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## TOWN OF WESTFIELD TOWN COUNCIL REGULAR MEETING

Tuesday, July 10, 2018  
8:00 PM

### PROPOSED AGENDA

This agenda is prepared for the information of the public. It is the order of the meeting; however, if changes in order, deletions or additions are made, they will be noted at the time.

1. Roll Call
2. Invocation
3. Salute to the flag
4. Presentations
5. Appointments

*Appointment of Matthew R. Ceberio as a member of the Planning Board to fill an unexpired term ending December 31, 2019*

6. Advertised Hearings

#### **GENERAL ORDINANCE NO. 2107**

“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT REGARDING COMPLIANCE WITH THE TOWN’S AFFORDABLE HOUSING OBLIGATIONS”

#### **GENERAL ORDINANCE NO. 2108**

“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT REGARDING COMPLIANCE WITH THE TOWN’S AFFORDABLE HOUSING OBLIGATIONS”

**GENERAL ORDINANCE NO. 2109**

“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD ESTABLISHING AN AFFORDABLE HOUSING DEVELOPMENT FEE”

7. Approval of Minutes from Town Council Conference Session held June 19, 2018  
Approval of Minutes from Special Town Council Conference Session held June 19, 2018  
Approval of Minutes from Special Town Council Executive Session held June 19, 2018  
Approval of Minutes from Town Council Regular Meeting held June 19, 2018
8. Petitions and Communications
9. Open discussion by citizens
10. Bills and Claims in the amount of \$825,256.04
11. Reports of Standing Committees

Finance Policy Committee

1. Resolution authorizing the Chief Financial Officer to draw warrant for dog licenses for June 2018
2. Resolution authorizing the Chief Financial Officer to refund Recreation Department fees
3. Resolution authorizing the Chief Financial Officer to draw warrant to refund street opening Cash Bond
4. Resolution authorizing the Chief Financial Officer to draw warrant for unused parking permit fee
5. Resolution to refund construction permit fee
6. Resolution authorizing the Chief Financial to draw a warrant to Treasurer, State of New Jersey for Marriage/Civil Union License Fee
7. Resolution authorizing the Chief Financial Officer to draw warrant for 2nd quarter Construction Official's State permit fees for 2018
8. Resolution authorizing the Chief Financial Officer to draw warrant for overpaid taxes for 2017- 2018
9. Resolution authorizing the Chief Financial Officer to draw warrants for 2015-2017 pursuant to Tax Court of NJ
10. Resolution to approve insertion of special item of revenue in the municipal budget (Recycling Enhancement Grant)
11. Resolution to amend Cash Management Plan
12. Resolution authorizing the Chief Financial Officer to revise the Schedule of Change Funds
13. Resolution authorizing Stipend for Recycling Program Coordinator

Public Safety, Transportation and Parking Committee

1. Resolution requesting Union County approval to change traffic light timing on South Avenue & Central Avenue
2. Resolution to approve the submission of a grant application (Local Bicycle/Pedestrian Planning Assistance Program)
3. Resolution authorizing an application to the Complete Streets Technical Assistance Program

Code Review & Town Property Committee

1. Resolution to approve Sidewalk Café Licenses
2. Resolution authorizing renewal of Alcoholic Beverage Liquor License
3. Resolution to approve person-to-person and place-to-place transfer of Liquor License
4. Resolution endorsing the amendment to the Housing Element and Fair Share Plan
5. Resolution adopting an “Affirmative Marketing Plan” as required under the Fair Housing Act and New Jersey Uniform Housing Affordability Controls

Public Works Committee

1. Resolution authorizing the purchase of Public Works equipment (Utility Tractor)
2. Resolution authorizing the purchase of Public Works equipment (Mack Chassis)
3. Resolution authorizing the purchase of Public Works equipment (Henderson Dump Body)
4. Resolution authorizing the purchase of Public Works vehicles (Ford-550)
5. Resolution authorizing Change Order No.1 for 2017 Various Street Assessable Project
6. Resolution authorizing Change Order No. 2 for 2017 Various Road Improvements
7. Resolution to approve the submission of a grant application to the Westfield Foundation (Rain Gardens)
8. Resolution authorizing an award of contract for 2018 Improvement to Walnut Street
9. Resolution authorizing an award of contract for 2018 Improvement to Parking Lot #7
10. Resolution to award contract for Residential Cleanup Program

12. Reports of Department Heads

Adjournment

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

RESOLVED that the Chief Financial Officer be authorized to draw a warrant in the amount of \$81.00 to the order of New Jersey Department of Health, P.O. Box 369, Trenton, New Jersey for Dog Licenses issued by the Town Clerk for the month of June 2018.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

**RESOLVED**, that the Town Treasurer be authorized to refund the following fees to the following individuals:

<u>Name</u>	<u>Account</u>	<u>Class</u>	<u>Fee</u>
David Sanders 67 Genesee Trail Westfield, NJ 07090	Dept. #195/Pool	Refund/Pool Membership Resident Husband/Wife In-Town / Resident	\$280.00
Yelena Mammadova 50 Doris Pkway Westfield, NJ 07090	T05-600-073 Trust 218 Sports Camps	Volleyball Camp Iskandar Mirtagavi	\$150.00
Ana De Figueiredo 926 Cleveland Ave Westfield, NJ 07090	T05-600-073 Trust 218 Sports Camps	Volleyball Camp Douglas De Figueiredo	\$37.50
Micki Hogan 325 Mountain Ave Westfield, NJ 07090	T05-600-071 Trust 217 Tennis/Rec	Pickleball (1/2 session) Micki Hogan	\$15.00
Elizabeth Byer 1087 Seward Ave Westfield, NJ 07090	T05-600-071 Trust 217 Tennis/Rec	Pickleball (1/2 Session x 2) Elizabeth & Peter Byer	\$30.00
Thao Tran 918 South Ave West Westfield, NJ 07090	T05-600-071 Trust 217 Tennis/Red	Pickleball (1/2 session) Thao Tran	\$15.00
Lauren Casciano 627 Leigh Drive Westfield, NJ 07090	T05-600-071 Trust 217 Tennis/Rec	Pickleball (1/2 session) Lauren Casciano	\$15.00
Aneta Kotowicz 615 Ardsleigh Dr. Westfield, NJ 07090	T05-600-071 Trust 217 Tennis/Rec	Pickleball (1/2 session) Anta Kotowicz	\$15.00
Mindi Forgash 835 Shackmaxon Dr.	T05-600-071 Trust 217	Pickleball (1/2 session x 2) Mindi & Michaela Forgash	\$30.00

Westfield, NJ 07090	Tennis/Rec		
Randy Rosen 33 Faulkner Dr. Westfield, NJ 07090	T05-600-071 Trust 217 Tennis/Red	Pickleball (1/2 session) Randy Rosen	\$15.00
Nancy Lau 1645 Westfield Ave Clark, NJ 07066	T05-600-071 Trust 217 Tennis/Rec	Pickleball (1/2 session) Nancy Lau	\$15.00
Eileen Coumbe 637 Maple St Westfield, NJ 07090	T05-600-071 Trust 217 Tennis/Rec	Pickleball (1/2 session) Eileen Coumbe	\$15.00
Charles Medallis 550 West Broad St Westfield, NJ 07090	T05-600-071 Trust 217 Tennis/Rec	Pickleball (1/2 session) Charles Medallis	\$15.00

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, Jack Kaufman, 55 Fairhill Drive, Westfield, NJ 07090, had placed the required cash bond of \$500.00 to cover Road Opening Permit No. 17-184 for 55 Fairhill Drive, and

**WHEREAS**, Jack Kaufman has requested that this amount be returned, and

**WHEREAS**, the Town Engineer has inspected the roadway excavation and has found the excavation to have been properly repaired,

**NOW THEREFORE BE IT RESOLVED**, that the Treasurer be authorized to draw a warrant in the name of Jack Kaufman for \$500.00 and forward to 55 Fairhill Drive, Westfield, NJ 07090.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

RESOLVED, that the Chief Financial Officer be and hereby is, authorized to draw warrant for unused parking permit fee as follows:

Adam Cohen 1947 Old Ballard Farm Lane Charlottesville, PA 22901	SS RR Stn/Lot 3	#18030632	\$348.00
Robert Winston 116 Hardwick Ave Westfield, NJ 07090	SS RR Stn/Lot 3	#18030744	\$348.00
Brian Murphey 10 Bell Drive Westfield, NJ 07090	SS RR Stn/ Lot 3	#18030206	\$348.00
Christopher Scheper 510 Irving Ave Moorestown, NJ 08057	SS RR Stn/Lot 3	#18030607	\$346.00

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, R C Construction LLC, made an application for a construction permit update for communication points located at 7 Mohawk Trail, Block 5116, Lot 19, Westfield, New Jersey.

**WHEREAS**, R C Construction LLC, remitted \$31.00 for aforesaid permit.

**WHEREAS**, R C Construction LLC, subsequently was charged \$500.00 for the above mentioned project.

**WHEREAS**, R C Construction LLC, has made an application for refund of \$469.00 for the over payment.

**NOW THEREFORE BE IT RESOLVED**, that the Chief Financial Officer be, and hereby is authorized to draw a warrant in the sum of \$469.00 payable to R C Construction LLC, 1199 Magie Avenue, Union, NJ 07083.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

RESOLVED that the Chief Financial Officer be authorized to draw a warrant in the amount of \$625.00 to the order of Treasurer, State of New Jersey, P.O. Box 660, Trenton, NJ 08646-0660 for Marriage/Civil Union License Fees issued by the Registrar of Vital Statistics for the quarter of April - June 2018.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

RESOLVED that pursuant to N.J.A.C. 5:23-4.19, that the Chief Financial Officer be authorized and directed to draw a warrant in the sum of \$16,267.00 to the TREASURER, STATE OF NEW JERSEY for the second quarter Construction Official's State permit fees for 2018.

BE IT FURTHER RESOLVED that said check be forward to the Division of Codes and Standards, Department of Community Affairs, CN 802, Trenton , New Jersey 08625-0802.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

RESOLVED that the Chief Financial Officer be and he hereby is authorized to draw warrants to the following persons, this amount being overpaid for 2017-2018:

<u>Block/Lot/Qualifier</u> <u>Name</u>	<u>Property Address</u>	<u>Quarter/Year</u> <u>Amount</u>
405/9 HIMMELBAUM, Canaan	440 Roanoke Road	1 <sup>st</sup> /2018 \$3,358.61
504/2 RUPRECHT, Tom	814 Cedar Terrace	4 <sup>th</sup> /2017 \$6,981.33 2 <sup>nd</sup> /2018 <u>\$6,821.24</u> \$13,802.57
906/12 GRUTERS, Robert & Barbara	349 Tuttle Parkway	1 <sup>st</sup> /2018 \$4,988.22
2101/64 WEEKS, Laura Mannes	302 Wychwood Road	4 <sup>th</sup> /2017 \$5,015.15
<b>Payable to:</b> FIS <b>Mail to:</b> 5430 Data Court Suite 100 Ann Arbor, MI 48108		
3010/22 WILLIAMS, Scott	561 Trinity Place	1 <sup>st</sup> /2018 \$2,466.28
3502/19 DAVIS, Mark C	873 Fairacres Avenue	4 <sup>th</sup> /2017 \$5,001.19
3601/6 PARTELOW, Chris	1021 Harding Street	2 <sup>nd</sup> /2018 \$3,173.69

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

RESOLVED that the Treasurer be and he hereby is authorized to draw warrants to the order of the following persons, this being the amount taxes were overpaid for the year 2015-2017 pursuant to the Tax Court of New Jersey:

Block/Lot

<u>Name</u>	<u>Address</u>	<u>Year</u>	<u>Amount</u>
3202/13	516 North Avenue East	2016	\$9,931.90

**Payable to:**

Michael A. Vespasiano, Attorney Trust Account

**Mail to:**

Law Office of Michael A. Vespasiano  
331 Main Street  
Chatham, NJ 07928

3202/17	544 North Avenue East	2015	\$4,424.50
		2016	\$6,491.85
		2017	<u>\$7,572.47</u>
			<u>\$18,488.82</u>

**Payable to:**

Daniel G. Keough, Trustee

**Mail to:**

Ventura, Miesowitz, Keough & Warner  
783 Springfield Avenue  
Summit, New Jersey 07901-2332

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, N.J.S.A.40A:4-87 (Chapter 159, P.L. 1948) provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by the law and the amount thereof was not determined at the time of the adoption of the budget, and

**WHEREAS**, the Director may also approve the insertion of any item of appropriation for an equal amount;

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Westfield hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2018 in the sum of \$10,000, which is now available from the Union County Recycling Enhancement Grant; and

**BE IT FURTHER RESOLVED** that the like sum be, and the same is hereby appropriated under the following caption:

General Appropriations

Public and Private Programs Offset by Revenues

Union County Recycling Enhancement Grant    \$10,000.00

**BE IT FURTHER RESOLVED** that one copy of this resolution be forwarded electronically to the Division of Local Government Services by the Chief Financial Officer.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

WHEREAS, the Cash Management Plan was amended by Resolution No. 137-2018 at a Regular Meeting of the Westfield Town Council held on June 19, 2018; and

WHEREAS, Columbia Bank has since opened a branch in Westfield and should be added to Part IV, Designation of Depositories;

NOW, THEREFORE BE IT RESOLVED, that Part IV of the Town of Westfield Cash Management Plan be and is hereby amended to include Columbia Bank in the Designation of Depositories.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

WHEREAS, the Town of Westfield has maintained Change Funds at various locations, which allows for departments to make change for those residents who pay cash for taxes, permits, pool admission fees and other fees; and

WHEREAS, the Chief Financial Officer has reviewed these Funds with each Department Head and has determined that efficiencies can be reached by changing the number and sources of Change Fund; and

WHEREAS, Change Funds were amended by resolution 145-2018 at the June 19, 2018 meeting of the Westfield Town Council, and since that time, the Aquatic Supervisor and Recreation Director have requested additional funding to accommodate a surge in walk-in registrations at the Westfield Municipal Pool and Aquatic Complex.

NOW, THEREFORE BE IT RESOLVED that the Schedule of Change Funds be revised as follows:

<u>Department</u>	<u>Original Amount</u>	<u>Revised Amount</u>
Pool	\$100	<u>\$500</u>

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, Town Engineer, Kris McAloon has been certified as a Recycling Coordinator for the Town of Westfield.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Westfield that Kris McAloon shall be paid \$2,735 for additional duties performed as Recycling Coordinator for calendar year 2018.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC SAFETY, PARKING,**  
**AND TRANSPORTATION COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, the Town of Westfield expressed a concern with respect to the traffic signal timing at the intersection of South Avenue and Central Avenue, and

**WHEREAS**, the Town engaged its on-call traffic consultant, NV5, to evaluate the signal timing and make recommendations for improved operations, and

**WHEREAS**, NV5 performed an analysis and has determined that minor timing changes would reduce delays on failing movements at the intersection, and

**WHEREAS**, this signal will impact the operations on roadways under Union County jurisdiction, and therefore, Union County approval and concurrence is necessary.

**NOW THEREFORE BE IT RESOLVED**, that the proper Town Officials be, and they are hereby, authorized to proceed with implementing the recommended timing changes for this intersection upon concurrence of Union County.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC SAFETY, PARKING,**  
**AND TRANSPORTATION COMMITTEE**

**JULY 10, 2018**

BE IT RESOLVED that the Town Council of the Town of Westfield be and hereby approves submission of an application to the New Jersey Department of Transportation for grant funding in connection with the Local Bicycle/Pedestrian Planning Assistance Program.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC SAFETY, PARKING,**  
**AND TRANSPORTATION COMMITTEE**

**JULY 10, 2018**

**RESOLUTION AUTHORIZING AN APPLICATION TO  
THE COMPLETE STREETS TECHNICAL ASSISTANCE PROGRAM**

**WHEREAS**, a livable community seeks to provide a transportation network that meets the needs of all users including motor vehicle users (cars, buses and trucks), bicyclists, and pedestrians of all ages and abilities; and

**WHEREAS**, The Town of Westfield strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

**WHEREAS**, The Town of Westfield adopted a Complete Streets Policy on November 26, 2013; and

**WHEREAS**, Sustainable Jersey (SJ), the Voorhees Transportation Center (VTC) at Rutgers University, and the North Jersey Transportation Planning Authority (NJTPA) are sponsoring the competitive *Complete Streets Technical Assistance Program*, which will support municipal government efforts to implement complete streets; and

**WHEREAS**, although no direct funding is provided, selected municipalities will receive free direct technical assistance to complete a specific task related to advancing a complete streets initiative in their communities.

**THEREFORE**, the Mayor and Council of The Town of Westfield authorizes the submission of an application to the aforementioned *Complete Streets Technical Assistance Program* to receive free direct technical assistance to complete a specific task related to advancing complete streets, and also authorizes municipal staff to coordinate and collaborate with Sustainable Jersey, Voorhees Transportation Center and the North Jersey Transportation Planning Authority to support the successful and timely delivery of technical assistance.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**CODE REVIEW & TOWN PROPERTY COMMITTEE**

**JULY 10, 2018**

WHEREAS, pursuant to Chapter 24 Article VII Section 24-47 of the Town Code the Town Council has authorized the licensing of Sidewalk Cafés, and

WHEREAS, the establishments listed below have made application as required by Sec. 24-48 of the Town Code.

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Westfield hereby approves the operation of sidewalk cafés for those establishments listed below:

**Name**

The Salad House  
Ono Bowls

**Location**

113 Quimby Street  
107 Quimby Street

BE IT FURTHER RESOLVED that the Town Clerk shall not issue licenses unless the applicants have submitted a development plan and have met insurance and indemnification requirements as required by Chapter 24 of the Code of the Town of Westfield.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**CODE REVIEW & TOWN PROPERTY COMMITTEE**

**JULY 10, 2018**

BE IT RESOLVED that application for the following liquor license renewal for the **2018-2019** licensing term be and hereby is granted, subject to full compliance with Alcoholic Beverage Law R.S. 33:1.1 et. seq.:

**PLENARY RETAIL DISTRIBUTION LICENSE**

The Office at Westfield, LLC (inactive)  
t/a The Office Beer Bar & Grill  
2020-33-009-009

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**CODE REVIEW & TOWN PROPERTY COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, an application has been filed for a person-to-person and place to place transfer of Plenary Retail Consumption License No. 2020-33-001-007 heretofore issued to **MRY WESTFIELD LIQUOR, LLC**, a pocket license with a mailing address of 355 Springfield Avenue, Summit, New Jersey 07091; and

**WHEREAS**, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

**WHEREAS**, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

**WHEREAS**, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business.

**NOW, THEREFORE BE IT RESOLVED** that the Town Council of the Town of Westfield does hereby approve, effective July 10, 2018, a person-to-person transfer of the aforesaid Plenary Retail Consumption License to **WESTFIELD HOSPITALITY, LLC** (t/a Westfield Fish & Brew Company, Westfield Fish & Brew); and

**BE IT FURTHER RESOLVED** that the Town Council of the Town of Westfield does hereby approve, effective July 10, 2018, a place-to-place transfer of the aforesaid pocketed Plenary Retail Consumption License to premises located at 76-86 Elm Street, Westfield, New Jersey; and

**BE IT FURTHER RESOLVED** that the Town Council of the Town of Westfield does hereby direct the Town Clerk to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to **WESTFIELD HOSPITALITY, LLC** (t/a Westfield Fish & Brew Company, Westfield Fish & Brew), 76-86 Elm Street, Westfield, New Jersey, effective July 10, 2018".

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**CODE REVIEW & TOWN PROPERTY COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, the Planning Board of the Town of Westfield, County of Union, State of New Jersey adopted an amendment to its Housing Element and Fair Share Plan on July 2, 2018; and

**WHEREAS**, the Governing Body of the Town of Westfield wishes to endorse the amendment to the Housing Element and Fair Share Plan as adopted by the Planning Board of the Town of Westfield on July 2, 2018.

**NOW THEREFORE BE IT RESOLVED** that the Governing Body of the Town of Westfield located in Union County in the State of New Jersey hereby endorses the amendment to the Housing Element and Fair Share Plan as adopted by the Planning Board of the Town of Westfield on July 2, 2018; and

**BE IT FURTHER RESOLVED** that the Governing Body of the Town of Westfield hereby authorizes and directs its professionals to file the amendment to the Housing Element and Fair Share Plan with the Court for review and approval.

**TOWN OF WESTFIELD**  
**WESTFIELD, NEW JERSEY**

**RESOLUTION NO.**

**CODE REVIEW & TOWN PROPERTY COMMITTEE**

**JULY 10, 2018**

**RESOLUTION ADOPTING AN “AFFIRMATIVE MARKETING PLAN” AS  
REQUIRED UNDER THE FAIR HOUSING ACT AND NEW JERSEY UNIFORM  
HOUSING AFFORDABILITY CONTROLS**

**WHEREAS**, in accordance with the Fair Housing Act and the New Jersey Uniform Housing Affordability Controls, the Town of Westfield is required to adopt by resolution an Affirmative Marketing Plan to ensure that all affordable housing units created within the Town of Westfield are affirmatively marketed to low- and moderate-income households, particularly those living and/or working within the applicable Housing Region 2, the Housing Region encompassing the Town of Westfield; and

**WHEREAS**, in accordance with The Town of Westfield Land Use Ordinance the costs of advertising and affirmative marketing of affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Town of Westfield.

**NOW, THEREFORE, BE IT RESOLVED**, that the Governing Body of the Town of Westfield, located in Union County in the State of New Jersey, does hereby adopt the Affirmative Marketing Plan, a copy of which is attached hereto.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

WHEREAS, a need exists for the purchase of public works related equipment as provided for in Special Ordinance No. 2215A, and

WHEREAS, the contract to purchase these is to be awarded to an authorized vendor through the Middlesex Regional Educational Services Commission Cooperative Pricing System, and

WHEREAS, this equipment will be sufficient to meet the needs of the Department, and

WHEREAS, the New Jersey State Public Contract Law 40A:11-3 states that when accepting an item under MRESC Co-Op #65MCESCCPS, Contract MRESC 15/16-08, a resolution must be adopted by the Governing Body, and

WHEREAS, the Town Treasurer certified to the availability of adequate funds for payment, which will be in the amount of \$38,844.00 charged to Special Ordinance No. 2215A, under Purchase Order #18-02380 prepared in accordance with N.J.A.C. 5:30 1.10.

NOW, THEREFORE BE IT RESOLVED that the Town of Westfield will purchase the following equipment from the indicated vendor:

CAMMPS Hardware & Lawn Products, Inc.  
2168 Route 206

Belle Mead, NJ 08502

John Deere Utility Vehicle Model XUV825M with accessories

\$38,844.00

BE IT FURTHER RESOLVED that the proper Town Officials be, and they are hereby authorized to take whatever actions are appropriate in the execution and discharge of this Contract.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, a need exists for the purchase of public works related equipment as provided for in Capital Improvement Fund, SO 2215A, and

**WHEREAS**, the contract to purchase this equipment is to be awarded to an authorized vendor through a Cooperative Purchasing Agreement, and

**WHEREAS**, this equipment will be sufficient to meet the needs of the Department, and

**WHEREAS**, the New Jersey State Public Contract Law 40A:11-3 states that when accepting an item under a Cooperative Contract, specifically, Sourcewell (formerly National Joint Powers Alliance) Contract #081716-NAF, a resolution must be adopted by the Governing Body, and

**WHEREAS**, Certificate of the Town Treasurer, certifying to the availability of adequate funds for the changed contract price, as described below, prepared in accordance with N.J.A.C. 5:30 1.10 has been furnished to the Town Clerk. Expenditure of funds to be charged to Special Ordinance 2215A, Capital Account C-07-222-15A under Purchase Order #18-02503.

**NOW, THEREFORE BE IT RESOLVED** that the Town of Westfield will purchase equipment from the following vendor:

National Auto Fleet Group  
490 Auto Center Drive  
Watsonville, CA 95076

(2) 2019 MACK Granite 42FR MHD Chassis @ \$100,881.29 \$201,762.58

**BE IT FURTHER RESOLVED** that the proper Town Officials be, and they are hereby authorized to take whatever actions are appropriate in the execution and discharge of this Contract.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

WHEREAS, a need exists for the purchase of public works related equipment as provided for in Capital Improvement Fund, SO 2215A, and

WHEREAS, the contract to purchase this equipment is to be awarded to an authorized vendor through a Cooperative Purchasing Agreement, and

WHEREAS, this equipment will be sufficient to meet the needs of the Department, and

WHEREAS, the New Jersey State Public Contract Law 40A:11-3 states that when accepting an item under a Cooperative Contract, specifically, Sourcewell (formerly National Joint Powers Alliance) Contract #080114-HPI, a resolution must be adopted by the Governing Body, and

WHEREAS, the Town Treasurer certified to the availability of adequate funds for payment, which will be in the amount of \$171,769.00 charged to Capital Improvement Fund, SO 2215A, Account Number C-07-18-221-5A1, under Purchase Order #18-02502 prepared in accordance with N.J.A.C. 5:30 1.10.

NOW, THEREFORE BE IT RESOLVED that the Town of Westfield will purchase equipment from the following vendor:

Henderson Truck Equipment NJ  
8211 Solutions Center  
Chicago, IL 60677-8002

(1) Henderson Single Axle Dump Body with tailgate spreader, hydraulics and Del-Air controls	\$ 78,171.00
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(1) Henderson Single Axle Dump Body, with 10' Patrol Wing System tailgate spreader, hydraulics and Del-Air controls	\$ 93,598.00
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BE IT FURTHER RESOLVED that the proper Town Officials be, and they are hereby authorized to take whatever actions are appropriate in the execution and discharge of this Contract.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

WHEREAS, a need exists for the purchase of public works related equipment as provided for in Special Ordinance No. 21215A, and

WHEREAS, the contract to purchase these is to be awarded to an authorized vendor through the Morris County Cooperative Pricing Council, and

WHEREAS, this equipment will be sufficient to meet the needs of the Department, and

WHEREAS, the New Jersey State Public Contract Law 40A:11-3 states that when accepting an item under MCCPC Contract #15-C, a resolution must be adopted by the Governing Body, and

WHEREAS, the Town Treasurer certified to the availability of adequate funds for payment, which will be in the amount of \$163,436.00 charged to Special Ordinance No. 2215A, under Purchase Order #18-02379 prepared in accordance with N.J.A.C. 5:30 1.10.

NOW, THEREFORE BE IT RESOLVED that the Town of Westfield will purchase the following equipment from the indicated vendor:

DFFLM, LLC, T/A Ditschman/Flemington Ford  
215 US Highway 202  
Flemington, NJ 08822

(2) 2018 Ford F-550 Regular Cab 4x4	@ \$81,718.00	\$163,436.00
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BE IT FURTHER RESOLVED that the proper Town Officials be, and they are hereby authorized to take whatever actions are appropriate in the execution and discharge of this Contract.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, Fischer Contracting Inc., is under contract to the Town of Westfield for the **2018 Various Street Improvements** as authorized by the Special Ordinance 2208A, and

**WHEREAS**, N.J.A.C. 5:30 provides for increases in the contract price for unanticipated adjustments through Change Order and Council Resolution, and

**WHEREAS**, site conditions encountered during construction necessitated additional work items and more material than had been anticipated, and

**WHEREAS**, Certificate of the Town Treasurer, certifying to the availability of adequate funds for the changed contract price, as described below, prepared in accordance with N.J.A.C. 5:30 1.10 has been furnished to the Town Clerk. Expenditure of funds to be charged to Special Ordinance 2208A, Capital Account C-07-222-08A under Purchase Order #18-01008.

**NOW THEREFORE BE IT RESOLVED**, that Change Order No. 1 in the amount of \$51,427.50 executed by Kris J. McAloon, Town Engineer, be authorized, and

**BE IT FURTHER RESOLVED**, that the proper Town Officials be, and they are hereby, authorized to make payment and to effect whatever actions are necessary in the execution and discharge of Change Order No. 1, for the **Various Street Improvements** increasing the contract price to \$347,993.75.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, Fischer Contracting Inc., is under contract to the Town of Westfield for the **2017 Various Road Improvements** as authorized by the Special Ordinance 2208A, and

**WHEREAS**, N.J.A.C. 5:30 provides for increases in the contract price for unanticipated adjustments through Change Order and Council Resolution, and

**WHEREAS**, site conditions encountered during construction necessitated additional work items and more material than had been anticipated, and

**WHEREAS**, Certificate of the Town Treasurer, certifying to the availability of adequate funds for the changed contract price, as described below, prepared in accordance with N.J.A.C. 5:30 1.10 has been furnished to the Town Clerk. Expenditure of funds to be charged to Special Ordinance 2208A, Capital Account C-07-222-08A under Purchase Order #17-02219.

**NOW THEREFORE BE IT RESOLVED**, that Change Order No. 2 in the amount of \$47,398.39 executed by Kris J. McAloon, Town Engineer, be authorized, and

**BE IT FURTHER RESOLVED**, that the proper Town Officials be, and they are hereby, authorized to make payment and to effect whatever actions are necessary in the execution and discharge of Change Order No. 2, for the **2017 Various Road Improvements** increasing the contract price to \$1,543,075.81.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

BE IT RESOLVED that the Town Council of the Town of Westfield be and hereby approves submission of an application by the Westfield Green Team to the Westfield Foundation for grant funding in connection with the installation of rain gardens on Town property.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, sealed bids were received by the Town Clerk on July 10, 2018 for the **2018 Improvement of Walnut Street** in Westfield, New Jersey as authorized by S.O. 2213, and

**WHEREAS**, the low bid, in the amount of \$179,053.75 submitted by D.L.S. Contracting, Inc., 271 Highway 46, Suite D-205, Fairfield, NJ 07004 has been analyzed and found to be in conformance with the appropriate plans and specifications, and

**WHEREAS**, Certificate of the Town Treasurer, certifying the availability of adequate funds for this Contract, prepared in accordance with N.J.A.C. 5:30 1.10 has been furnished to the Town Clerk. Expenditure of funds pursuant to this Contract to be charged to S.O. 2213, under Purchase Order PO18-.

**NOW THEREFORE BE IT RESOLVED**, that a Unit Price Contract in the amount of \$179,053.75 be awarded to D.L.S. Contracting, Inc., and

**BE IT FURTHER RESOLVED**, that the proper Town Officials be, and they are hereby, authorized to take whatever actions are appropriate in the execution of discharge of this Contract, and

**BE IT FURTHER RESOLVED**, that the Town Clerk shall notify the Contractor by letter requesting submittal of appropriate Performance Bond and Certificate of Insurance, so as to further execute the Contract documents.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, sealed bids were received by the Town Clerk on July 10, 2018 for the **2018 Improvement of Parking Lot #7** in Westfield, New Jersey as authorized by S.O. 2203A, S.O. 2208A and Downtown Improvement Project 2018, and

**WHEREAS**, the low bid, in the amount of \$309,942.75, submitted by Fischer Contracting Inc., 10 Short Hills Lane, Scotch Plains, NJ 07076 has been analyzed and found to be in conformance with the appropriate plans and specifications, and

**WHEREAS**, Certificate of the Town Treasurer, certifying the availability of adequate funds for this Contract, prepared in accordance with N.J.A.C. 5:30 1.10 has been furnished to the Town Clerk. Expenditure of funds pursuant to this Contract to be charged to S.O. 2203A, S.O. 2208A and Downtown Improvement Project 2018, under Purchase Order PO-

**NOW THEREFORE BE IT RESOLVED**, that a Unit Price Contract in the amount of \$309,942.75 be awarded to Fischer Contracting Inc., and

**BE IT FURTHER RESOLVED**, that the proper Town Officials be, and they are hereby, authorized to take whatever actions are appropriate in the execution of discharge of this Contract, and

**BE IT FURTHER RESOLVED**, that the Town Clerk shall notify the Contractor by letter requesting submittal of appropriate Performance Bond and Certificate of Insurance, so as to further execute the Contract documents.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**PUBLIC WORKS COMMITTEE**

**JULY 10, 2018**

**WHEREAS**, the Town of Westfield desires to conduct a Residential Cleanup Program for which it will need the services of a disposal company, as authorized in the 2018 Municipal Budget Account 137-229, and

**WHEREAS**, sealed bids were received on two separate occasions for this work, April 4, 2018 and May 2, 2018, and no bids were received on either occasion, and

**WHEREAS**, the New Jersey Public Contracts law permits contracts to be negotiated at fair and reasonable prices for the respective services when bidding on two occasions has been unsuccessful, and

**WHEREAS**, the Town Engineer negotiated a price with Republic Services, Inc. for this Residential clean-up program, and

**WHEREAS**, Republic Services, Inc., 5 Industrial Drive, New Brunswick, NJ, 08901 quoted a unit price for the aforesaid program in the amount of \$185 per permit, and

**WHEREAS**, Certificate of the Town Treasurer, certifying the availability of adequate funds for this Contract, prepared in accordance with N.J.A.C. 5:30 1.10 has been furnished to the Town Clerk. Expenditure of funds pursuant to this Contract to be charged to Public Works Operating Account No. 137-229, under Purchase Order #18-xxxx.

**NOW THEREFORE BE IT RESOLVED**, that a Unit Price Contract in the amount of \$185 per permit be awarded to Republic Services, Inc., and

**BE IT FURTHER RESOLVED**, that the proper Town Officials be, and they are hereby, authorized to take whatever actions are appropriate in the execution of discharge of this Contract

**TOWN OF WESTFIELD  
GENERAL ORDINANCE NO. 2107**

**“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT REGARDING COMPLIANCE WITH THE TOWN’S AFFORDABLE HOUSING OBLIGATIONS”**

**WHEREAS**, in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), the Town of Westfield filed an action for declaratory judgment titled In re Town of Westfield Compliance with Third Round Mount Laurel Affordable Housing Obligations, Docket No. UNN-L-2391-15, (the “DJ Action”) requesting that the court declare that Westfield has complied with its Third Round constitutional obligation to provide a realistic opportunity for the development of housing that is affordable to low- and moderate-income families and individuals; and

**WHEREAS**, the DJ Action was settled and the agreement settling the DJ Action (the “settlement agreement”) was reviewed and approved by the court after a Fairness Hearing, which approval is memorialized in an amended order entered by the court on October 30, 2017 and filed by the court on November 1, 2017 (the “Settlement Approval Order”), which Settlement Agreement Order required among other things that Westfield adopt various implementing ordinances for review at a Compliance Hearing; and

**WHEREAS**, Westfield adopted the various implementing ordinances which were reviewed and approved by the court after a Compliance Hearing held on May 21, 2018, after which a Conditional Judgment of Compliance and Repose was entered and filed by the court on May 31, 2018 (the “Conditional Judgment”), which Conditional Judgment required among other things that Westfield amend Ordinance Article 23 containing the Affordable Housing Regulations to (1) replace the reference to COAH’s Third Round rules with reference to COAH’s Second Round rules and (2) include a summary of the settlement agreement as pertains to the Affordable Housing Regulations; and

**NOW, THEREFORE, BE IT THEREFORE ORDAINED** by the Town Council of the Town of Westfield, in the County of Union and the State of New Jersey, as follows:

**Section I. The Land Use Ordinance, Article 23, titled “Affordable Housing Regulations”,** is hereby amended to read as follows:

**ARTICLE 23**

**AFFORDABLE HOUSING REGULATIONS**

**§ 23.01. Affordable Housing Obligation**

- A. This article of the Town Land Use Ordinance sets forth regulations regarding the low and moderate

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

- B. This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.
- C. The Town Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at *N.J.S.A. 40:55D-1, et seq.* The Plan has also been endorsed by the Mayor and Council of the Town of Westfield. The Fair Share Plan describes the ways the Town shall address its fair share for low- and moderate-income housing as determined by the Superior Court and documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of

*N.J.A.C. 5:93*, as may be amended and supplemented.

- E. The Town shall file monitoring and status reports with the Superior Court and place the reports on its municipal website. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring evaluation report prepared by the Special Master in accordance with *N.J.A.C. 5:91* shall be available to the public at the Town of Westfield Municipal Building, 425 East Broad Street, Westfield, New Jersey 07090.
- F. On or about January 31 of each year through the end of the period of Third Round Judgment of Repose, the Town will provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to the Fair Share Housing Center ("FSHC"), using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
- G. The Fair Housing Act includes two provisions regarding action to be taken by the Town during the ten-year period of protection provided in the Town's agreement with FSHC. The Town agrees to comply with those provisions as follows:
  - 1. For the mid-point realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313b, the Town will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms provided to meet unmet need, should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether the Town should amend its Fair Share Plan to comply with applicable law. Any interested party may by motion request a hearing before the court regarding these issues.

2. The Town's RDP and unmet need number shall not be revisited by FSHC or any other interested party absent a substantial change of circumstances and, if such substantial change of circumstances occurs, either with RDP or unmet need, the Town shall have the express right to address the issue without losing its immunity from Mount Laurel lawsuits.
  3. Within 30 days of April 4, 2020, and every third year thereafter, the Town shall prepare a review of compliance with the very low income housing requirements required by N.J.S.A. 52:27D-329.1 and its Settlement Agreement with FSHC. The Town will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein and in the Township's Settlement Agreement with FSHC. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income housing obligation.
- H. The Town shall enact a program to assist non-profit affordable housing organizations in the development of affordable housing in Westfield, as follows:
1. The Town will encourage the involvement of non-profits in meeting its unmet need, with a goal of providing 20 additional homes, half for families, by December 31, 2025;
  2. The Town agrees to hold an annual meeting in which local and regional non-profits are invited to participate in sharing ideas and making proposals;
  3. The Town agrees to discuss the efforts to

provide 20 additional homes, half for families, at a council meeting for which 30 days' public notice shall be provided, which meeting shall occur in the month of February annually. The Town shall provide a written report regarding such efforts during the past year at least two weeks prior to the February meeting.

**§ 23.02. Definitions.**

The following terms when used in this ordinance shall have the meanings given in this section:

- "Act" means the Fair Housing Act of 1985, P.L.1985, c.222 (N.J.S.A. 52:27D-301 et seq.).
- "Adaptable" means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
- "Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:91, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.
- "Affirmative marketing" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.
- "Affordability average" means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.
- "Affordable" means a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.
- "Affordable development" means a housing development all or a portion of which consists of restricted units.
- "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

- "Affordable housing program(s)" means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.
- "Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93, and/or funded through an affordable housing trust fund.
- "Agency" means the New Jersey Housing Mortgage and Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).
- "Age-restricted unit" means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.
- "Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.
- "Assisted living residence" means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

- "Certified household" means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.
- "COAH" means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 27D-301 et seq.).
- "DCA" means the State of New Jersey Department of Community Affairs.
- "Deficient housing unit" means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems) lead paint abatement and/or load bearing structural systems.
- "Developer" means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.
- "Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining excavation or landfill and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.
- "Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Town proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.
- "Housing Element" means the portion of the Town's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.S.A. 5:93-5.1 and establishes the Town's fair share obligation.
- "Inclusionary development" means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

- "Low-income household" means a household with a total gross annual household income equal to 50 percent or less of the median household income.
- "Low-income unit" means a restricted unit that is affordable to a low-income household.
- "Major system" means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.
- "Market-rate units" means housing not restricted to low- and moderate-income households that may sell or rent at any price.
- "Median income" means the median income by household size for the applicable county, as adopted annually by COAH or approved by the NJ Superior Court.
- "Moderate-income household" means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.
- "Moderate-income unit" means a restricted unit that is affordable to a moderate-income household.
- "Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.
- "Random selection process" means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).
- "Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by adopted/approved Regional Income Limits.

- "Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.
- "Rent" means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.
- "Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.
- "Special master" means an expert appointed by a judge to assist the court in ensuring that judicial orders are followed. A master's function is essentially investigative and consultative, compiling evidence and/or documents and making suggestions to inform some future action by the court.
- "UHAC" means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.
- "Very low-income household" means a household with a total gross annual household income equal to 30 percent or less of the median household income.
- "Very low-income unit" means a restricted unit that is affordable to a very low-income household.
- "Weatherization" means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

**§ 23.03. Affordable Housing Programs and Requirements.**

A. **Affordable Housing Programs.** The Town of Westfield will use the following mechanisms to fulfill its affordable housing obligations:

1. **Housing Rehabilitation.**

The Town's Rehabilitation Program shall be designed to renovate deficient housing units occupied by low and moderate income households such that after rehabilitation these units will comply with the New Jersey State Housing Code. Both owner occupied and rental units shall be eligible for rehabilitation funds. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of ten years.

The Town shall participate in the Union County Home Improvement Program (the "Program") for the purpose of having the Town comply with its housing rehabilitation responsibilities in accordance with the Town's 2018 Housing Plan Element and Fair Share Plan. If, after the adoption of this Ordinance, the governing body of the Town determines that the Program is unable to fulfill the Town's Housing rehabilitation responsibilities, the Town will implement an alternative program or programs to address rehabilitation as described further below:

a. **Reliance on the County Program for Rehabilitation.** The Town will participate in the Union County Home Improvement Program to enable eligible homeowners (owner occupied one- and two-family homes) to receive assistance for housing rehabilitation. The Town will undertake a marketing campaign to publicize the availability of the Union County Home Improvement Program to Westfield property owners.

b. **Establishment of a Local Rehabilitation Program.** If the Town determines that the County Home Improvement Program is unable to satisfy the Town's Rehabilitation obligation and/or the County Program's funding is terminated in the future, the Town will establish a local program to address any remaining need for rehabilitation. Under those circumstances, the Town will contract with a qualified consultant to establish and administer such local rehabilitation program.

c. **Establishment of a Local Rental Rehabilitation Program.** The Town has established a local program to offer assistance to eligible property owners of rental units in need of rehabilitation (a "Rental Rehabilitation Program"). To address rental rehabilitation, the Town will retain a qualified consultant to administer a Rental Rehabilitation Program to insure that all rehabilitated units will meet applicable requirements. The Program will offer both grants and loans to eligible recipients, as shall be further specified upon the establishment of the Rental Rehabilitation Program to ensure that, when applicable, funds will be repaid and made available for additional rental rehabilitation needs in the future. If the Union County Home Improvement Program, which is not currently eligible for rental units, is broadened to include the owners of substandard rental units, the Town will evaluate whether participation in the Union County Program will assist in fulfilling future rental rehabilitation needs in the Town.

d. **Funding of any Local Rehabilitation Program.** The funding of any local rehabilitation program established by the Town shall have use of the funds the Town has in its Housing Trust Fund.

e. **Monitoring Rehabilitation.** Westfield's Municipal Housing Liaison will monitor all rehabilitation to determine how many units may qualify for credit (i.e. the sufficiency of work undertaken and average funds expended per unit).

2. **Inclusionary Development.** The Town of Westfield has provided for inclusionary housing zones to accommodate both "for sale" and "rental" housing.

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

**B. Affordable Housing Requirements.**

**1. Housing Rehabilitation.**

- a. Units in a rehabilitation program shall be administered in accordance with following N.J.A.C. 5:93-5.2:
  - 1. For owner-occupied units, the controls on affordability shall be for a minimum of ten (10) years and may be in the form of a lien recorded with the Union County Clerk.
  - 2. For rental units, the controls on affordability shall be for a minimum of ten (10) years and in the form of a deed restriction and may also include a lien, each to be recorded with the County Clerk.
    - i. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9.15, as may be amended and supplemented.

b. The Town of Westfield rehabilitation investment shall average \$10,000 for each unit to be rehabilitated through the housing rehabilitation program.

c. The Town of Westfield shall designate, subject to such required approvals, as are applicable, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:92 and N.J.A.C. 5:93, as may be amended and supplemented. The Administrative Agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program that is to be adopted by resolution of the Town Council and subject to such required approvals, as are applicable; and, that summarizes the administration of the rehabilitation program. The manual shall include a copy of the lien to be used and shall describe:

1. The rehabilitation program's staff and their responsibilities;
2. Procedures for program marketing;
3. Eligible repairs and improvements;
4. The amount of money available for rehabilitation;
5. Financing terms;
6. Income qualification criteria;
7. Procedures for application intake;
8. Procedures for review and approval of work (such procedures should require interim inspection of work); and
9. The length of affordability controls. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

d. Files shall be maintained for each program applicant. Such files shall include:

1. The name of each applicant;
2. If the applicant is not approved, the reasons for the disapproval; and,
3. If the applicant is approved:
  - i. Proof of income eligibility (Federal tax return);
  - ii. The initial inspection by the building inspector;
  - iii. Bids by contractors;
  - iv. The final contract to do the work;
  - v. Progress reports;
  - vi. A copy of the final inspection; and

vii. The lien on the property.

e. The Town of Westfield shall complete annual monitoring reports as required by N.J.A.C. 5:93-12.

f. The Town shall prepare a marketing plan for its rehabilitation program. The rehabilitation program shall be marketed through a combination of some, though not necessarily all, of the following: brochures; posters in prominent locations; cable television and radio announcements; notices included in utility bills; notices in municipal tax bills; notices included in municipal publications; and informational meetings with welfare organizations, urban action community groups, personnel departments of local employers, social workers, civic and religious leaders, senior citizen groups and fraternal organizations.

## 2. **Inclusionary Development.**

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

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

i. 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.

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

iii. Within rental developments, of the total number of affordable rental units, at least thirteen percent shall be affordable to very low income households. The foregoing notwithstanding, the so-called Claremont project on the New Street TOD site shall be governed by the Order entered by the Court (Thomas J. Walsh, J.S.C.) on April 1, 2015; and, the so-called Sunnyside project within the RA-5C Zone District shall be governed as to unit mix by the Judgment of Compliance and Repose entered by the Court (Frederic S. Kessler, PJ. Ch.) on October 7, 2013.

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

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

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

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

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

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

b. Layout of Affordable Housing Within Inclusionary Developments.

i. To the greatest extent practicable, affordable units provided within inclusionary developments shall be integrated with market-rate units. It is the intent of this section to avoid development layout and design that would result in isolating or stigmatizing affordable housing. Buildings containing affordable units shall be designed to be architecturally compatible with

the market-rate units. To that end, the scale, massing, roof pitch and architectural detailing (such as the selection of exterior materials, doors, windows, etc.) of the buildings containing affordable units shall be similar to and compatible with that of buildings containing market-rate units.

ii. Affordable housing units shall be provided with the same source for heating as market-rate units within the development, and the occupants of the affordable units shall have access to all of the same common elements and facilities as the occupants of the market units within the development.

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

Maximum % of Market-Rate Units Completed	Minimum % of Affordable Units Completed
25	0
25+1	10
50	50
75	75
90	100

c. Accessibility Requirements:

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

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

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

(b) An adaptable kitchen on the first floor;

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

(d) An interior accessible route of travel shall not be required between stories within an individual unit;

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

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

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

(2) To this end, the builder of restricted units shall deposit funds within the Town of Westfield's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

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

(4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Town of Westfield.

(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 Sub-code, N.J.A.C. 5:23-7 and that the cost estimate of such conversion is reasonable, payment shall be made to the Town of Westfield's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

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

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

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

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

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

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

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

e. Buyer Income Eligibility.

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

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

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

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

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

**§ 23.04. Control Periods for Restricted Ownership Units.**

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

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

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

D. 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.

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

**§ 23.05. Control Periods for Restricted Rental Units.**

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

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

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

C. 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 Clerk of Union County. A copy of the filed document shall be provided to the Administrative Agent within thirty (30) days of the receipt of a Certificate of Occupancy.

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

1. Sublease or assignment of the lease of the unit;
2. Sale or other voluntary transfer of the ownership of the unit;

or

3. The entry and enforcement of any judgment of foreclosure.

**§ 23.06. Price Restrictions for Rental Units; Leases.**

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

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

C. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

D. The rent may be increased at the anniversary date of the tenancy of a certified household occupying a restricted rental unit if such increase is consistent with regional income limits as most recently published by COAH or any successor agency thereto and has been filed with the Administrative Agent. If a landlord has charged a tenant less than the initial maximum allowable rent for a restricted unit the landlord may, with the approval of the Administrative Agent, use the then maximum allowable rent in establishing rent for a new tenant under a new lease.

E. Approved initial rents may not be increased when an announcement of a COAH-adopted increase occurs during the initial lease-up activity. Rents may not be increased more than once a year. Rents may not be increased by more than one COAH-approved increment at any one time. Rents may not be increased at the time of a new occupancy if the new occupancy occurs within a year of the last occupancy and prior to the next published COAH-adopted increase.

F. Final lease agreements are the responsibility of the landlord and prospective tenant. Tenants are responsible for security deposits and the full amount of the rent as stated in the lease. All lease provisions shall comply with applicable law.

**§ 23.07. Tenant Income Eligibility.**

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

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

2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent 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, low-income or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

3. The household is currently in substandard or overcrowded living conditions;

4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (B) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

**§ 23.08. Maximum Rents and Sales Prices.**

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

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

income units shall be affordable to households earning no more than 52 percent of median income.

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

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

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

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

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

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

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

G. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of

the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

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

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

1. Regional income limits shall be established for the Region 2 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Region 2. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

2. The income limits calculated each year shall be the result of applying the percentages set forth in paragraph (1) above to HUD's determination of median income for the relevant fiscal year, and shall be utilized until the Town updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
3. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Town annually by taking the percentage increase of the income limits calculated pursuant to paragraph (1) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

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

J. The rent levels of very-low, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the 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.

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

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

### **§23.09 Conversions.**

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

**§ 23.10. Affordable Housing Administration, Marketing and Monitoring.**

The procedures for the administration of all affordable housing in the Town of Westfield shall be undertaken by the Municipal Housing Liaison, and/or an Administrative Agent for specified housing programs or projects, consistent with COAH rules, UHAC regulations and the duties and responsibilities described herein. The Municipal Housing Liaison is the employee charged by the Town Council with the responsibility for oversight and administration of the affordable housing program for the Town of Westfield. An Administrative Agent, if appointed by the Town Council, is the entity responsible for administering the affordability controls of some or all of the affordable units pursuant to the Fair Share Plan to ensure that said units are affirmatively marketed and sold or rented, as applicable, only to income-eligible households.

**A. Municipal Housing Liaison.**

1. There is hereby established the position of Municipal Housing Liaison (MHL) for the Town of Westfield. The MHL shall be appointed by duly adopted resolution of the Town Council and be subject to the approval of the Superior Court as may be required.
2. The MHL shall be a full- or part-time employee of the Town of Westfield.
3. The MHL must meet the requirements for qualifications, including initial and periodic training found in N.J.A.C. 5:93.
4. The MHL shall be responsible for oversight and administration of the affordable housing program for the Town of Westfield, including the following responsibilities, which shall not be undertaken by or contracted out to a third party:
  - i. Serving as the Town's primary point of contact for all inquiries from the State of New Jersey, affordable housing providers, administrative agents, and interested households;
  - ii. Monitoring the status of all affordable units in the Town's Housing Element and Fair Share Plan;
  - iii. Compiling, verifying, and submitting annual reports as may be required by the Superior Court and reports to the Town Council at such intervals as deemed appropriate by the Council;
  - iv. Coordinating meetings with affordable housing providers and

administrative agents, as applicable;

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

vi. Supervising the administrative agent(s), if any, contracted or authorized by the Town Council to administer some or all of the affordable units in the Town;

vii. The implementation of the Affirmative Marketing Plan and affordability controls; and

viii. The MHL shall be responsible for the additional duties listed below that are not specifically delegated by the Town Council to an administrative agent.

**B. Administrative Agent.**

1. The Town shall designate by resolution, subject to the approval of the Superior Court as may be required, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93 and UHAC.

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

i. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH or any successor agency thereto.

ii. Affirmative marketing;

iii. Household certification;

iv. Affordability controls;

v. Records retention;

vi. Resale and re-rental;

vii. Processing requests from unit owners;

viii. Providing an Operating Manual to be adopted by Resolution of the Town Council and if required, obtain approval of COAH, or the Superior Court of New Jersey, Union County. The Operating Manuals shall be available

for public inspection in the Office of the Town Clerk and in the office(s) of the Administrative Agent(s);

- ix. Maintaining a waiting list of all eligible candidates in accordance with the provisions of N.J.A.C. 5:80-26 and using a random selection process to select occupants of low- and moderate-income housing;
- x. Enforcement, although the ultimate responsibility for enforcing affordability controls on affordable units rests with the Town; and
- xi. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

**C. Applications for Affordable Housing.** Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region, the Town Municipal Building and the Town Library. In addition, applications for affordable housing shall be available at the rental office or, if none, the principal office of any Developer involved in the development of a project that includes affordable units. Applications shall be mailed to prospective applicants upon request.

**D. Occupancy Standards.**

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

**§ 23.11. Affirmative Marketing.**

In fulfilling the Affirmative Marketing responsibilities set forth in §23.09 B.2, the Administrative Agent shall be guided as follows:

A. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a

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

B. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 2, comprised of Essex, Morris, Union and Warren Counties.

C. Although the Town has the ultimate responsibility for implementing all aspects of Westfield's affordable housing program, the Administrative Agent designated by the Town shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the Town.

D. 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.

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

F. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Town of Westfield.

G. The Affirmative Marketing Plan for each affordable housing development 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.

**§ 23.12. Enforcement.**

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

B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the Town may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

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

i. A fine of not less than \$1,000 and not more than \$10,000 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Town of Westfield Affordable Housing Trust Fund of the gross amount of rent illegally collected; and

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

2. The Town may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of a first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.

C. Such judgment shall be enforceable, at the option of the Town, 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 Town, including attorney's fees. The violating owner shall

have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

D. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to

reimburse the Town 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 Town in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the Town 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 Town 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 Town 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 Town. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Town, whether such balance shall be paid to the owner or forfeited to the Town.

E. Foreclosure by the Town due to violation of the regulations governing affordable housing units shall not extinguish the restrictions contained in the regulations governing affordable housing units as the same apply to the low- and moderate-income units. 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. Any owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the Town may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described in D above.

G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Town shall obligate the

owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the Town, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

H. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions governing affordable housing units until such time as title is conveyed by the owner.

**§ 23.13. Development Applications.**

The checklists for preliminary and final site plan applications and preliminary and final subdivisions shall be amended to require that the developer of affordable housing shall incorporate on the plan a table identifying the location, required bedroom distribution, and intended occupancy (low or moderate income) of all affordable units, in compliance with UHAC regulations.

**§ 23.14. Mandatory Affordable Housing Set-Aside Requirement.  
[Amended 12/12/17 by Ord. No. 2090]**

A. Multi-family residential development, single-family attached residential development, two-family attached residential development, including the residential portion of a mixed-use project, to be developed at six (6) or more dwelling units per acre and yielding five (5) or more units that become permissible through a zoning amendment, or use or density variance granted by the Town's Board of Adjustment, or adoption of a Redevelopment Plan for an area in need of redevelopment or area in need of rehabilitation, shall provide an affordable housing set-aside of 15 percent if the affordable units are to be offered for rent and 20 percent if the affordable units are to be offered for sale.

B. This affordable housing set-aside requirement shall not create any entitlement to a special dispensation or approval for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan.

C. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net increase in the number of dwelling units is five (5) or more units.

D. All variance, subdivision, and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.

E. No subdivision shall be permitted or approved so as to avoid compliance with this requirement.

F. All affordable units created pursuant to this section must comply with all applicable regulations of the affordable housing regulations

of Article 23 of the Land Use Ordinance and the New Jersey Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq. and COAH regulations N.J.A.C. 5:93-1 et seq., with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at least 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income.

G. When calculating the set-aside requirement for a particular site, if the imposition of the required set-aside requirement results in a fractional unit, the requirement shall be rounded to the next whole number. For example, in the case of a fifteen- (15) unit multifamily rental development, a total of three (3) affordable units would be required (15 units x 15 percent set-aside requirement = 2.25 affordable units required, which is rounded to three (3) affordable units required).

H. This affordable housing set-aside shall not apply:

1. To any sites or specific zones and/or overlay zones identified in the Town's Housing Element and Fair Share Plan adopted in accordance with the settlement approved by the court in the amended order entered by the court on October 30, 2017 and filed by the court on November 1, 2017 (the "Settlement Approval Order"), and/or to any sites or specific zones and/or overlay zones identified in the Settlement Approval Order.

2. To any developments containing four (4) or fewer dwelling units.

**Section II.** All existing ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

**Section III.** In the event that any section, provision or part of provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

**Section IV.** This ordinance shall not be effective until approved by the Superior Court of New Jersey and after final passage and publication in accordance with law.

**TOWN OF WESTFIELD  
GENERAL ORDINANCE NO. 2108**

**“AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT REGARDING COMPLIANCE WITH THE TOWN’S AFFORDABLE HOUSING OBLIGATIONS”**

**WHEREAS**, in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 & 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”), the Town of Westfield filed an action for declaratory judgment titled In re Town of Westfield Compliance with Third Round Mount Laurel Affordable Housing Obligations, Docket No. UNN-L-2391-15, (the “DJ Action”) requesting that the court declare that Westfield has complied with its Third Round constitutional obligation to provide a realistic opportunity for the development of housing that is affordable to low- and moderate-income families and individuals; and

**WHEREAS**, the DJ Action was settled and the agreement settling the DJ Action (the “settlement agreement”) was reviewed and approved by the court after a Fairness Hearing, which approval is memorialized in an amended order entered by the court on October 30, 2017 and filed by the court on November 1, 2017 (the “Settlement Approval Order”), which Settlement Agreement Order required among other things that Westfield adopt various implementing ordinances for review at a Compliance Hearing; and

**WHEREAS**, one of the implementing ordinances that was adopted was an amendment to the Code of the Town of Westfield to allow for a residential density of 20 dwelling units per acre in the RA-5A Multi-Family Residence District; and

**WHEREAS**, while the owner of the property situated in the RA-5A Multi-Family Residence District was satisfied with the density which allows for the construction of 130 total housing units including 26 affordable housing units, the property owner was not satisfied with, and objected to, certain of the bulk regulations and affordable housing regulations applicable in the RA-5A Multi-Family Residence District; and

**WHEREAS**, the property owner and Westfield subsequently settled the dispute over the bulk regulations and affordable housing regulations applicable to the RA-5A Multi-Family Residence District, and said settlement was incorporated into a Conditional Judgment of Compliance and Repose which was entered and filed by the court on May 31, 2018 (the “Conditional Judgment”) after the court conducted a Compliance Hearing on May 21, 2018 to review all implementing ordinances, and the Conditional Judgment required among other things that Westfield (1) amend Ordinance section 11.18E (which establishes bulk regulations applicable to developments in the RA-5A Multi-Family Residence District) and (2) amend Ordinance section 11.18F (which establishes affordable housing regulations applicable to developments in the RA-5A Multi-Family Residence District); and

**NOW, THEREFORE, BE IT THEREFORE ORDAINED** by the Town Council of the Town of Westfield, in the County of Union and the State of New Jersey, as follows:

**Section I. The Land Use Ordinance, Article 11, Section 11.18 titled “RA-5A Multi-Family Residence District’, subsection E,** is hereby amended to read as follows:

- E. **Bulk and lot regulations.** Development of the property within this district shall be similar to that reflected on the attached Exhibit A - Concept Plan Drawings, including building footprint, building orientation, and building locations. The following bulk and lot regulations shall apply to all developments within the RA-5A zone district:
1. Minimum tract area. There shall be a minimum tract area of five (5) acres.
  2. Minimum front yard.
    - a. Principal structures: Fifty (50) feet
    - b. Accessory Structures including swimming pools and clubhouses: One hundred and fifteen (115) feet with all improvements located a minimum of fifty (50) feet from any existing residential principal structures on contiguous properties.
  3. Minimum side yard and rear yard.
    - a. Principal structures: Thirty (30) feet
    - b. Accessory Structures including swimming pools and clubhouses: Twenty (20) feet with all improvements located a minimum of fifty (50) feet from any existing residential principal structures on contiguous properties.
  4. Maximum density. There shall be a maximum density of twenty (20) dwelling units for each acre of lot or tract area.
  5. Maximum building height. No principal building with a pitched roof shall exceed the maximum of three (3) habitable floors, exclusive of basement, but not more than forty-seven (47) feet in height. No principal building with a flat roof shall exceed the maximum of three (3) habitable floors, exclusive of basement, but not more than forty (40) feet in height. No accessory building shall exceed the maximum of one and one-half (1 ½) stories, but not more than twenty-five (25) feet in height.
  6. Minimum distance between buildings. Between buildings containing dwelling units, the following minimum distances shall apply:

- a. buildings facing front-to-front, a minimum setback of sixty (60) feet separated by an open court and said court shall not contain any accessory building;
  - b. buildings facing rear-to-rear, a minimum setback of sixty (60) feet;
  - c. buildings facing front-to-side, a minimum setback of forty (40) feet;
  - d. no rear of one building shall face the front of another building; and,
  - e. buildings facing side-to-side, a minimum setback of fifty (50) feet.
7. Maximum coverage by buildings and above-grade structures. No more than twenty-seven and one-half percent (27.5%) of the area of any lot shall be covered by buildings and above-grade structures. Earthen flood detention basins as defined herein shall not be considered as a building or structure for purposes of computing this coverage.
  8. Maximum coverage by improvements. No more than sixty-five percent (65%) of the area of any lot shall be covered by physical improvements, including but not limited to buildings, above-grade structures, and at-grade structures including, but not limited to, sidewalks, parking areas, patios, driveways, swimming pools, etc. It is the intention of this provision that each lot shall have at least thirty-five percent (35%) of its lot area without any improvements except vegetation. Earthen flood detention basins as defined herein shall not be considered as a building, structure or improvement for purposes of computing this coverage.
  9. Maximum dwelling units per building. No townhouse building shall contain more than six (6) dwelling units. No multi-family residential building shall contain more than fifty (50) dwelling units.
  10. Maximum continuous wall length. The longest dimension of any continuous exterior wall of any building shall not be greater than sixty (60) feet. For the purpose of administering this provision, any exterior wall that is offset for a depth of four (4) feet or greater shall be construed as a separate wall.
  11. Miscellaneous requirements for accessory structures. Accessory structures including swimming pools and clubhouses:

- a. Are permitted in side and rear yards and prohibited in front yards.
- b. Clubhouses may not exceed 3,500 square feet in size.

**Section II. The Land Use Ordinance, Article 11, Section 11.18 titled “RA-5A Multi-Family Residence District’, subsection F.1, is hereby amended to read as follows:**

1. Total number of affordable units. Any development for multi-family residences or single-family attached residences shall be required to include at least twenty-six (26) of the units to be sold or rented at rates affordable to low, very low, and moderate income limits. All twenty-six (26) affordable units shall be constructed on site.

**Section III. The Land Use Ordinance, Article 17, Section 17.03 titled “Location of Required Parking Spaces”, subsection B.2. is hereby amended to read as follows:**

**B. Yard location of parking areas in all residential and professional zones.**

2. RA-1, RA-2, RA-3, and RA-5B Zones. Off-street parking areas are prohibited in the front yard, street side yard and side yards; parking areas shall only be permitted in the rear yard.

**Section IV. The Land Use Ordinance, Article 17, Section 17.03 titled “Location of Required Parking Spaces”, subsection B is hereby amended by adding a new item as number 6 which shall read as follows:**

6. RA-5A Zone. Off-street parking areas shall be located within side and rear yard areas, provided they meet the minimum setbacks for parking areas prescribed for the RA-5A Zone.

**Section V. The Land Use Ordinance, Article 17, Section 17.03 titled “Location of Required Parking Spaces”, subsection C.1. is hereby amended to read as follows:**

1. Multi-family zone, except RA-4 Zone and RA-5A Zone, abutting a single- or two-family residential Zone. Parking areas and driveways located on the property in the multi-family zone shall be set back at least five (5) feet from any abutting single-family or two-family zone district boundary line.

**Section VI. The Land Use Ordinance, Article 17, Section 17.03 titled “Location of Required Parking Spaces”, subsection C is hereby amended by adding a new item as number 8 which shall read as follows:**

8. RA-5A Zone. Off-street parking areas shall not be located within twelve (12) feet of a side or rear lot line; or within fifty (50) feet of a front lot line.

**Section VII.** All existing ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

**Section VIII.** In the event that any section, provision or part of provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

**Section IX.** This ordinance shall not be effective until approved by the Superior Court of New Jersey after a Compliance Hearing and after final passage and publication in accordance with law.

**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY**

**GENERAL ORDINANCE NO. 2109**

**AN ORDINANCE AMENDING THE LAND USE ORDINANCE OF THE TOWN OF  
WESTFIELD ESTABLISHING AN AFFORDABLE HOUSING DEVELOPMENT FEE**

**WHEREAS**, the Town of Westfield adopted a Housing Element and Fair Share Plan (HE&FSP) in 2018 to provide for affordable housing units to be constructed with the Town of Westfield in order to satisfy its affordable housing obligations under the New Jersey Supreme Court Mount Laurel Decisions; and

**WHEREAS**, the Town Council has established an affordable housing development fee and trust fund for the purposes of facilitating the development of affordable housing units created pursuant to its HE&FSP; and

**WHEREAS**, the Town Council has deemed it necessary and advisable to clarify the basis upon which a residential development fee is imposed, and calculation of same.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Town of Westfield:

1. Article 22, Affordable Housing Development Fee and Trust Fund, Section 22.4(a)(i) of the Town of Westfield Land Use Ordinance, is hereby amended as follows:

**§22.4 Residential Development Fees**

a) Imposed fees

- i. Within the Town of Westfield, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one half (1.5) percent of the equalized assessed value attributable to residential development, provided no increased density is permitted. However, when an existing structure undergoes a change to a more intense use or is expanded, the development fee shall instead be calculated on the increase in the equalized assessed value of the improved structure, provided that the development fee requirement is not otherwise exempted under this section.
2. Article 22, Affordable Housing Development Fee and Trust Fund, Section 22.4(b)(iv) of the Town of Westfield Land Use Ordinance, is hereby deleted in its entirety.
  3. This ordinance shall take effect upon final passage and publication in accordance with law.