Zoning”, Article IX entitled “Administration of Affordable Housing Program”, is hereby renamed “Affordable Housing Regulations”, and replaced in its entirety as follows:

- §200-37.1 Purpose.**
- §200-37.2 Monitoring requirements.**
- §200-37.3 Definitions.**
- §200-37.4 Applicability.**
- §200-37.5 Alternative living arrangements.**
- §200-37.6 Inclusionary zoning.**
- §200-37.7 Phasing schedule for inclusionary zoning.**
- §200-37.8 Fractional units.**
- §200-37.9 New construction.**

- §200-37.10 Utilities.**
- §200-37.11 Occupancy standards.**
- §200-37.12 Control periods for restricted ownership units and enforcement measures.**
- §200-37.13 Price restrictions for restricted ownership units, homeowner association fees and resale prices.**
- §200-37.14 Buyer income eligibility.**
- §200-37.15 Limitations on indebtedness secured by ownership units; subordination.**
- §200-37.16 Capital improvements to ownership units.**
- §200-37.17 Control periods for restricted units.**
- §200-37.18 Rent restrictions for rental units; leases.**
- §200-37.19 Tenant income eligibility.**
- §200-37.20 Municipal housing liaison.**
- §200-37.21 Administrative agent.**
- §200-37.22 Affirmative marketing requirements.**
- §200-37.23 Enforcement of affordable housing regulations.**
- §200-37.24 Appeals.**
- §200-38 Reserved.**
- §200-39 Reserved.**

ARTICLE IX AFFORDABLE HOUSING REGULATIONS

§200-37.1 Purpose.

- A. The purpose of this Article is to provide for and regulate affordable housing in the Borough of Northvale. This Ordinance is intended to assure that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income individuals and households shall occupy these units.
- B. The Borough of Northvale Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Borough Council. The Fair Share Plan describes the ways the Borough of Northvale addresses its fair share for low and moderate income housing.
- C. This Ordinance implements the Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as it may be amended and supplemented.

§200-37.2 Monitoring requirements.

- A. On the first anniversary of the Judgment of Repose/Compliance or judicial substantive certification, and every anniversary thereafter through July 1, 2025, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs (DCA), Council on Affordable Housing (COAH), or Local Government Services (LGS) or other entity designated by the State of New Jersey, with a copy posted on the municipal website, using forms developed for this purpose by the DCA, COAH or LGS or alternative forms

endorsed by the Special Master or Fair Share Housing Center (FSHC). The reporting shall include an accounting of all housing trust fund activity, including the amount of funds collected and the amount and purpose for which any funds have been expended.

- B. On the first anniversary of the Judgment of Repose/Compliance or judicial substantive certification, and every anniversary thereafter through July 1, 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with notice of a link to the website upon posting to FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

- C. For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented.

- D. For the review of very-low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of Judgment of Repose/Compliance or judicial substantive certification, and every third year thereafter, the Borough will post on its municipal website, a status report as to its satisfaction of its very-low income requirements.

§200-37.3 Definitions.

The following terms when used in this Article shall have the meanings given herein:

ACT

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

ADAPTABLE

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

ADMINISTRATIVE AGENT

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

AFFIRMATIVE MARKETING

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

AFFORDABILITY AVERAGE

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

AFFORDABLE

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

AFFORDABLE HOUSING DEVELOPMENT

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

AFFORDABLE HOUSING PROGRAM(S)

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

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act and approved for crediting and/or funded through an affordable housing trust fund.

AGENCY

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

AGE-RESTRICTED UNIT

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

ALTERNATIVE LIVING ARRANGEMENTS

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

ASSISTED LIVING RESIDENCE

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

CERTIFIED HOUSEHOLD

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

COAH

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), or any successor agency charged with the administration of the Act.

COURT

The Superior Court of New Jersey, Law Division, Bergen County.

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

DEVELOPER

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

DEVELOPMENT

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

INCLUSIONARY DEVELOPMENT

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

LOW INCOME HOUSEHOLD

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

LOW INCOME UNIT

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

MAJOR SYSTEM

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

MARKET-RATE UNITS

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

MEDIAN INCOME

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

MODERATE INCOME HOUSEHOLD

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

MODERATE INCOME UNIT

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

MULTIFAMILY UNIT

A structure containing five or more dwelling units.

NON-EXEMPT SALE

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

RANDOM SELECTION PROCESS

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

REGIONAL ASSET LIMIT

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

REHABILITATION

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

RENT

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

RESTRICTED UNIT

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

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

VERY-LOW INCOME HOUSEHOLD

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

VERY-LOW INCOME UNIT

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

WEATHERIZATION

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

§200-37.4 Applicability.

- A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Northvale.
- B. Moreover, this Ordinance shall apply to all developments that contain low and moderate income housing units, including any currently anticipated future developments that will provide low and moderate income housing units.

§200-37.5 Alternative living arrangements.

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

§200-37.6 Inclusionary zoning.

The Borough has adopted an overlay zone for a portion of the Light Industrial Zone as shown on the Zoning Map. This zone permits multi-family housing as a conditional use at 14 units per acre. This zone is called Residential Multi-family Inclusionary Overlay District. The Borough has adopted an overlay zone for Block 909, Lots 1, 2, 3, 4, 5, 6, 7, 23, and 24; Block 910, Lots 1, 2, and 3; Block 911, Lots 1, 2, 3, 11, 12, and 13; Block 912, Lot 1; and Block 914, Lots 1 and 2 as shown on the Zoning Map. This zone permits

multi-family housing as a conditional use at 30 units per acre. This zone is called Paris Avenue Inclusionary Overlay District.

§200-37.7 Phasing schedule for inclusionary zoning.

In inclusionary developments the following schedule shall be followed:

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

§200-37.8 Fractional units.

- A. Inclusionary developments that result in an affordable housing obligation that is fractional may round down when the fraction is 0.4 or less. If the developer elects to round down, they shall pay the proportional payment-in-lieu as outlined in Section C. below. Or, in the alternative, the developer may round up and provide the additional affordable units.
- B. Fractions of 0.5 or greater shall round up and provide the additional affordable unit.
- C. The payment-in-lieu for Northvale shall be \$230,000 for 2019. The payment-in-lieu shall increase by 3% each year. To calculate the payment-in-lieu the developer shall multiply the fraction by the payment. For example, a fraction of 0.4 triggered in 2019 would require a payment of \$92,000.

§200-37.9 New construction.

- A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - (1) The fair share obligation shall be divided equally between low and moderate income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13% of all restricted rental units within each bedroom distribution shall be very-low income units (affordable to a household earning 30% or less of median income). The very-low income units shall be counted as part of the required number of low income units within the development.
 - (2) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
 - (3) A maximum of 25% of the Borough's obligation may be met with age restricted units. At least half of all affordable units in the Borough's Plan shall be non-restricted.
 - (4) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low income units including that 13% shall be very-low income.
 - (5) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% 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.

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

B. Accessibility Requirements

(1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multi-story buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

(2) All restricted townhouse dwelling units and all restricted units in other multi-story buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

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

(b) An adaptable kitchen on the first floor; and

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

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

(e) If not all of the foregoing requirements in (2)(a) through (2)(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (2)(a) through (2)(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

(f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Northvale 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 person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

[2] To this end, the builder of restricted units shall deposit funds within the Borough of Northvale's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

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

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

[5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer 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.

C. Design.

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

D. Maximum Rents and Sales Prices.

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.
- (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 rental 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, provided that at least 13% of all low and moderate income rental units shall be affordable to very-low income households, earning 30% or less of the regional median household income, with such very-low income units counted the low income housing requirement.
- (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 sales prices for each bedroom type, and low income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and

- (c) A two-bedroom unit shall be affordable to a two-person household or 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 it 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 it 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 size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as it 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 it may be amended and supplemented.
- (9) The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (10) The rent of low and moderate income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

§200-37.10 Utilities.

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

§200-37.11 Occupancy standards.

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

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

§200-37.12 Control periods for restricted ownership units and enforcement measures.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as it may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Northvale takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it may be amended and supplemented.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

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

§200-37.13 Price restrictions for restricted ownership units, homeowner association fees and resale prices.

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

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low and moderate income purchasers and those paid by market purchasers.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See **§200-37.16**.

§200-37.14 Buyer income eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as it may be amended and supplemented, such that low income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income, and moderate income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit moderate income purchasers to buy low income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low income purchasers to permit prompt occupancy of the units. All such low income units to be sold to moderate income households shall retain the required pricing and pricing restrictions for low income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit.
- D. The Administrative Agent shall certify a household as eligible for a restricted ownership

unit when the household is a low income household or a moderate income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

§200-37.15 Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

§200-37.16 Capital improvements to ownership units.

- A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§200-37.17 Control periods for restricted units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as it may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Northvale takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it may be amended and supplemented.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very-low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;

- (2) Sale of other voluntary transfer of the ownership of the unit; or
- (3) The entry and enforcement of any judgement of foreclosure on the property containing the unit.

§200-37.18 Rent restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 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.

§200-37.19 Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as it may be amended and supplemented, and shall be determined as follows:
 - (1) Very-low income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - (2) Low income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - (3) Moderate income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low income household, low income household or a moderate income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (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 it may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in A(1) through B(5) above with the Administrative Agent, who shall counsel the household on budgeting.

§200-37.20 Municipal Housing Liaison.

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

§200-37.21 Administrative Agent.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the Borough. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay 3% of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, .16 and .18 thereof, which include:

- A. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Northvale and the provisions of N.J.A.C. 5:80-26.15; and
- B. Providing counseling, or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- C. Household Certification:
 - (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low or moderate

income unit;

- (3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Northvale when referring households for certification to affordable units.

D. Affordability Controls:

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

E. Sales and Re-rentals:

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

F. Processing Requests from Unit Owners:

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

G. Enforcement:

- (1) Securing annually from the Borough a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
- (3) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and
- (6) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council, setting forth procedures for administering the affordability controls.

H. Additional Responsibilities:

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

§200-37.22 Affirmative Marketing Requirements.

- A. The Borough of Northvale shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-25.15, as it may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 1 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties.
- D. The Borough has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Borough of Northvale shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the Northvale Borough Hall, Northvale Municipal Library, Hudson County Administration Building, Passaic County Administration Building, Bergen County Administration Building, Sussex County Main Library, and the developer's rental office. Pre-applications may be emailed to prospective applicants upon request. Otherwise, hard copies are available from the Borough's Municipal Housing Liaison.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§200-37.23 Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the Borough shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low or moderate income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Borough may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (1) The Borough may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense. In the case of an Owner who has rented a low or moderate income unit in violation of the regulations governing affordable housing units, payment into the Borough of Northvale Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (b) In the case of an Owner who has rented a low or moderate income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - (2) The Borough may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low or moderate income unit:
 - (a) The judgment shall be enforceable, at the option of the Borough, 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 Borough, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

- (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low and moderate income unit. The excess, if any, shall be applied to reimburse the Borough 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 Borough in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Borough 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 Borough 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 Borough 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 Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the Owner or forfeited to the Borough.
- (c) Foreclosure by the Borough due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low and moderate income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low and moderate income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the low and moderate income unit to be either sold at the Sheriff's sale or acquired by the Borough shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Borough, with such offer to purchase being equal to the maximum resale price of the low and moderate income unit as permitted by the regulations governing affordable housing units.
- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§200-37.24 Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Article shall be filed in writing with the Executive Director of COAH or with the Superior Court, Bergen County vicinage .

§200- 38 Reserved.

§200- 39 Reserved.

Section 2. All other sections of this Ordinance shall remain in full force and effect.

Section 3. All Ordinances and parts of Ordinances inconsistent with the provisions hereof are hereby repealed.

Section 4. This Ordinance shall take effect immediately upon passage and publication as required by law.

OPEN PUBLIC HEARING –

Mayor Marana opened the public hearing on Ordinance #1004-2019.

CLOSE PUBLIC HEARING –

There being no questions or comments; Mayor Marana closed the public hearing on Ordinance #1004-2019.

ROLL CALL VOTE –

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion	Second	Name
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

ORDINANCE #1005-2019 - AN ORDINANCE AMENDING CHAPTER 95 OF THE CODE OF THE BOROUGH OF NORTHVALE TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT

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

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

WHEREAS, the Borough of Northvale has prepared a Spending Plan to submit to Hon. Christine Famington, J.S.C. in connection with its pending declaratory judgment action concerning the Borough’s affordable housing obligations, which incorporates the residential and non-residential development fees set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Northvale, as follows:

Section 1. Chapter 95 of the Code of the Borough of Northvale, entitled “Development Fees,” is hereby deleted in its entirety and replaced to read as follows:

Chapter 95: Development Fees

§95-1	Purpose.
§95-2	Court approval required.
§95-3	Definitions.
§95-4	Residential development fees.
§95-5	Non-residential development fees.
§95-6	Collection procedures.
§95-7	Affordable Housing Trust Fund.
§95-8	Use of Funds.
§95-9	Monitoring.
§95-10	On-going collection of fees.
§95-1	Purpose.

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

§95-2 Court approval required.

- A. This Chapter shall not be effective unless and until approved by the Superior Court in connection with the Borough of Northvale's declaratory judgment action concerning its Third Round affordable housing obligations, Docket No. BER-L-6287-75.
- B. The Borough of Northvale shall not spend development fees collected pursuant to this Chapter unless and until the Superior Court has approved a Spending Plan for such fees.

§95-3 Definitions.

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

AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipally-sponsored construction project or a 100% affordable housing development.

COAH OR THE COUNCIL

The New Jersey Council on Affordable Housing established under the Fair Housing Act, or any successor agency.

DEVELOPMENT FEE

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

DEVELOPER

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

EQUALIZED ASSESSED VALUE

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined

in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

GREEN BUILDING STRATEGIES

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

§95-4 Residential development fees.

A. Imposition of fees.

- (1) Within the Borough of Northvale, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of 1.5% of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- (2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential developments.

- (1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Northvale, shall be exempt from the payment of development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.
- (3) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.
- (4) Development fees shall be imposed and collected when a new Certificate of Occupancy is triggered when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee

requirements. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

§95-5 Non-residential development fees.

A. Imposition of fees.

- (1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for non-residential development.

- (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
- (2) The 2.5% development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
- (5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be

enforceable by the Borough of Northvale as a lien against the real property of the owner.

§95-6 Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/ Exemption” to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Borough of Northvale fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- H. Except as provided in §95-5A(3) hereinabove, 50% of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.
- I. Appeal of development fees.
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Northvale. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

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

§95-7 Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Northvale for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Northvale;
 - (2) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multi-story attached dwelling unit development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with Northvale's affordable housing program.
- C. In the event of a failure by the Borough of Northvale to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Northvale, or, if not practicable, then within the County.

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

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

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

§95-8 Use of funds.

- A. The expenditure of all funds shall conform to a Spending Plan approved by the Superior Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Northvale's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the Borough of Northvale for past housing activities.
- C. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low and moderate income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region 1, in which Northvale is located.
 - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very-low income affordability assistance shall be identified and described within the Spending Plan.
 - (3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Northvale, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Borough of Northvale may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including but not limited to salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new

construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

- (1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
- (2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or actions are not eligible uses of the Affordable Housing Trust Fund.

§95-9 Monitoring.

The Borough of Northvale shall provide annual reporting of Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, COAH or LGS or other entity designated by the State of New Jersey, with a copy posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, COAH or Local Government Services or alternate forms endorsed by the Special Master or Fair Share Housing Center.

§95-10 Ongoing collection of fees.

- A. The ability for the Borough of Northvale to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its Judgment of Compliance and shall continue thereafter so long as the Borough of Northvale has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- B. If the Borough of Northvale is not pursuing authorization to impose and collect development fees after the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
- C. After the expiration of the Judgment of Compliance, if the Borough does not pursue or obtain continued authorization, the Borough of Northvale shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

Section 2. All other sections of this Ordinance shall remain in full force and effect.

Section 3. All Ordinances and parts of Ordinances inconsistent with the provisions hereof are hereby repealed.

Section 4. This Ordinance shall take effect immediately upon passage and publication as required by law.

OPEN PUBLIC HEARING –

Mayor Marana opened the public hearing on Ordinance #1005-2019.

CLOSE PUBLIC HEARING –

There being no questions or comments; Mayor Marana closed the public hearing on Ordinance #1005-2019.

ROLL CALL VOTE –

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion	Second	Name
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

ORDINANCE #1006-2019 - AN ORDINANCE OF THE BOROUGH OF NORTHVALE AMENDING AND SUPPLEMENTING CHAPTER 200 OF THE CODE OF THE BOROUGH OF NORTHVALE TO ESTABLISH A BOROUGH-WIDE SET-ASIDE REQUIREMENT AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

WHEREAS, the Borough Council of the Borough of Northvale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

WHEREAS, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in *In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (201) (“Mt. Laurel IV”)* seeking approval of a Housing Element and Fair Share Plan that satisfied the Borough’s obligation to provide for its fair share of the regional need of low and moderate income housing; and

WHEREAS, after a Fairness Hearing held on April 12, 2018, by Hon. Menelaos W. Toskos, J.S.C., approved a settlement agreement between the Borough of Northvale and the Fair Share Housing Center, which established the Borough’s affordable housing obligations; and

WHEREAS, pursuant to the requirements of the August 1, 2018 Order, the Borough of Northvale intends to supplement its Zoning Ordinance to include provisions addressing Northvale’s constitutional obligation to provide for its fair share of low and moderate income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, the Northvale Planning Board has adopted a Housing Element and Fair Share Plan dated July 22, 2019 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are required when certain types of applications are approved; and

WHEREAS, this Ordinance is intended to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Borough Council.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Northvale, as follows:

Section 1. Chapter 200 of the Code of the Borough of Northvale, Article III, entitled “Regulations and Restrictions”, Section 9, entitled “Provisions applicable to all zones”, is hereby amended and supplemented by adding a new subsection D, entitled “Borough-wide set-aside requirements”, said section to read as follows:

D. Borough-wide set-aside requirements.

- (1) Any property in the Borough of Northvale that receives a subdivision or site plan approval, zoning change, density variance, use variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development at six units or more per acre, which multi-family residential development will yield five or more new dwelling units, shall provide a minimum affordable housing set-aside of:
 - (a) Fifteen (15%) percent if the affordable units will be for rent; or
 - (b) Twenty (20%) percent set-aside if the affordable units will be for sale.
- (2) This requirement shall not apply to residential development on sites that are zoned for inclusionary residential development as part of the Borough’s Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning.
- (3) This requirement does not, and shall not be construed to, grant any property owner or developer the right to any rezoning, variance or other relief, nor does this requirement establish any obligation on the part of the Borough of Northvale to grant any such rezoning, variance or other relief.
- (4) A property shall not be permitted to be subdivided so as to avoid compliance with this requirement.
- (5) All affordable units created pursuant to this Section shall be governed by the provisions of Chapter 200, “Zoning”, Article IX “Affordable Housing Regulations”.

Section 2. All other sections of this Ordinance shall remain in full force and effect.

Section 3. All Ordinances and parts of Ordinances inconsistent with the provisions hereof are hereby repealed.

Section 4. This Ordinance shall take effect immediately upon passage and publication as required by law.

OPEN PUBLIC HEARING –

Mayor Marana opened the public hearing on Ordinance #1006-2019.

CLOSE PUBLIC HEARING –

There being no questions or comments; Mayor Marana closed the public hearing on Ordinance #1006-2019.

ROLL CALL VOTE –

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion	Second	Name
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

ORDINANCE #1007-2019 - AN ORDINANCE OF THE BOROUGH OF NORTHVALE AMENDING AND SUPPLEMENTING CHAPTER 200 ENTITLED “ZONING” TO ESTABLISH A NEW ZONE ENTITLED “RESIDENTIAL MULTI-FAMILY INCLUSIONARY OVERLAY DISTRICT” IN A NEW SECTION 19.2 AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

WHEREAS, the eastern edge of the Borough is zoned LI Light Industrial District and is home to a variety of uses; and

WHEREAS, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in *In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (201)* (“*Mt. Laurel IV*”) seeking approval of a Housing Element and Fair Share Plan that satisfied the Borough’s obligation to provide for its fair share of the regional need of low and moderate income housing; and

WHEREAS, a Fairness Hearing was held on April 12, 2018 by Hon. Menelaos W. Toskos, J.S.C. who approved a settlement agreement between the Borough of Northvale and the Fair Share Housing Center, which established the Borough’s affordable housing obligations; and

WHEREAS, the Borough is desirous of adopting an Ordinance intended to implement the provisions of the Settlement Agreement and the July 22, 2019 Housing Element and Fair Share Plan, which has been endorsed by the Borough Council; and

WHEREAS, the Borough Council has determined that certain LI District lands are suited for overlay zoning to permit multi-family inclusionary zoning.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Northvale, as follows:

Section 1. Chapter 200 of the Code of the Borough of Northvale, Article II entitled “Districts”, Section 5 entitled “Enumeration of districts; boundaries, map”, subsection A(1) is hereby amended and supplemented by adding the following text alphabetically:

RMI Residential Multi-family Inclusionary Overlay District

Section 2. Chapter 200 of the Code of the Borough of Northvale, Article I entitled “General Provisions”, Section 4 entitled “Word usage and definitions”, subsection B is hereby amended by adding the following new language alphabetically under the term Dwelling:

- (5) Multi-family Dwelling Unit
A dwelling containing three or more dwelling units, including units that are located one over the other.

Section 3. Chapter 200 of the Code of the Borough of Northvale, Article IV entitled “Multi-Family Housing Districts” is hereby amended by creating a new sub-section 19.2

entitled “Residential Multi-family Inclusionary Overlay District”, said Section to read as follows:

§200-19.2 Residential Multi-family Inclusionary Overlay District

L. Purpose. It is the purpose of this overlay zone to provide opportunities for the creation of inclusionary housing developments, which will provide a variety of housing types and affordability levels.

M. Conditionally permitted principal uses.

(1) Multi-family dwelling unit buildings, subject to the following requirements:

(a) Minimum lot area: 3 acres

(b) Maximum building height: 40 feet and 3 stories

(c) Maximum density: 14 units per acre

(d) A minimum of 15% of the residential units shall be reserved for affordable households if the tenure is rental. A minimum of 20% of the residential units shall be reserved for affordable households if the tenure is sale.

N. Permitted accessory uses.

(6) Signs as regulated.

(7) Private garages and off-street parking.

(8) Garages under or incorporated into the building design.

(9) Fences and walls.

(10) Tenant amenities including, but not limited to, recreational and fitness facilities, lobbies, leasing and management offices and mail rooms.

O. Area, bulk and yard requirements.

(1) Minimum lot frontage: 100 feet

(2) Minimum front yard setback: 40 feet

(3) Minimum side yard setback: 20 feet

(4) Minimum rear yard setback: 30 feet

(5) Minimum landscape perimeter buffer: 15 feet

(6) Minimum green area: 30%

(7) Maximum lot coverage: 60%

(8) Accessory building setbacks:

(a) Minimum setback to principal building: 15 feet

(b) Minimum setback to property line: 10 feet

(c) All accessory buildings shall be located in the rear or side yard.

P. Parking. Off-street parking shall comply with the Residential Site Improvements Standards.

Q. Affordable housing requirements.

- (5) Affordable units in the RMI Overlay District shall be deed-restricted affordable units complying with the Uniform Housing Affordability Controls and Article IX Affordable Housing Regulations of Chapter 200 Zoning.
- (6) The affordable units shall be deed restricted for at least 30 years.
- (7) The units shall be family affordable units.
- (8) The developer shall be responsible for the costs associated with marketing the units.

R. Landscaping.

- (5) Street trees shall be provided along the street frontage at an interval of 40 to 50 feet on center. Said trees shall be a minimum of three inches caliper at installation.
- (6) The front building wall foundation area shall be planted with a variety of shrubs with an installation height of at least three feet.
- (7) Surface parking areas shall be landscaped at a rate of one tree per 15 parking spaces. Said tree shall be a minimum three inches caliper in a pervious area of at least 162 square feet.
- (8) The minimum landscape perimeter buffer shall surround the site except where driveways and utilities cross the lot line. The following standards shall apply:
 - (a) Plants shall consist of a combination of shade trees, evergreen trees and shrubs.
 - (b) One shade tree shall be provided for every 50 linear feet. Said tree shall be a minimum of three inches caliper.
 - (c) Two evergreen trees shall be provided for every 50 linear feet. Said trees shall be a minimum of six feet in height at installation.
 - (d) 15 shrubs shall be provided for every 25 linear feet of buffer. Said shrubs shall be a minimum of three feet at installation.
 - (e) Buffer plantings shall be arranged in a natural staggered pattern and shall not be lined up in straight, single rows.
- (9) Pervious area shall be landscaped with low ground cover or grass.

S. Lighting.

- (4) All off-street parking areas shall provide a minimum average 0.5 footcandle illumination.
- (5) Building entrances shall be well-lit.
- (6) Footcandles at the property line shall not exceed one footcandle, except where there are driveways.

T. Fences. Fences and walls shall comply with §200-15A.

U. Architectural standards.

- (7) Buildings shall avoid long, monotonous, uninterrupted walls or roof planes.

Building wall offsets, including projections and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

- (8) The maximum spacing between building wall offsets shall be 40 feet.
- (9) The minimum projection or depth of any individual vertical offset shall be 1.5 feet.
- (10) All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
- (11) Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.
- (12) All rooftop mechanical equipment shall be screened from view from all vantage points at or below the level of the roof.

V. Trash.

- (3) Trash enclosures shall be located to the rear or side of the building or they may be incorporated into the building design.
- (4) Freestanding trash enclosures shall be screened by a solid masonry wall on three sides and a heavy-duty gate on the fourth.

W. Utilities. All utilities shall be underground.

Signage.

- (4) One monument sign shall be permitted to identify the development.
- (5) Said sign shall be a maximum of 40 square feet.
- (6) The sign shall be a maximum of five feet above grade.
- (7) Said sign shall be set back a minimum of ten feet from any property line.
- (8) The sign may be externally illuminated.

Section 4. Chapter 200 of the Code of the Borough of Northvale, Article VIII entitled “Signs”, Section 26 entitled “Definitions” is hereby amended and supplement by adding the following text alphabetically:

MONUMENT SIGN

A sign in which the entire bottom is in contact with the ground and is independent of any other structure.

Section 5. The Official Zoning Map shall be changed for the following Block and Lots to reflect the new zoning designation of RMI Residential Multi-family Inclusionary Overlay Zone:

Block 302	Lots 1, 2, 3, 4, 5 and 6
Block 602	Lots 1, 3 and 5
Block 603	Lots 1, 3, 4 and 5

- Block 608 Lots 1, 2, 3 and 4
- Block 915 Lots 3 and 5
- Block 1007 Lot 1
- Block 1011 Lots 1, 2, 3, 4, 5, 6, 7, 24, 25, 27, 28 and 29
- Block 1101 Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14
- Block 1102 Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12

Section 6. All other sections of this Ordinance shall remain in full force and effect.

Section 7. All Ordinances and parts of Ordinances inconsistent with the provisions hereof are hereby repealed.

Section 8. This Ordinance shall take effect immediately upon passage and publication as required by law.

OPEN PUBLIC HEARING –

Mayor Marana opened the public hearing on Ordinance #1007-2019.

CLOSE PUBLIC HEARING –

There being no questions or comments; Mayor Marana closed the public hearing on Ordinance #1007-2019.

ROLL CALL VOTE –

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion	Second	Name
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

ORDINANCE #1008-2019 - ORDINANCE AMENDING AND MODIFYING SECTION 46-2 OF THE BOROUGH CODE

Section 1. Purpose & Authority. The purpose of this ordinance is to modify and amend Chapter 46 Public Works Department, pursuant to N.J.S.A. 40:48-1, and 40:49-2.

Section 2. Amendments.

Section 46-2 of the Administrative Code of the Borough of Northvale shall be amended as follows (deletion noted with strikethrough):

SECTION 46-2. MEMBERS

This paragraph shall be amended to read:

The Department of Public Works may consist of one (1) Superintendent, up to two (2) Foremen, and up to five (5) roadmen. The Superintendent shall be designated by the Mayor and Council in accordance with the provisions of N.J.S.A. 40:87-30 and any subsequent amendments. Additional employees may be hired from time to time as may be required and determined by the Mayor and Council by resolution.

Section 3. Repealer. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

Section 4. Savings and Construction. This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Northvale Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Northvale Code.

Section 5. Codification. This ordinance shall be codified as amendments to the chapters set forth herein.

Section 6. Effective Date. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

OPEN PUBLIC HEARING –

Mayor Marana opened the public hearing on Ordinance #1008-2019.

CLOSE PUBLIC HEARING –

There being no questions or comments; Mayor Marana closed the public hearing on Ordinance #1008-2019.

ROLL CALL VOTE –

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RESOLUTIONS –

“All items are considered to be non-controversial by the Council and will be approved by one motion. There may be further discussion prior to the vote upon request of a member of the public or a Council member. Any item may be removed for further discussion or for a roll call vote in which case the item will be removed and considered in its normal sequence as part of the general order of business”

Motion	Second	Name
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman Small
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

RESOLUTION #2019-126

TITLE: RESOLUTION APPROVING THE ADOPTION OF AN AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued its decision in In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015). In that decision, the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council on Affordable Housing (“COAH”) to the New Jersey Superior Court and established a transitional process for municipalities like the Borough of Northvale to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans to be constitutionally compliant and seeking similar

protections to what they would have received if they had continued to proceed before COAH; and

WHEREAS, the Borough of Northvale filed a declaratory judgment action on July 6, 2015 (the “Action”), petitioning the Superior Court of New Jersey, Law Division, Bergen County Vicinage (the “Court”) for a judgment of compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015); and

WHEREAS, the Borough of Northvale entered into a Settlement Agreement with the Fair Share Housing Center arising out of the Action (the “Settlement Agreement”) that identified the Borough of Northvale’s affordable housing obligation and indication of how the Borough would satisfy that affordable housing obligation; and

WHEREAS, the Borough Council of the Borough of Northvale, by Resolution adopted February 14, 2018, approved the Settlement Agreement; and

WHEREAS, the Settlement Agreement and Housing Element and Fair Share Plan were accepted and approved by the Superior Court of New Jersey, Law Division, Bergen County Vicinage by order filed on the 1st day of August, 2018 (“Order”); and

WHEREAS, the Settlement Agreement and Order require the Borough of Northvale to endorse the Housing Element and Fair Share Plan; and

WHEREAS, the Borough of Northvale Combined Planning Board/Board of Adjustment adopted the Housing Element and Fair Share Plan at its meeting on August 21, 2019.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Northvale, County of Bergen and State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Borough of Northvale Combined Planning Board/Board of Adjustment; and

BE IT FURTHER RESOLVED that the Mayor and Council of the Borough of Northvale, County of Bergen and State of New Jersey, hereby authorizes and directs the Borough Attorney to take any and all actions with respect to and concerning the Housing Element and Fair Share Plan endorsed by the adoption of this Resolution as are necessary and/or required by the Settlement Agreement and Order.

This Resolution shall take effect immediately.

RESOLUTION #2019- 140

TITLE: RESOLUTION REMOVING BRIANT BODRATO AS SUPERINTENDENT OF DEPARTMENT OF PUBLIC WORKS AND HIRING BRIANT BODRATO AS FORMAN OF DEPARTMENT OF PUBLIC WORKS

WHEREAS, Briant Bodrato currently holds the position of Superintendent of Public Works for the Borough of Northvale; and

WHEREAS, pursuant to N.J.S.A. 40A:9-154.6g, no person shall be selected to perform the duties of a principal public works manager unless he holds a public works manager certificate however, a Municipality may appoint a person who does not hold the required Certified Public Works Manager certificate to perform the duties of principal public works manager so long as the person does not hold the position without the required public works manager certificate for more than two (2) years; and

WHEREAS, the maximum two (2) years to hold the position of Superintendent without a Certified Public Works Manager certificate has expired and Bodrato has not obtained the required certification necessary to hold the position; and

WHEREAS, Bodrato meets the qualifications to hold the position of Foreman with the Borough of Northvale Department of Public Works; and

WHEREAS, there is currently a vacancy in filling all permitted Foreman positions authorized by Ordinance; and

WHEREAS, it is in the best interest of the Borough to remove Bodrato from the position of Superintendent and appoint Bodrato to the position of Foreman.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Northvale, County of Bergen and State of New Jersey, that Briant Bodrato, is hereby removed from the position of Superintendent and appointed to the position of Forman effective August 27, 2019.

TITLE: AUTHORIZATION AND DESIGNATION OF AN ACTING MUNICIPAL COURT ADMINISTRATOR

WHEREAS, pursuant to N.J.S.A. 2B:12-10, the Borough of Northvale is required to provide for a Municipal Court Administrator; and

WHEREAS, Maria T. Doerr, CMCA has retired as Municipal Court Administrator of the Northvale Municipal Court, effective July 31, 2019; and

WHEREAS, Ms. Clare Cabibbo, CMCA was appointed as the Acting Municipal Court Administrator for the term of August 1, 2019 through August 31, 2019; and

WHEREAS, it is necessary for the Borough of Borough of Northvale to extend Ms. Cabibbo's term another month from September 1, 2019 through September 31, 2019; and

RESOLUITON #2019-142

TITLE: APPROVE RAFFLE LICENSE #RL 201 – THE KNIGHTS OF COLUMBUS – NORWOOD CHAPTER – 50/50 ON-PREMISE DRAW

BE IT HEREBY RESOLVED, that the following license to conduct a 50/50 on Premise Draw be issued to:

NAME:	Knights of Columbus Immaculate Conception Council
ADDRESS:	211 Summit Street, Norwood, NJ 07648
LOCATION OF RAFFLE:	199 Walnut Street, Northvale, NJ 07647
TYPE OF RAFFLE:	50/50 On-Premise Draw
DATE OF RAFFLE:	September 21 – 7PM – 11PM
I.D.#:	355-6-42364
RAFFLE LICENSE #:	RL 201

BE IT FURTHER RESOLVED, that said license shall be issued subject to all rules and regulations of the Legalized Games of Chance Control Commission of the State of New Jersey.

RESOLUTION #2019-143

TITLE: APPROVE THE APPOINTMENT/PROMOTION OF CAPTAIN HOWARD OSTROW AS CHIEF OF POLICE EFFECTIVE SEPTEMBER 1, 2019

WHEREAS, William Essmann has retired as Police Chief of the Northvale Police Department, effective September 1, 2019, therefore creating a vacancy in said office; and

WHEREAS, the Mayor and Council are desirous of appointing/promoting Captain Howard Ostrow to fill the position; and

WHEREAS, Captain Ostrow meets all of the requirements and credentials to serve as Police Chief;

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council hereby appoint/promote Captain Ostrow as Police Chief, effective September 1, 2019.

RESOLUTION #2019-144

TITLE: APPROVE THE APPOINTMENT/PROMOTION OF SERGEANT ROBERT PIZZI AS CAPTAIN OF NVPD EFFECTIVE SEPTEMBER 1, 2019

WHEREAS, Captain Ostrow has been promoted to the position of Police Chief of the Northvale Police Department, effective September 1, 2019, therefore creating a vacancy in the office of Captain; and

WHEREAS, the Mayor and Council are desirous of appointing/promoting Sergeant Robert Pizzi to fill the position; and

WHEREAS, Sergeant Pizzi meets all of the requirements and credentials to serve as Captain;

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council hereby appoint/promote Sergeant Pizzi as Captain, effective September 1, 2019.

HEARING OF THE PUBLIC – Consent Agenda Resolutions only at this time.

CLOSE THE HEARING OF THE PUBLIC –

There being no questions or comments from the public on the Consent Agenda items; Mayor Marana called for a roll call vote.

ROLL CALL VOTE –

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

HEARING OF THE PUBLIC – TIME: 7:48 PM

Mr. Paul Bazela – 165 Walnut Street – Stated that over the years, the Mayors and Councils kept a watchful eye on what was being built in the Borough. He told the Mayor and Council to keep up the great job that they have been doing.

Mayor Marana stated that there has been a problem with affordable housing for many, many years and now the issue is finally put to rest, until the next go round with the state which won't be until the year 2025.

Mr. John Hogan – 414 Simon Way – stated that all of our laws are intact and now the job is done. He stated that everyone did a great job.

Ms. Tomasina Schwarz – 109 Paris Avenue – Stated that many people did not get the notice of hearing on the application that came before the Planning Board on the 7th of this month. She commented on the notice requirements and felt that they were not enough notification for the public. She felt that the Board and the Council should aspire to do more than the laws allow for notification.

Ms. Rosendahl – stated that no town can predict what a developer would want to build in a town. Ms. Rosendahl explained the laws on publication of meetings and ordinances and that the town had met all the requirements of the law. She also explained that the Mayor and Council should not comment on matters that are within the scope of the Planning Board as many of Ms. Schwarz's' comments should be directed to the Planning Board and not the Mayor and Council.

Motion	Second	Name
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman McGuire
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CLOSED SESSION – TIME: 8:07 PM

Action may not be taken upon return to open session.

RESOLUTION #2019-144

TITLE: TO PROVIDE FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT N.J.S.A 10:4-12

Motion	Second	Name
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman Shepard
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

WHEREAS, the Council of the Borough of Northvale is subject to certain requirements of the Open Public Meetings Act, NJSA 10:4-6, et seq; and

WHEREAS, the Open Public Meetings Act, NJSA 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specified purposes when authorized by resolution; and

WHEREAS, it is necessary for the Council of the Borough of Northvale to discuss in session not open to the public certain matter relating to an item or items authorized by NJSA 10:4-12b, as listed below:

- 1. Matters required by law to be confidential
- 2. Matters where the release of information would impair the right to receive funds.
- 3. Matters involving individual privacy
- 4. Matters relating to collective bargaining
- 5. Matters relating to the purchase, lease or acquisition of real property or the investment of public funds.
- 6. Matters relating to public safety and property.
- 7. Matters relating to litigation, negotiations and attorney client privilege.
- 8. Matters relating to the employment relationship – Personnel
- 9. Matters relating to the potential imposition of a penalty.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Northvale that immediately after the adoption of this resolution the Council shall enter into closed session.

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RETURN TO OPEN SESSION – TIME: 8:23 PM

Motion	Second	Name
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ADJOURNMENT – TIME: 8:24 PM

Motion	Second	Name
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Councilman Argiro
<input type="checkbox"/>	<input type="checkbox"/>	Councilman DeLisio
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Councilman McGuire
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Shepard
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Small
<input type="checkbox"/>	<input type="checkbox"/>	Councilman Sotiropoulos

Name	Yes	No	Absent	Abstain
Councilman Argiro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman DeLisio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilman McGuire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Shepard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Small	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilman Sotiropoulos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Patrick J. Marana
Mayor

ATTEST:

Wanda A. Worner

Wanda A. Worner
Borough Clerk

Approved: September 11, 2019