

**TOWNSHIP OF MAHWAH  
COMBINED WORK SESSION AND PUBLIC MEETING AGENDA  
THURSDAY, JUNE 27, 2019**

**Honorable Anthony J. Gianni Jr. Chambers**

**7:00PM**

**Richard J. Martel Municipal Center, 475 Corporate Drive, Mahwah, New Jersey**

**COUNCIL PRESIDENT'S STATEMENT**

**SALUTE TO THE FLAG**

**MOMENT OF SILENCE FOR VETERANS AND THOSE SERVING IN THE  
MILITARY**

**ROLL CALL:** \_\_\_\_ Ariemma; \_\_\_\_ Ervin; \_\_\_\_ Ferguson; \_\_\_\_ May; \_\_\_\_ Paz;  
\_\_\_\_ Wong; \_\_\_\_ Wysocki

**PUBLIC HEARING**

Water Asset Management Plan

**WORK SESSION**

**SUBMISSION OF BILLS AND CLAIMS**

**ENGINEERING**

- 1a. Lithia Northwest Real Estate LLC; 440 Franklin Turnpike; Block 110.01, Lot 7; Request For Authorization To Execute Developer's Agreement (Docket No. 597)
- 1b. Verbal Status Report

**LEGAL**

- 2a. Resolution; Affirmative Marketing Plan for Affordable Housing Units
- 2b. Resolution; Intent to Bond in the Event That There is a Shortfall in Funding to Effectuate Certain Affordable Housing Mechanisms in its Housing Element and Fair Share Plan
- 2c. Resolution; Adopting the 'Operating Manual' and 'Home Improvement Program Manual'

**ADMINISTRATION**

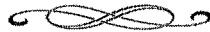
- 3a. Cancellation of Taxes; 100% Disabled Veteran; Block 165, Lot 26
- \*3b. ~~Resolution; Acceptance of Donation of Flag Pole by Mahwah Youth Sports Boosters~~ removed
- 3c. Employment and Labor Counsel; Increase of Funds
- 3d. Authorization to Award Bid#18-21: Cupola Renovation at the Richard J. Martel Municipal Complex
- 3e. Amendment of Contract; Boswell McClave Engineering; Hearthstone/Janice Court Pump Station
- 3f. Authorization to Dispose of Excess Municipal Assets (2 Vans) Through Municibid
- 3g. Mahwah Youth Sports Boosters; Authorization for Replacement Shed – Purchase and Installation at Continental Soldiers Park
- 3h. Airpark Holdings Inc. DBA: Amchar Wholesale Inc.; Trade-In of Police Magazines

## **TOWNSHIP COUNCIL and MUNICIPAL CLERK**

- 4a. Kennel License Renewal; Tam-Boer Kennels
- 4b. Firefighter Application; Firefighter Jason C. Goodrich to Fire Company #1
- 4c. Liquor License; Place-to-Place Transfer (Expansion of Premises); JVCV LLC
- 4d. Amendment; Resolution #212-19 - Renewal of Liquor Licenses for 2019/2020 Term
- 4e. Permission to Erect Fence in Township Right-of-Way; Mr. Peter Sikora; 1 Chapel Road; Block 150, Lot 19.05
- 4f. Resolution; Library Referendum
- 4g. Liquor License; Person-to-Person Transfer; New York SteakHouse and Pub Inc. to Hospitality Ventures Management LLC

## **PUBLIC PORTION**

- Each Speaker shall be limited to 3 minutes
- Prior to speaking, each Speaker shall provide their Name and Address
- Mahwah Residents shall speak first
- This Public Portion is limited to subjects on this Agenda
- This Public Portion shall be a maximum of 30 minutes
- Second Public Portion shall be held towards the end of this Meeting



## **PUBLIC MEETING**

### **APPROVAL OF BILLS AND CLAIMS**

## **REPORTS OF TOWNSHIP COUNCIL and MUNICIPAL CLERK**

### **TOWNSHIP COUNCIL; COMMENTS, COMMUNICATIONS AND REPORTS OF SUBCOMMITTEES**

## **REPORTS OF MAYOR and BUSINESS ADMINISTRATOR**

### **ORDINANCES – PUBLIC HEARINGS**

- #1863 An Ordinance Amending Chapter XV Streets, Sidewalks and Sanitation and Section 24-17 Wireless Telecommunications Towers and Antennas of the Code of the Township of Mahwah and Providing for the Regulation of Small Cell Wireless Facilities within the Municipal Right of Way
- #1867 Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “Zoning” of the Land Development Code to Establish a New MUD-2 Mixed-Use Development Zone and to Set Forth the Standards and Criteria Applicable thereto
- #1868 Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “Zoning” of the Land Development Code to Establish a New Mixed-Use Development 1 Overlay (MUD-1) District and to set forth the Standards and Criteria Applicable thereto
- #1869 Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “Zoning” of the Land Development Code to establish a New Multi-Family 1 Housing District and to Set Forth the Standards and Criteria applicable thereto
- #1870 Ordinance of the Township of Mahwah, Amending and Supplementing Chapter XXIV “Zoning” of the Land Development Code to Establish a New Multi-Family 2 Housing District and to set forth Standards and Criteria applicable thereto

## **ORDINANCES – PUBLIC HEARINGS (continued)**

- #1871 Ordinance of the Township of Mahwah, to Delete and Replace Subsection 13 “Affordable Housing Regulations” of Chapter XXIV “Zoning” within the Land Development Code to Address the Requirements of the Fair Housing Act and the Uniform Housing Affordability Controls (UHAC) Regarding Compliance with the Township’s Affordable Housing Obligations
- #1872 Ordinance of the Township of Mahwah, to Delete and Replace Subsection 15 “Development Fees” of Chapter XXIV “Zoning” within the Land Development Code to Provide for the Collection of Development Fees in Support of Affordable Housing as Permitted by the New Jersey Fair Housing Act
- #1873 Ordinance of the Township of Mahwah to Delete and Replace Subsection 16 “Housing Plan Enforcement and Penalties” of Chapter XXIV “Zoning” within the Land Development with Subsection 16 “Township-Wide Set-Aside Ordinance” to Establish a Township-Wide Set-Aside Requirement and set forth the Standards and Criteria applicable thereto
- #1874 Ordinance Amending Sections 2-5, 2-6, 2-13, 22-11 and 24-12 of the Code of the Township of Mahwah and Deleting Provisions for a Housing Commission and Division of Human Services and Affordable Housing
- #1875 Bond Ordinance for the Construction and Renovation of Department of Public Works Buildings in and by the Township of Mahwah, in the County of Bergen, New Jersey, appropriating \$750,000 from the Water Utility and Sewer Utility therefor and authorizing the issuance of \$712,500 from the Water Utility and the Sewer Utility Bonds or Notes of the Township to Finance part of the cost thereof
- #1876 Bond Ordinance providing for the Construction and Renovation of Department of Public Works Buildings in and by the Township of Mahwah, in the County of Bergen, New Jersey, appropriating \$750,000 therefor and authorizing the issuance of \$712,500 Bonds or Notes of the Township to Finance part of the cost thereof
- #1877 Ordinance Amending Section 2-21 of the Township Code - Access For All In Mahwah Commission
- #1878 Ordinance Amending Chapter 27 of the Code of the Township of Mahwah and Providing Flood Damage Prevention Regulations
- #1879 Ordinance Setting Salaries For The Mayor and Councilmembers For 2019

## **PUBLIC PORTION**

- Each Speaker shall be limited to 3 minutes
- Prior to speaking, each Speaker shall provide their Name and Address
- Mahwah Residents shall speak first
- In this Public Portion, Speakers may speak about any subject
- This Public Portion shall be a maximum of 30 minutes

**CONSENT AGENDA** There will be no separate discussions of these items. If any discussion is desired by Council, that particular item will be removed from the Consent Agenda.

- #218-19 Lithia Northwest Real Estate LLC; 440 Franklin Turnpike; Block 110.01, Lot 7; Execution of Developer’s Agreement (Docket No. 597)
- #219-19 Cancellation of Taxes; 100% Disabled Veteran; Block 165, Lot 26
- \* ~~#220-19 Acceptance of Donation of Flag Pole by Mahwah Youth Sports Boosters~~ ~~removed~~
- #221-19 Contract Amendment; Employment and Labor Counsel; Increase of Funds

**CONSENT AGENDA (Continued)**

- #222-19 Award of Bid #18-21: Cupola Renovation at the Richard J. Martel Municipal Complex
- #223-19 Contract Amendment; Boswell McClave Engineering; Hearthstone/Janice Court Pump Station
- #224-19 Disposal of Excess Municipal Property (2 Vans) Through Municibid
- #225-19 Mahwah Youth Sports Boosters; Authorization for Replacement Shed – Purchase and Installation at Continental Soldiers Park
- #226-19 Kennel License Renewal; Tam-Boer Kennels
- #227-19 Appointment of Firefighter Jason C. Goodrich to Fire Company #1
- #228-19 Liquor License; Place-to-Place Transfer (Expansion of Premises); JVCV LLC
- #229-19 Amendment; Resolution #212-19 - Renewal of Liquor Licenses for 2019/2020 Term
- #230-19 Permission to Erect Fence in Township Right-of-Way; Mr. Peter Sikora; 1 Chapel Road; Block 150, Lot 19.05
- #231-19 Airpark Holdings Inc. DBA: Amchar Wholesale Inc.; Trade-In of Police Magazines
- #232-19 Approval of Affirmative Marketing Plan for Affordable Housing Units
- #233-19 Intent to Bond in the Event That There is a Shortfall in Funding to Effectuate Certain Affordable Housing Mechanisms in its Housing Element and Fair Share Plan
- #234-19 Adoption of the ‘Operating Manual’ and ‘Home Improvement Program Manual’
- #235-19 Resolution; Library Referendum
- #237-19 **Liquor License; Person-to-Person Transfer; New York Steakhouse and Pub Inc. to Hospitality Ventures Management LLC**

**OLD BUSINESS**

1. 75<sup>th</sup> Anniversary of the Township
2. Natural Gas Auction; Spring 2019
3. Parking Lot; Ramapo Reservation
4. Cement by Winters Park
5. Crosswalk at George Washington School
6. Bergen County Gun Range
7. Continental Soldiers Park Turf
8. Nomination Process; Candidates For Boards and Commissions

**NEW BUSINESS****CLOSED SESSION**

- C1. Personnel; Police Officer – Sick Leave Extension

**RESOLUTION**

- #236-19 Sick Leave Extension; Police Officer

**UPCOMING EVENTS**

Date	Time	Event
<b>July 2019</b>		
July 4, 2019		Independence Day; Municipal Offices Closed
July 9, 2019	12 Noon	Senior Picnic; Patio at Senior Center



July 11, 2019	7:00PM	Township Council; Combined Work Session and Public Meeting
July 25, 2019	7:00PM	Township Council; Combined Work Session and Public Meeting

## **ADJOURNMENT**

**THIS AGENDA IS SUBJECT TO CHANGE.**



# Township Of Mahwah

Municipal Offices: 475 Corporate Drive

P.O. Box 733 • Mahwah, NJ 07430

Tel: 201-529-5757

Fax: 201-529-0061

Office of Administration

[www.mahwahtwp.org](http://www.mahwahtwp.org)

TO: Mayor John F. Roth & Township Council

FROM: Quentin Wiest, Business Administrator

DATE: June 24, 2019

SUBJECT: RFP#18-03 "Management and Full Service Maintenance Program for Water Well, Pump, and Motor Asset Management" Benefits

The Township of Mahwah solicited proposals for a service and maintenance program for the seven water wells in the Township of Mahwah water system. A request for proposals was advertised on March 25, 2019 and one response was received from SUEZ Advanced Solutions d/b/a Utility Service Co., Inc.

The agreement provides for the long-term service and maintenance of Ford West Wells 1, 2, 3, & 4 and Wells 16, 17, & 19.

The proposal was reviewed by the Township RFP Review Committee made up of Quentin Wiest, Business Administrator, Joanne Becker, QPA; and Brian Campion, Township Attorney. The committee reviewed the Business Qualifications and Financial Qualifications of the bidder and recommends that the contract be approved by the Township Council in accordance with N.J.S.A. 58:26-14.

Attached is a memo which describes the benefits of this proposal.

c: Mayor John F. Roth  
Brian T. Campion, Esq. Township Attorney  
Joanne Becker, QPA  
Kathrine Coviello, Township Clerk  
Kenneth Sesholtz, CMFO  
Glenn Dowson, DPW Dir.  
Paul Scherer, Superintendent of Water and Sewer  
SUEZ Advanced Solutions / Utility Srv Co., Inc  
File

## TOWNSHIP OF MAHWAH, NEW JERSEY

### Benefits of a Full-Service Asset Management Program for Seven (7) Mahwah Water Wells and Their Associated Pumping Equipment:

- Ford West Wells 1, 2, 3, & 4
  - Wells 16, 17, & 19
1. The primary reason why municipalities choose the Asset Management approach is to eliminate the risk of well assets deteriorating over time in a typical “run-to-failure” mode. Asset Management maintains guaranteed performance, ensures operational efficiency, and extends the usable life of well assets.
  2. The second key benefit to the Township is to gain financial stability in budgeting while addressing the need to renovate and maintain well assets at a peak performance level. The plan flattens future budgets by putting wells on a long-term program for an annual fee, providing better cash flow for the Township.
  3. Under the asset management approach all the renovation work is guaranteed for up to 20 years under a management contract.
  4. Annual condition assessments allow the team to continually monitor the condition of each well and establish a renovation and repair schedule to ensure the highest level of protection. Unlike routine maintenance programs, the regular assessments will result in scheduled renovations for when they are actually needed.
  5. Detailed annual condition assessment reports will include photographs and condition assessments for each well to ensure operational awareness and continued peak performance. Photographs will include pumps, motors, pipes, cables, power supply, and visible areas of the foundation. The reports will identify any needed immediate repairs, touch-ups, or other preventative maintenance.
  6. The assessment reports will provide the necessary documentation to meet state and regulatory compliance.
  7. Up front renovations should bring each well into baseline condition structurally and operationally as per applicable AWWA and OSHA standards. This will include updated safety and security features, equipment repairs, chemical cleaning, and well disinfection.
  8. Under an asset management plan the Township should not face unplanned repairs, thus saving money and the need to secure vendors and quotes on an emergency basis that comes with unanticipated situations.
  9. The asset management contractor will complete emergency repairs and maintenance at any time and at no additional expense to the Township.

Procurement of a Full Service Asset Management program for Water Wells in New Jersey utilizes the New Jersey Water, Waste-Water, Public-Private Contracting Act. This law allows the municipality to select the most qualified service provider based upon criteria developed by the municipality rather than simply on lowest price.

## WATER WELL FULL MAINTENANCE CONTRACT

This Contract entered into by and between **Township of Mahwah, a governmental body corporate of the State of New Jersey**, whose primary and legal address is 475 Corporate Drive, Mahwah, NJ 07430 (hereinafter referred to as "the Owner") and Utility Service Co., Inc., (USCI) whose business address is 1230 Peachtree Street NE, Suite 1100, Atlanta, GA 30309 (hereinafter referred to as "the Company" or Vendor). Therefore, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Owner and the Company, the parties agree as follows:

A. The Owner agrees to engage the Company to provide the professional services needed to service its **Water Wells Numbering Seven (7) with their accompanying pumps as listed in attached RFP & Responsive Proposal**. (Hereinafter may be referred to in the singular by the term "Well").

**1. Company's Responsibilities.** This Section outlines the Company's responsibilities for the services associated with the attached lists of described Wells. Services includes the following:

**a. WATER WELL REHABILITATION:**

(i) The Company shall perform any necessary rehabilitation of the Well to return the Well to as prime a condition as possible. The Company may rehabilitate the Well using appropriate technology, which includes but is not limited to: (1) Aqua Freed® - injecting carbon dioxide or other approved gases into the Well; (2) treatment of the Well with approved chemicals; (3) the mechanical cleaning of the Well; or (4) or any combination thereof.

**b. REPAIR OR REPLACEMENT OF PUMP:**

(i) The Company shall make repairs to the pump or replace the pumping unit during the aforementioned rehabilitation.

(ii) The Company will provide emergency services, when needed, during the Term of this Contract to perform all repairs to the Pumps covered under this Contract.

Reasonable travel time must be allowed for the repair unit to reach the Well site.

**c. WATER WELL MAINTENANCE:**

(i) The Company will install the necessary Well maintenance equipment following the acceptance of this Contract.

(ii) The Company will service the Well using the Well maintenance equipment installed in the Well. A minimum of one Well maintenance service for each well shall be performed each Contract year.

(iii) The Company will conduct a performance test annually and provide a written report of the findings of each Well and pump performance to the Owner following each well's annual test.

(iv) The Company will provide future rehabilitation of the Well as necessary. The need for any future Well rehabilitation will be determined by the specific capacity of the Well.



## WATER WELL FULL MAINTENANCE CONTRACT

**2. Owner's Responsibilities.** This Section outlines the Owner's responsibilities under this Contract, and they include but are not limited to the following:

- a. It is understood that only Company's employees or personnel authorized by the Company shall install, operate, and/or maintain the Well maintenance equipment installed by the Company, and the Owner shall not permit any of its employees, agents, or independent contractors, except as authorized by Company, to operate the Well maintenance equipment.
- b. Owner agrees that it will make no alterations in or to the equipment without obtaining prior written permission from Company. The Well maintenance equipment shall have a label attached to it, which Owner shall not remove, describing the equipment and directing system operators to contact the Company prior to removing any equipment from the Well.
- c. The Owner shall notify Company immediately of any breakdown, malfunction, or other evidence that the Well maintenance equipment may need to be serviced.
- d. The Owner shall notify Company immediately of any operational changes to the well or pump that could impact the performance of the well, including but not limited to increasing or decreasing the capacity of the pump, modifications to the pump setting, or modifications to size, or performance.

**3. Term.** This agreement shall be for an **initial term of Twenty (20) years from the Commencement Date**. The Commencement date shall in any case be dependent upon all required state and governmental approvals. A "Contract Year" shall be defined as each consecutive 12-month period following the first day of the month in which the Contract is executed by the Owner and each subsequent 12-month period thereafter during the time the Contract is in effect. For example, if a contract was signed by an Owner on April 17, 2017, Contract Year 1 for that contract would be May 1, 2017 to April 30, 2018 and Contract Year 2 for that contract would be May 1, 2018 to April 30, 2019 and so on

**4. Contract Price/Annual Fees.** The annual fee shall be as defined in the attached Exhibit B, however, in Contract Year 11 and each Contract Year thereafter, the annual fee may be adjusted to reflect the actual current cost of service. The adjustment of the annual fee shall be limited to a maximum of 5% annually. The adjustment of the annual fee shall be limited to a maximum of 5% annually, and shall be tied to the ENR Construction Cost Index. All applicable taxes are the responsibility of the Owner and are in addition to the stated costs and fees in this Contract.

**5. Payment Terms.** The annual fee for Contract Year 1, shall be due and payable **on or within 45 days of the Commencement Date**. Each subsequent annual fee, shall be due and payable **on the first day of each Contract Year**. Furthermore, if the Owner elects to terminate this Contract prior to remitting the first twenty (20) annual fee the balance for work completed shall be due and payable as set forth in Exhibit B.

**6. Excluded Items.** This Contract does NOT include the cost for and/or liability on the part of the Company for: (1) Site maintenance of the Well site during the term of the contract; (2) disposal of any hazardous waste or hazardous materials; (3) resolution of operational breakdowns and/or

## **WATER WELL FULL MAINTENANCE CONTRACT**

malfunctions or structural damage of the Well of any type caused by Owner's failure to operate the pump and/or well in accordance with the manufacturer's recommendations and/or guidelines; (4) repair of structural damage due to any other work performed by others at the site, on the Well, or on associated equipment attached to the Well or located nearby; (5) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (6) negligent acts of Owner's employees, agents or contractors; (7) damages, whether foreseen or unforeseen, caused by Owner resulting in the increase of starts and stops of the Well pump including that the Owner must operate the equipment within any and all manufacturer's recommendations and/or guidelines when Owner is using a VFD or other electrical controls; (8) damage to electrical components caused by nonexistent or inadequate electrical protection; (9) repairs or modifications to the foundation or pedestal of the Well; (10) repairs necessary due to the unwarranted delay by Owner in notifying Company of the malfunction or breakdown of equipment; (11) repair or replacement of electrical controls, casings, screens, seals, or other components of the Well; (12) any cost associated with the containment or management of the development water that will be produced during the redevelopment of the well; (13) other conditions which are beyond the Company's control, including, but not limited to: acts of God and acts of terrorism; and (14) integrity of the Well or Well site, including but not limited to formation shifts, subsidence, water supply, and earthquakes.

**7. Termination.** The Owner shall have the right to continue this Contract for twenty years providing payment of the annual fees is in accordance with the terms set forth elsewhere herein. This Contract is subject to termination by the Owner once written notice of intent to terminate is received by the Company ninety (90) days prior. Notice of Termination is to be delivered by registered mail to Utility Service Co., Inc., Attention: Customer Service, P O Box 1350, Perry, Georgia 31069, and signed by an authorized official of the Owner's management and/or Commissioners.

**8. Assignment.** The Owner may not assign or otherwise transfer all or any of its interest under this Contract without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Contract, until its assignee assumes in full and in writing all of the obligations of the Owner under this Contract. Any attempted assignment by Owner in violation of this provision will be void and of no effect.

**9. Indemnification.** THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF ANY ACT, OMISSION, OR REPRESENTATION OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY BY REASON OF ANY ACT OF GROSS NEGLIGENCE FOR WHICH THE TOWNSHIP OR ITS EMPLOYEES ARE HELD TO BE SOLELY AND LEGALLY RESPONSIBLE IN ACCORDANCE WITH NJ TITLE 59.

## **WATER WELL FULL MAINTENANCE CONTRACT**

**10. Limitation of Liability.** IN NO EVENT SHALL THE OWNER OR THE COMPANY OR THEIR RESPECTIVE DIRECTORS, OFFICERS, OFFICIALS, AND/OR EMPLOYEES BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, TO THE TOWNSHIP HOWSOEVER CAUSED OR ARISING UNDER THIS CONTRACT.

11. Pursuant to the Public-Private Water Services Contract Act, NJSA 58:26-23, pursuant to P.L.1995, c.101 (C.58:26-19 et al.) this contract addresses the following items and does so say:

(1) The charges, rates, fees or formulas to be used to determine the charges, rates, or fees to be charged by the public entity for the water supply services remain completely with the Township pursuant to law and the contractor shall have no role in that determination; and

(2) The allocation of the risks of financing and constructing planned capital additions or upgrades to existing water supply facilities that are the subject of the contract shall be carried by the contractor insofar as the services performed may exceed the annual fee until captured by the subsequent years fees; and

(3) The allocation of the risks of operating and maintaining the subject water supply wells, pumps and equipment at an agreed upon performance level shall rest with the company to maintain that performance level; and

(4) The allocation of the risks associated with circumstances or occurrences beyond the control of the parties to the contract shall remain with the owner insofar as they are incumbent with ownership except as set forth herein; and

(5) The defaulting and termination of the contract is as set forth elsewhere herein; and

(6) The employment of current employees of the public entity will be unaffected as the Township will continue to employ its current Water Department employees; and

(7) The Township's authority and the extent, or the procedures for the use, of that authority to initiate, negotiate and finalize the terms for a bulk sale of surplus water are unaffected in anyway by this agreement, and the company is denied the authority to initiate, negotiate or finalize any bulk sale water purchahse; and

(8) This agreement requires that the company provide as a condition of contract and prior to each payment proof of the performance bond in force by the private firm to continue the obligations of this contract through the term it is in place and thereafter a two year maintenance bond to secure the obligations under this agreement by the company.

## **12. Miscellaneous Items.**

a. No modifications, amendments, or alterations of this Contract may be made except in writing signed by all the parties to this Contract.

b. Acknowledged by the parties are the Attached amendment and supplement with attachments as part of the Agreement.

c. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them.

d. The documents forming this complete agreement shall include:

1. This document of five (5) pages;
2. The Attachments to it, with

**WATER WELL FULL MAINTENANCE CONTRACT**

- (i) Attachment A thereto;
- (ii) Attachment B thereto;
- (iii) Attachment C thereto;
- 3. Exhibit A - The Owner's March 25, 2019 RFP and its terms and conditions as advertised and attached;
- 4. Exhibit B - The Company's April 26, 2019 proposal.

**13. Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

In Witness whereof the parties have set their authorized signatures hereto respectively on the dates noted below. The parties hereto by their authorized representatives agree to all the above.

**For Owner: Township of Mahwah**

**For Contractor: USCI, Inc.**

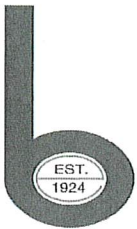
\_\_\_\_\_  
Name/Title \_\_\_\_\_

\_\_\_\_\_  
Name/Title \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_





**BOSWELL ENGINEERING**

ENGINEERS ■ SURVEYORS ■ PLANNERS ■ SCIENTISTS

330 Phillips Avenue • P.O. Box 3152 • South Hackensack, N.J. 07606-1722 • (201) 641-0770 • Fax (201) 641-1831

1a

June 19, 2019

Ms. Kathrine G. Coviello  
Township Clerk  
Township of Mahwah  
Municipal Building  
475 Corporate Drive  
Mahwah, New Jersey 07430

Re: Lithia Northwest Real Estate, LLC  
**Preliminary and Final Site Plan Application**  
440 Franklin Turnpike  
Block 110.01, Lot 7  
Township of Mahwah  
Docket No. 597  
Our File No. MAES-1797

Dear Ms. Coviello:

Our office has reviewed the Developer's Agreement for the above project and recommend that the Township adopt a Resolution of Approval authorizing the Township to execute this Agreement. We respectfully request that this item be placed on the Agenda for the June 27, 2019 Council Work Session.

Thank you for your kind attention to this matter. Should you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,

BOSWELL ENGINEERING

Michael J. Kelly, P.E.  
Township Engineer Representative

MJK/jg

cc: Quentin Wiest, Township Business Administrator  
Geri Entrup, Planning Department  
Sylvia Gerou, Escrow & Soil Movement Clerk  
Peter J. Scandariato, Esq., Planning Board Attorney  
Brian T. Campion, Esq.  
James E. Jaworski, Esq.  
Daniel J. Lamothe, P.E.  
Lithia Northwest Real Estate, LLC

DRAFT

2a.

TOWNSHIP OF MAHWAH  
P.O. BOX 733  
MAHWAH, NJ 07430

Resolution #  
Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**RESOLUTION APPROVING AFFIRMATIVE MARKETING PLAN FOR  
AFFORDABLE HOUSING UNITS**

**WHEREAS**, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, et seq., the Township of Mahwah is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created within the Township of Mahwah, are affirmatively marketed to low- and moderate-income households, particularly those living and/or working within Housing Region 1, the COAH Housing Region encompassing the Township of Mahwah.

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah as follows:

Affirmative Marketing Plan

- A. All affordable housing units in the Township of Mahwah shall be marketed in accordance with the provisions herein.
- B. The Township of Mahwah has a Prior Round Obligation and a Third Round Obligation covering the years from 1999-2025. This Affirmative Marketing Plan shall apply to all developments that contain or will contain low- and moderate-income units, including those that are part of the Township's Prior Round Fair Share Plan and its current Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan.
- C. The Affirmative Marketing Plan shall be implemented by one or more Administrative Agent(s) designated by and/or under contract to the Township of Mahwah. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the

developers/sellers/owners of affordable unit(s), and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Administrative Agent.

- D. In implementing the Affirmative Marketing Plan, the Administrative Agent, acting on behalf of the Township of Mahwah, shall undertake, at the minimum, all of the following strategies:
1. Publication of an advertisement in one or more newspapers of general circulation within the housing region.
  2. At least one additional regional marketing strategy using one of the other sources listed below.
- E. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Township of Mahwah is located in COAH Housing Region 1, consisting of Bergen, Hudson, Passaic and Sussex Counties.
- F. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following requirements:
1. All newspaper articles, announcements and requests for applications for very-low-, low- and moderate-income units shall appear in The Record, Jersey Journal, Herald News, New Jersey Herald and 24 Horas.
  2. The primary marketing shall take the form of at least two press releases and/or a paid display advertisement in the above newspapers. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.
  3. The advertisement shall include a description of the:
    - a. Address of the units;

- b. Range of prices for the units;
- c. Size, as measured in bedrooms, of units;
- d. Maximum income permitted to qualify for the units;
- e. Location of applications;
- f. Business hours when interested households may obtain an application; and
- g. Application fees.

G. Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program shall be available/posted in the following locations:

- 1. Mahwah Township Municipal Building
- 2. Mahwah Public Library
- 3. Mahwah Township website
- 4. Developer's Sales/Rental Offices

H. Applications shall be sent to:

- 1. Sussex County Main Library
- 2. Hudson County Administration Building
- 3. Passaic County Administration Building
- 4. Bergen County Administration Building

Applications shall be mailed by the Administrative Agent and Municipal Housing Liaison to prospective applicants upon request. Also, applications shall be available at the developer's sales/rental office.

I. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Bergen, Hudson, Passaic and Sussex Counties that will



aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers identified in Attachment A, Section 3e of Mahwah's *Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 1* (attached to and hereby made part of this Resolution) as well as the following entities: Fair Share Housing Center, the Latino Action Network, Bergen County NAACP, Bergen Urban League and Bergen County Housing Coalition.

1. Bi-annual informational circulars and applications shall be sent to the administrators of each of the following agencies within the counties of Bergen, Hudson, Passaic and Sussex:

Welfare or Social Service Board (via the Director)  
Rental Assistance Office (local office of DCA)  
Office on Aging

2. A flyer and preliminary application shall be sent to the chief personnel administrators of all of the major employers within the region, as listed on Attachment A, Section 3e.
  3. In addition, specific notification of the availability of affordable housing units in Mahwah shall be provided to the following entities: Fair Share Housing Center, the Latino Action Network, Bergen County NAACP, Bergen Urban League and Bergen County Housing Coalition.
- J. A random selection method to select occupants of very-low-, low- and moderate-income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (1). The Affirmative Marketing Plan shall provide a regional preference for very-low-, low- and moderate-income households that live and/or work in COAH Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very-low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the Township prior to the affirmative marketing of the units.
- K. The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify very-low-, low- and moderate-income households; to place income eligible households in very-low-, low- and moderate-income units upon initial occupancy; to provide for the initial occupancy of very-low-, low- and moderate-income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of

affordability controls; to assist with outreach to very-low-, low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C 5:80-26-1, et seq.

- L. The Administrative Agent shall provide or direct qualified very-low-, low- and moderate-income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.
- M. All developers/owners of very-low-, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.
- N. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very-low-, low- and moderate-income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.
- O. The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C.5:80-26-1, et seq.

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately in accordance with law.

I hereby certify that this resolution, consisting of five pages, was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019 .

---

Kathrine Coviello RMC/CMC/MMC  
Municipal Clerk

---

David May  
Council President

26

TOWNSHIP OF MAHWAH  
P.O. BOX 733  
MAHWAH, NJ 07430

Resolution # \_\_\_\_ - \_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**RESOLUTION OF INTENT TO BOND IN THE EVENT THAT THERE IS A  
SHORTFALL IN FUNDING TO EFFECTUATE CERTAIN AFFORDABLE HOUSING  
MECHANISMS IN ITS HOUSING ELEMENT AND FAIR SHARE PLAN**

**WHEREAS**, the Township Council of the Township of Mahwah desires to create a realistic opportunity for the creation of affordable housing within the Township; and

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

**WHEREAS**, after a Fairness Hearing held on July 10, 2018 and by Order dated July 12, 2018, the Hon. Christine Farrington, J.S.C. approved a series of settlement agreements between the Township of Mahwah, Fair Share Housing Center, and a developer-intervenor intended to establish the Township's affordable housing obligations; and

**WHEREAS**, in accordance with the July 12, 2018 Order, the Mahwah Planning Board has adopted a Housing Element and Fair Share Plan dated June 10, 2019 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, the Housing Element and Fair Share Plan provides for a municipally-sponsored Rehabilitation Program, extension of controls program, the Madeline Senior 100% affordable development and a 100% affordable housing development at 70 Island Road, in addition to other developer-funded mechanisms; and

**WHEREAS**, the Township has adopted a Development Fee Ordinance in order to generate revenue for the Township's Affordable Housing Trust Fund; and

**WHEREAS**, the Township of Mahwah anticipates that monies collected and deposited in the Affordable Housing Trust Fund, along with other permitted funding sources, will be sufficient to effectuate the above-referenced mechanisms; and

**WHEREAS**, the Township of Mahwah is committed to securing judicial approval of its Housing Element and Fair Share Plan; and

**WHEREAS**, the Township of Mahwah acknowledges the COAH rules and regulations that provide that, although utilization of a mandatory development fee ordinance is an appropriate mechanism to raise money for the purpose of off-setting the expenses incurred in connection with the Housing Element and Fair Share Plan, there must be an alternative funding source in the event that insufficient monies are derived from the mandatory development fee ordinance or other resources, or the funds are not received in a timely fashion, for the purpose of effectuating the municipally-sponsored Rehabilitation Program, extension of controls program, Madeline Senior 100% affordable development or constructing the 100% affordable housing development at 70 Island Road; and

**WHEREAS**, the Township of Mahwah wishes to express its commitment to cover such funding shortfalls and to fully implement the mechanisms set forth in its Housing Element and Fair Share Plan through bonding or other lawful means.

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah, that it does hereby confirm its intent that in the event that the projected funding from the mandatory development fee ordinance the Township has adopted is insufficient to complete the aforementioned affordable housing mechanisms, it is the intention of the Township Council of the Township of Mahwah to adopt appropriate bond ordinances in order to provide the requisite funding in an appropriate time frame.

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately in accordance with law.

I hereby certify that this resolution, consisting of two pages, was adopted at a meeting of the Township Council of the Township of Mahwah, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Kathrine Coviello RMC/CMC/MMC  
Municipal Clerk

---

David May  
Council President



DRAFT

2c.

TOWNSHIP OF MAHWAH  
P.O. BOX 733  
MAHWAH, NJ 07430

Resolution #

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**RESOLUTION ADOPTING THE 'OPERATING MANUAL' AND 'HOME  
IMPROVEMENT PROGRAM MANUAL'  
FOR THE TOWNSHIP OF MAHWAH**

**WHEREAS**, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, *et seq.*, the Township of Mahwah is required to adopt all program operating manuals, which set forth the procedures for administering the program(s) and their associated affordability controls for affordable housing units created within the Township of Mahwah.

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah, that the Township does hereby adopt the following attached operating manuals:

1. Operating Manual
2. Home Improvement Program Manual

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately in accordance with law.

I hereby certify that this resolution, consisting of one page, was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27<sup>th</sup> day of June, 2019.

Kathrine Coviello RMC/CMC/MMC  
Municipal Clerk

David May  
Council President

3a

**CLAIM FOR PROPERTY TAX EXEMPTION ON DWELLING HOUSE OF  
DISABLED VETERAN OR SURVIVING SPOUSE/CIVIL UNION OR DOMESTIC  
PARTNER OF DISABLED VETERAN OR SERVICEPERSON**

(N.J.S.A. 54:4-3.30 et seq.; P.L. 1948, c.259 as amended; N.J.A.C. 18:28-1.1 et seq.)

**IMPORTANT:** File this completed claim with your municipal tax assessor. (See Guidelines)

**1. CLAIMANT NAME**

THOMAS DULKIS

Name(s) of veteran claimant owner (& spouse, as tenants by entirety, or civil union or domestic partner) or of surviving spouse/civil union or domestic partner permanently residing in dwelling.

**2. DWELLING LOCATION**

422 FOREST ROAD

Street Address of claimant owner's principal residence

BERGEN

County

165

Block

26

Lot

Phone #

MAHWAH

Municipality

Qualifier

**3. DISABLED VETERAN/SURVIVING SPOUSE/CIVIL UNION OR DOMESTIC PARTNER OF  
DISABLED VET OR SERVICEPERSON (Check A, B, or C)**

A. ☒ Honorably discharged disabled veteran with active wartime service in United States Armed Forces.  
ATTACH copy DD214.

B. ☐ Surviving spouse/civil union or domestic partner of honorably discharged disabled veteran with active wartime service in United States Armed Forces; and

☐ I have not remarried/formed a new registered civil union or domestic partnership.  
ATTACH copy DD214.

C. ☐ Surviving spouse/civil union or domestic partner of serviceperson who died on wartime active duty in the United States Armed Forces; and

☐ I have not remarried/formed a new registered civil union or domestic partnership.  
ATTACH copy Military Notification of Death.

**4. ACTIVE WAR TIME SERVICE PERIOD (Check All Applicable Service Periods)**

**A.	<input type="checkbox"/> World Trade Center Rescue & Recovery	September 11, 2001	-	May 30, 2002
**B.	<input type="checkbox"/> Operation Northern/Southern Watch	August 27, 1992	-	March 17, 2003
**C.	<input type="checkbox"/> Operation Iraqi Freedom	March 19, 2003	-	Ongoing
**D.	<input type="checkbox"/> Operation Enduring Freedom	September 11, 2001	-	Ongoing
**E.	<input type="checkbox"/> "Joint Endeavor/Joint Guard" - Bosnia & Herzegovina	November 20, 1995	-	June 20, 1998
**F.	<input type="checkbox"/> "Restore Hope" Mission - Somalia	December 5, 1992	-	March 31, 1994
**G.	<input type="checkbox"/> Operation Desert Shield/Desert Storm Mission	August 2, 1990	-	February 28, 1991
**H.	<input type="checkbox"/> Panama Peacekeeping Mission	December 20, 1989	-	January 31, 1990
**I.	<input type="checkbox"/> Grenada Peacekeeping Mission	October 23, 1983	-	November 21, 1983
**J.	<input type="checkbox"/> Lebanon Peacekeeping Mission of 1982	September 26, 1982	-	December 1, 1987
K.	<input checked="" type="checkbox"/> Vietnam Conflict	December 31, 1960	-	May 7, 1975
**L.	<input type="checkbox"/> Lebanon Crisis of 1958	July 1, 1958	-	November 1, 1958
M.	<input type="checkbox"/> Korean Conflict	June 23, 1950	-	January 31, 1955
N.	<input type="checkbox"/> World War II	September 16, 1940	-	December 31, 1946

**\*\*NOTE** - Peacekeeping Missions require a minimum of 14 days service in the actual conflict area except where service-incurred injury or disability occurs in the conflict area, then actual time served though less than 14 days, is sufficient for purposes of property tax exemption or deduction. The 14-day requirement for Bosnia and Herzegovina may be met by services in one or both operations for 14 days continuously or in aggregate. The Bosnia and Herzegovina conflict area also includes the airspace above those nations.

5. DISABILITY (Check A or B & complete C)

- A. ☐ Wartime service-connected disability from paraplegia, sarcoidosis, osteochondritis resulting in permanent loss of use of both legs, or permanent paralysis of both legs and lower parts of the body, or from hemiplegia and having permanent paralysis of one leg and one arm or either side of the body, resulting from injury to spinal cord, skeletal structure, or brain or from disease of spinal cord not resulting from any form of syphilis; or from total blindness; or from amputation of both arms or both legs, or both hands or both feet, or the combination of a hand and a foot; or
- B. ☒ Other wartime service-connected disability declared to be a total or 100% permanent disability, and not so evaluated solely because of hospitalization or surgery and recuperation, sustained through enemy action, or accident, or resulting from disease contracted while in such service. **PTSD**
- C. Date V.A. determined 100% permanently and totally disabled 4/24/19

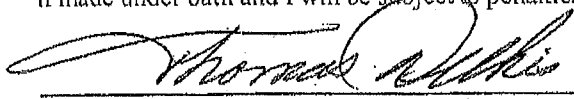
6. OWNERSHIP & OCCUPANCY (Complete A, B, and C)

- A. ☒ I (my spouse/civil union partner & I, as tenants by entirety), solely own or hold legal title to the above dwelling house. Partial owners: I (as joint tenant/tenant in common) own \_\_\_\_\_ %  
Grantee (buyer) \_\_\_\_\_ name per deed. Deed Date 1986
- B. ☐ The dwelling house is One-Family and I occupy all of it as my principal residence. OR
- C. ☐ The dwelling house is Multi-Unit and I occupy \_\_\_\_\_ % as my principal residence.

7. CITIZEN & RESIDENT (Complete A or B)

- A. ☒ As of 11/5/45 (insert date - month/day/year), I, the above named veteran claimant, was a citizen and domiciliary (legal) resident of New Jersey.
- B. ☐ As of \_\_\_\_\_ (insert date - month/day/year), I, the above named surviving spouse/civil union or domestic partner claimant was a citizen and domiciliary (legal) resident of New Jersey; and
- ☐ My deceased veteran or serviceperson spouse/civil union or domestic partner was a citizen and resident of New Jersey at death.

I certify the above declarations are true to the best of my knowledge and belief and understand they will be considered as if made under oath and I will be subject to penalties for perjury if they are falsified.

  
Signature of claimant

6-11-19  
Date

USE ONLY - Block <u>165</u>	Lot <u>26</u>	Qualifier _____	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disallowed
Assessor <u>[Signature]</u>	Date <u>6/12/2019</u>		



DEPARTMENT OF VETERANS AFFAIRS

Regional Office  
20 Washington Place  
Newark, NJ 07102

June 11, 2019

THOMAS DULKIS  
422 FOREST RD.  
MAHWAH, NJ 07430

In Reply Refer To: 309/21/PC  
CSS 23977152

DULKIS, Thomas

Dear Mr. Dulkis:

This is to certify that the records of the U.S. Department of Veterans Affairs disclose that your wartime service-connected disability is totally disabling. A 100% permanent and total evaluation was assigned effective April 24, 2019 in accordance with the Veterans Affairs Rating Schedule and not so evaluated because of hospitalization or surgery and recuperation.

The records further indicate that you served in the United States Marine Corps, from November 8, 1965 to December 6, 1967 and received an honorable discharge.

The above statement is issued in accordance with N.J.S.A. 54: 4-3.30, ET.SEQ.

**If You Have Questions**

If you have any questions, call us toll-free by dialing 1-800-827-1000. Our TDD number for the hearing impaired is 1-800-829-4833. *If you call, please have this letter with you.*

Sincerely yours,

MICHAEL BUCOLO  
Veterans Service Center Manager  
<https://iris.va.gov>

CC: NACVSO





DRAFT

30

**RESOLUTION  
TOWNSHIP OF MAHWAH  
P.O. BOX 733  
MAHWAH, NJ 07430**

Resolution #

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, the Township Council of Mahwah by Resolution #018-19, dated January 3, 2019 awarded a Professional Services contract to Raymond R. Wiss, Esq. as Township Labor and Employment Law Attorney for 2019, in the not-to-exceed amount of \$18,000.00; and

**WHEREAS**, said contract needs to be amended to provide for an increase in the contract amount of \$12,000.00 to provide for possible, additional, legal services through year-end 2019; and

**WHEREAS**, the Chief Financial Officer has provided a Certification As To Availability of Funds in Operating Account 9-01- -B30-286 (Special Counsel);

**NOW, THEREFORE, BE IT RESOLVED** that the Mahwah Township Council does hereby amend said contract to increase by \$12,000.00 the total contract to an amount not-to-exceed \$30,000.00; and

**BE IT FURTHER RESOLVED** that the Terms and Conditions of said contract are not otherwise amended by this action; and

**BE IT FURTHER RESOLVED** that the contract amount shall not exceed \$30,000.00 without further authorization of the Governing Body and the Chief Financial Officer has certified that the funds are available in Operating Account 9-01- -B30-286; and

**BE IT FURTHER RESOLVED**, that a notice of this action be printed in the official newspaper of the Township of Mahwah; and

# DRAFT

**BE IT FURTHER RESOLVED**, that the Township Clerk shall keep a copy of this Resolution on file and available for inspection in the office of the Township Clerk and shall forward a copy of this Resolution to the Mayor; Business Administrator; CMFO; QPA; Administrative Support Specialist; and Raymond R. Wiss, Esq. of Wiss & Bouregy, P.C., 345 Kinderkamack Road, Westwood, N.J. 07675.

I hereby certify that this resolution consisting of two page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019.

---

Kathrine Coviello RMC/CMC/MMC  
Municipal Clerk

---

David May  
Council President

TOWNSHIP OF MAHWAH

3c

REQUEST FOR CERTIFICATE OF FUNDS

DATE: 6/24/19

TO: KEN SESHOLTZ, CMFO

FROM: QUENTIN WIEST, BA

RE: CERTIFICATION OF FUNDS FOR PROFESSIONAL SERVICES CONTRACT TO WISS & BOUREGY, P.C. AS TOWNSHIP LABOR AND EMPLOYMENT LAW ATTORNEY

Please certify that the following account has sufficient funds for a Professional Services Contract to Wiss & Bouregy, P.C. not to exceed \$12,000.00.

Account: 9-01- -B30-286

Amount: \$12,000.00

U/B \$56,245.00

This contract does exceed \$17,500.00.

J. Wiest

DEPARTMENT HEAD

DO NOT WRITE BELOW THIS LINE

TOWNSHIP COUNCIL

Pursuant to N.J.A.C. 5:30 – 1.10, I hereby certify that as of 6-24-19,

the free and unencumbered balance in the appropriation account (s) entitled

see above is \$ see above and that there are

adequate funds available for the proposed contract noted above.

TO BE CONFIRMED BY CMFO UPON HIS

RETURN, J.W.

J.W.  
Kenneth Sesholtz, C.M.F.O.

Resolution No.: 221-19

Ordinance No.: \_\_\_\_\_

This is to certify that the required funds needed in connection with the attached have been or will be available in the 2019 Budget under Account #s: see above.

Dated: 6-24-19

J. Wiest

Quentin Wiest  
Business Administrator

Architecture – Planning – Project Management  
397 FRANKLIN AVENUE - 2<sup>ND</sup> FLOOR - WYCKOFF, NJ 07481  
(201) 848-1477 FAX (201) 848-7095

WAYNE T JOHNSON, RA  
ERIC KIELLAR, AIA

June 18, 2019

Mr. Quentin Wiest, Business Administrator  
Township of Mahwah  
475 Corporate Drive  
Mahwah, NJ 07430  
Via e-mail: [QWiest@mahwahtwp.org](mailto:QWiest@mahwahtwp.org)

Re: *Cupola Renovation at  
Richard J. Martel Municipal Complex  
475 Corporate Drive  
Township of Mahwah, Bergen County, NJ  
**MTB #18-21**  
AWARD of BID*

Dear Mr. Wiest,

On June 13, 2019 the Township received a total of two (2) bids for the above-referenced project. Pursuant to your request, this is to recommend Award of Bid based on the following criteria:

- On June 13, 2019 *Dell-Tech Inc.* submitted the lowest Bid of the two bidders in the amount of \$99,700.00.
- As required by P.L. 1999, c.39 N.J.S.A. 40a:11-23.2 and P.L. 2012, c.25 as outlined the Bid Document Submission Checklist, *Dell-Tech Inc.* submitted the following documents: Bid Guarantee for a minimum amount of 10% of the bid for the full amount of the Bid Bond; Statement of Ownership; A Certificate of a Surety Co.; Public Works Contractor Registration Certificate; List of Subcontractors; Bidder's acknowledgement of Receipt of addenda (none issued); and Disclosure of Investment Activities in Iran.
- The following items required by the Township of Mahwah were also provided: Maintenance Bond reference; Non-Collusion Affidavit; Bid Proposal Form; References; Status of Present Contracts; Equipment Questionnaire; and NJ Business Registration Certificate.
- We've taken the liberty to contact references in the lowest bidder's "References" and "Status of Present Contracts" forms. All references gave favorable review of *Dell-Tech Inc.* as to performance and workmanship.
- *Dell-Tech Inc* is aware of their obligations outlined in the drawings and specifications for the project and is confident in their price quotation and ability to perform and complete the work in a timely manner.



**BLUELINE** ARCHITECTURE, L.L.C

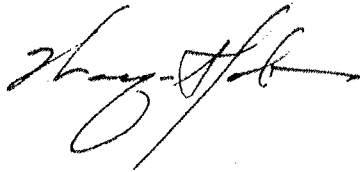
Re: Cupola Renovation at Municipal Complex  
MTB #18-21  
June 18, 2019  
Page 2 of 2

In consideration of the aforementioned criteria, we recommend Award of Bid for the CUPOLA RENOVATION at RICHARD J. MARTEL MUNICIPAL COMPLEX be granted to *Dell-Tech Inc.* of Trenton, NJ for the total amount of the Base Bid of \$99,700.00.

The original bid submissions and supporting documents for this project are on file with the Township of Mahwah. It should be noted that *Dell-Tech Inc's* Public Works Contractor Registration Certificate expires as of June 17, 2019. A new Certificate should be provided prior to formal acceptance of Award of Bid.

We look forward to working with you on this project. Please do not hesitate to contact our office if you have any questions or need further assistance.

Sincerely yours,



Wayne T. Johnson, R.A.  
Principal Architect

Cc: J. Becker, QPA via JBecker@mahwahtwp.org

EK:wjt  
17505.COR 06-18-19 BID Award



3d

# Township Of Mahwah

Municipal Offices: 475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430  
Tel: 201-529-5757  
Fax: 201-529-0061

Office of Administration

www.mahwahtwp.org

MEMO TO: Township Council  
FROM: Joanne Becker, QPA  
DATE: June 19, 2019  
SUBJECT: Bid MTB #18-21 "Cupola Renovation at Richard J. Martel Municipal Complex"

The Township of Mahwah bid MTB #18-21 "Cupola Renovation at Richard J. Martel Municipal Complex" was advertised in The Bergen Record on May 13, 2019. The bid specifications were prepared and distributed to bidders by Blueline Architecture, LLC. The bid opening was held on June 13, 2019, at 11:30 AM. The Township received bids from two vendors:

Dell-Tech Inc.  
930 New York Ave.  
Trenton, NJ 08638  
Bid Amount: \$ 99,700.00

George Koustas Painting & Construction, LLC  
70 Beechwood Ave.  
West Long Branch, NJ 07764  
Bid Amount: \$177,000.00

Please see the attached bid award review and recommendation from Blueline Architecture. A review of the bids by Administration and the Township Attorney, indicated that Dell-Tech Inc. was the lowest responsive/responsible bidder.

Therefore, Administration is requesting that Council consider at the June 27, 21019 Council meeting, a Resolution awarding Bid MTB#18-21 to Dell-Tech Inc., in the amount of \$99,700.00.

Funds for award of this bid will come from Capital account C-10-18-832-E02 and Buildings & Grounds operating account 9-01-C03-203.

cc: Mayor John Roth  
Quentin Wiest, Business Administrator  
Brian Campion, Esq., Township Attorney  
Kathrine Coviello, Township Clerk  
Kenneth Sesholtz, CFO  
Wayne T. Johnson, Blueline Architecture LLC  
Glenn Dowson, Director of Public Works  
Tony Iannaccone, Buildings & Grounds Foreman  
Dell-Tech Inc.  
George Koustas Painting & Construction, LLC

3d

TOWNSHIP OF MAHWAH  
REQUEST FOR CERTIFICATE OF FUNDS

DATE: 6/20/19  
TO: KEN SESHOLTZ  
FROM: JOANNE BECKER, QPA  
RE: CERTIFICATION OF FUNDS FOR MTB#18-21 "CUPOLA RENOVATIONS AT RICHARD J. MARTEL MUNICIPAL COMPLEX"

Please certify that the following accounts have sufficient funds to award MTB#18-21 to Dell-Tech Inc., in the amount not to exceed \$99,700.00.

Account	C-10-18-832-E02	Amount: \$ 85,973.47	U/B \$ 85,973.47
	9-01-C03-203	Amount \$ 13,726.53	U/B \$ 62,048.92

This contract does exceed \$17,500.00. Fair and Open Bid Contract awarded by Council Resolution.

J. Wiest  
DEPARTMENT HEAD

DO NOT WRITE BELOW THIS LINE

TOWNSHIP COUNCIL

Pursuant to N.J.A.C. 5:30 – 1.10, I hereby certify that as of 6-24-19,

the free and unencumbered balance in the appropriation account (s) entitled

SEE ABOVE is \$ SEE ABOVE and that there are

adequate funds available for the proposed contract noted above.

TO BE CONFIRMED BY CMFO UPON HIS  
RETURN. J.W.

J.W.  
Kenneth Sesholtz, C.F.O.

Resolution No.: 222-19  
Ordinance No.: \_\_\_\_\_

This is to certify that the required funds needed in connection with the attached been or will be available in the 2019 Capital Budget under Account #: SEE ABOVE.  
And 2019 Operating Budget under Acct # " "

Dated: 6-20-19

J. Wiest  
Quentin Wiest, Business Administrator

3e

TOWNSHIP OF MAHWAH

REQUEST FOR CERTIFICATE OF FUNDS

DATE: 6/24/19

TO: KEN SESHOLTZ, CMFO

FROM: QUENTIN WIEST, BA

RE: CERTIFICATION OF FUNDS FOR PROFESSIONAL SERVICES CONTRACT TO  
BOSWELL ENGINEERING FOR HEARTHSTONE PUMPING STATION

Please certify that the following account has sufficient funds for a Professional Services Contract to Boswell Engineering not to exceed \$5,775.00. (Total contract will be \$77,775.00)

Account: 9-60- -103-219

Amount: \$5,775.00

U/B \$50,590.00

This contract does exceed \$17,500.00.

*J. Wiest*

DEPARTMENT HEAD

DO NOT WRITE BELOW THIS LINE

TOWNSHIP COUNCIL

Pursuant to N.J.A.C. 5:30 – 1.10, I hereby certify that as of 6-24-19,

the free and unencumbered balance in the appropriation account (s) entitled

see above is \$ see above and that there are

adequate funds available for the proposed contract noted above.

TO BE CONFIRMED BY THE CMFO  
UPON HIS RETURN. *B.W.*

*J.W.*  
Kenneth Sesholtz, C.M.F.O.

Resolution No.: 223-19

Ordinance No.: \_\_\_\_\_

This is to certify that the required funds needed in connection with the attached have been or will be available in the 2019 Budget under Account #s: see above.

Dated: 6-24-19

*J. Wiest*

Quentin Wiest  
Business Administrator

DRAFT

3f

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution #**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, the Township of Mahwah has items as shown on the attached list that are not needed for public purposes; and

**WHEREAS**, the Township is desirous of selling these items in an “as is” condition without express or implied warranties; and

**WHEREAS**, Municibid is on NJ State Contract T-2581;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah as follows:

- (1) The items on the attached list are not needed for public service and shall be auctioned individually, online, and conducted through Municibid pursuant to State Contract T-2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with Municibid are available online at municibid.com and also available at the office of Municipal Clerk, of the Township of Mahwah.
- (2) The address of the auction site is Municibid.com
- (3) The sale is being conducted pursuant to Local Finance Notice 2008-09.
- (4) All items shall be sold in an “as-is” condition without expressed or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said excess items.
- (5) The Township of Mahwah reserves the right to accept or reject any bid submitted.
- (6) The Township shall dispose of any item in accordance with all applicable environmental regulations if any item does not sell on the Municibid auction.



# DRAFT

**BE IT FURTHER RESOLVED** that a notice of date, time and place of the public sale together with a description of the items to be sold will be advertised in the official newspaper, pursuant to N.J.S.A 40A:11-36.

**BE IT FURTHER RESOLVED** that the Municipal Clerk shall maintain a copy of this Resolution on file and shall forward a copy to the Mayor; Business Administrator; CMFO; QPA, Director of Public Works; and Municibid, Greg Berry, 2401 Walnut St. 6<sup>th</sup> Floor, Philadelphia, PA 19103.

I hereby certify that this resolution consisting of two page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27<sup>th</sup> day of June, 2019.

---

Kathrine Coviello RMC/CMCMMC  
Municipal Clerk

---

David May  
Council President

# DRAFT

## Equipment List for Surplus Property Auction

1 – 2003 Ford Van	VIN# - 1FDXE45F93HA70702
1 – 2008 Chevrolet El Dorado Van	VIN# - 1GBJG316281173632

DRAFT

39

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution #**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, the Township of Mahwah Youth Sports Boosters ("TMYSB") desires to purchase and install a replacement storage shed of approximately 10' x 20' at Continental Soldiers Park;

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Mahwah does hereby approve the installation of a replacement storage shed of approximately 10' x 20' at Continental Soldiers Park by the TMYSB, said storage shed to be purchased and maintained by the TMYSB, and said installation to be overseen and approved by the Department of Public Works; and

**BE IT FURTHER RESOLVED**, that the Township Clerk shall keep a copy of this Resolution on file and available for inspection in the office of the Township Clerk and shall forward a copy of this Resolution to the Mayor, Business Administrator, Director of Public Works, Director of Recreation, and the Township of Mahwah Youth Sports Boosters.

I hereby certify that this resolution consisting of one page, was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019.

Kathrine Coviello, RMC/CMC/MMC  
Municipal Clerk

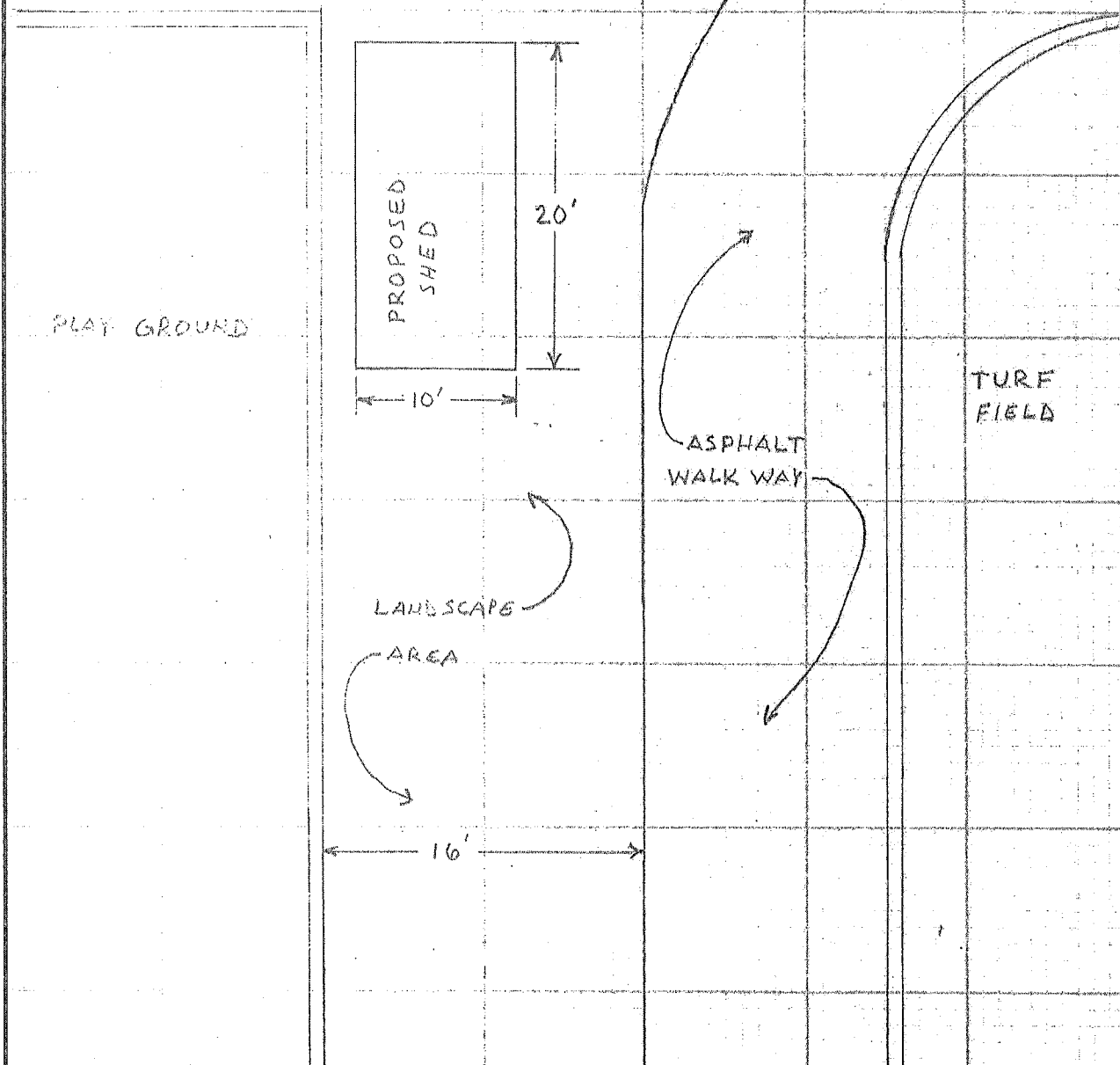
Dave May  
Council President



## LOWER PARKING LOT

### Construction Phasing

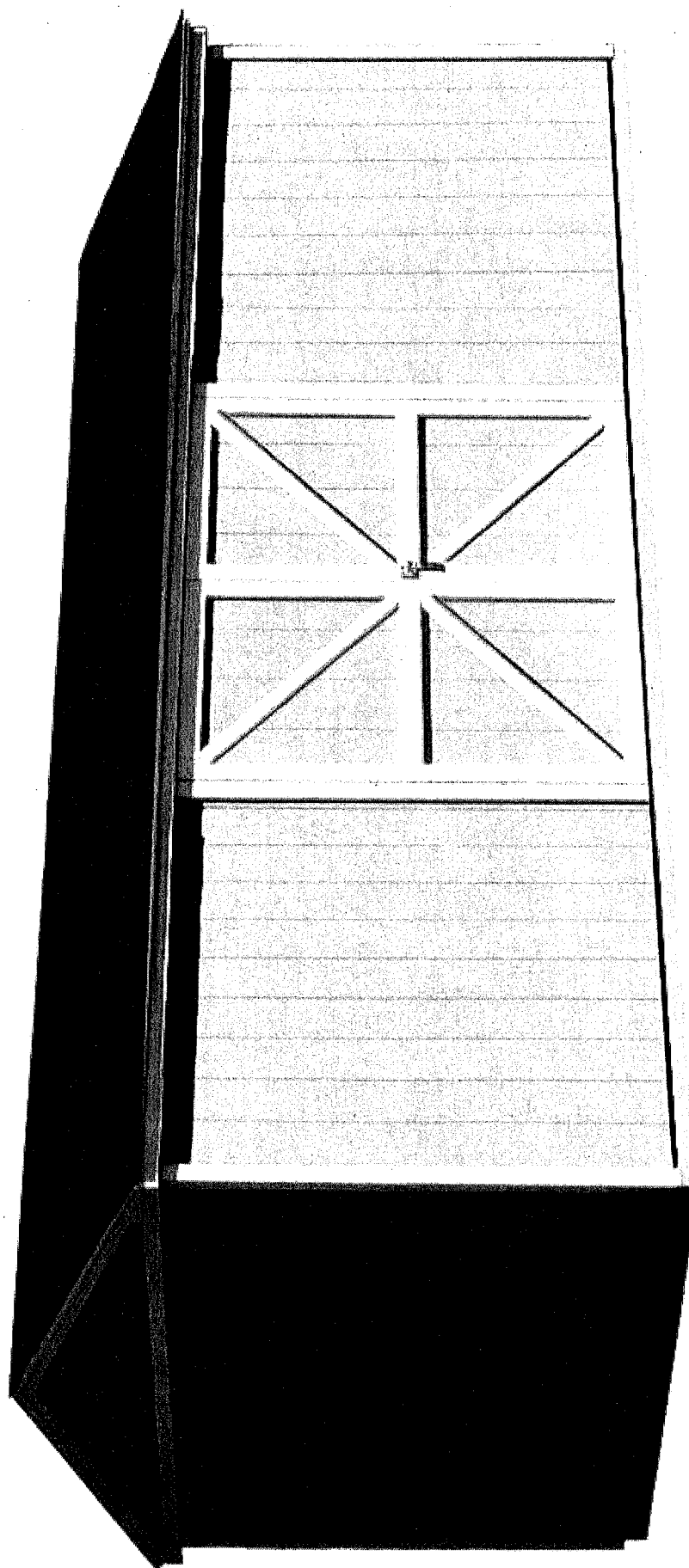
- Remove existing shed
- Layout the footprint of the proposed shed
- Run electrical conduit within the proposed shed footprint
- Pour a 6 inch thick reinforced concrete slab
- Construct the prefab shed kit.



Persistent Construction Co.

BY FP DATE 3/18/2019  
CKD. — DATE —

PROJ. NO CSF SHED  
SHEET 1 OF 1





3h

# Township Of Mahwah

Municipal Offices: 475 Corporate Drive

P.O. Box 733 • Mahwah, NJ 07430

Tel: 201-529-5757

Fax: 201-529-0061

Office of Administration

[www.mahwahtwp.org](http://www.mahwahtwp.org)

DATE: June 24, 2019

TO: Township Council

FROM: Joanne Becker, Qualified Purchasing Agent

RE: Airpark Holdings, Inc., dba Amchar Wholesale, Inc.  
Trade-in of Sig Sauer magazines

NUMBER OF PAGES INCLUDING THE COVER PAGE: 1

The Mahwah Police Department has obtained a quote from Airpark Holdings, Inc. dba Amchar Wholesale, Inc. for the purchase of new Glock 9 mm. magazines, for a cost of \$1,620.54. The quote also includes a trade in of 200 Sig Sauer P226 magazines, which are no longer needed, for a credit of \$1,600.00 towards the purchase of the Glock 9 mm. magazines, resulting in the total purchase cost of \$20.54.

Under NJSA 40A:11-36, a public sale or auction is not required if the estimated fair value of the property does not exceed 15% of the bid threshold, and by resolution of the governing body, a contracting agent may include the sale of property no longer needed for public use as part of specifications to offset the price of a new purchase.

Therefore, Administration is requesting that the Township Council consider at the June 27, 2019 Council meeting, a resolution recognizing the trade-in of 200 Sig Sauer P226 magazines to Airpark Holdings, Inc., dba Amchar Wholesale, Inc., towards the purchase of Glock 9mm magazines.

c: Mayor John Roth  
Quentin Wiest, Business Administrator  
Brian Campion., Esq., Township Attorney  
Kathrine Coviello, Township Clerk  
Kenneth Sesholtz, CFO  
Mahwah Police Chief  
Airpark Holdings, Inc. dba Amchar Wholesale Inc.



# *Township Of Mahwah*

**Municipal Clerk's Office**  
475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430

4a

Kathrine G. Coviello, RMC/CMC/MMC  
Municipal Clerk  
[kcoviello@mahwahtwp.org](mailto:kcoviello@mahwahtwp.org)

Tel: 201-529-5757 Ext 230  
Fax: 201-529-5740  
[www.mahwahtwp.org](http://www.mahwahtwp.org)

TO: Township Council

FROM: Kathrine G. Coviello

SUBJECT: 2018/2019 Kennel License; Tam-Boer Kennels

DATE: June 20, 2019

The Kennel License Application and Fee has been received from Tam-Boer Kennels. The Board of Health has inspected the kennel.

Therefore, I recommend a Resolution be considered for adoption at the Combined Work Session and Public Meeting of June 27, 2019 to renew the above-mentioned Kennel Licenses for the period of July 1, 2019 through June 30, 2020.

ASSOC. NO.	COMP. NO.	LINE NO.
FOR STATE OFFICE USE ONLY		

N.J. STATE FIREMEN'S  
ASSOCIATION  
MEMBERSHIP APPLICATION

Form 100 - Rev. 9/17

Date May 29, 2019

Relief Association Mahwah Municipality Bergen County  
Company Co # 1 Department Mahwah Fire Department  
Name Jason First C Initial Goodrich Last  
14 Island Rd Street Address Mahwah Town 07430 Zip Code For 4 Years  
Birth date [REDACTED] Birthplace Ridgewood, NJ SS# [REDACTED] (REQUIRED)

Have you ever applied to be a member of the New Jersey State Firemen's Assoc.? ☒ Yes ☐ No

If so, when 2011 Where Hawthorne

The signature below certifies that I have received and read the attached PRIVACY NOTICE.

Phone No [REDACTED] Jason C Goodrich Signature of Applicant  
Applicants Email Address: [REDACTED]

I hereby authorize the State Association to move my records to the above Association/Company.

Jason C Goodrich Signature of Applicant (FILL-IN ONLY IF APPLICABLE)

SIGNATURE OF RELIEF ASSOCIATION SECRETARY

STATE OF NEW JERSEY COUNTY OF Bergen  
Jason Goodrich Applicant's Name

Michael R. Lee SIGNATURE OF CHIEF OF DEPARTMENT

Being duly sworn, doth depose and says that the above statements are true to the best of their knowledge and belief. Sworn to before me this 29 day of May 2019

**ANDREW T. SHAPIRO**  
NOTARY PUBLIC OF NEW JERSEY  
Comm. # 50082890  
My Commission Expires 5/24/2023

05/24/2023 Expiration Date

[Signature] SIGNATURE OF NOTARY PUBLIC

**MUNICIPAL APPROVAL**

We hereby certify that this applicant was admitted to active membership in the department and has been approved by the governing body of [REDACTED] on the [REDACTED] day of [REDACTED] 20[REDACTED]

SIGNATURE OF MUNICIPAL CLERK/ BOARD OF FIRE COMMISSIONERS

**IMPORTANT: APPLICATION MUST BE FILLED OUT AS INDICATED BELOW**

- APPLICATION SHOULD BE COMPLETED BY APPLICANT, TYPED OR PRINTED. (DO NOT WRITE)
  - APPLICANT MUST HAVE PHYSICAL TEST RECORD COMPLETED BY A LICENSED NEW JERSEY PHYSICIAN.
  - APPLICATION MUST BE RETURNED TO THE LOCAL RELIEF SECRETARY WHOSE ADDRESS IS LISTED ON THE BACK PAGE OF THIS FORM.
  - THE LOCAL RELIEF SECRETARY SHALL COMPLETE THE FORM AND FORWARD IT TO THE MUNICIPAL AUTHORITY FOR APPROVAL, THEN TO THE NEW JERSEY STATE FIREMEN'S ASSOCIATION.
- THE APPLICANT IS NOT A MEMBER OF THE N.J.S.F.A. UNTIL THE COMPLETED **ORIGINAL** APPLICATION IS **RECEIVED** AND **APPROVED** AT THE NEW JERSEY STATE FIREMEN'S ASSOCIATION OFFICE.



# PHYSICAL TEST RECORD (VALID FOR 180 DAYS)

TO BE FILLED OUT BY A PHYSICIAN LICENSED IN THE STATE OF N.J. AND RETURNED TO LOCAL RELIEF SECRETARY  
WHOSE ADDRESS IS LISTED BELOW. ALL SECTIONS OF THE PHYSICAL MUST BE PROPERLY FILLED OUT OR  
THE APPLICATION WILL BE RETURNED.

PLEASE PRINT

NAME JASON GOODRICH M  
FIRST INITIAL LAST SEX

CERTIFY THAT AS A PRACTICING PHYSICIAN IN THE STATE OF NEW JERSEY, THE APPLICANT IS FREE FROM  
ANY ACUTE OR CHRONIC DISEASE AND HAS NO PHYSICAL DEFECTS THAT WOULD HINDER HIS/HER ABILITY  
TO PERFORM THE DUTIES OF A FIREFIGHTER.

DATE EXAMINED 05-24-2019 EXAMINED AT 140 FRANKLIN TPK WARDWICK, NJ 07463  
ADDRESS OF OFFICE

201-4473603  
PHYSICIAN'S PHONE NUMBER

JESSIE FERRERAS, MD  
PRINT PHYSICIAN'S NAME

[Signature]  
SIGNATURE OF PHYSICIAN

**VALID FOR 180 DAYS FROM DATE OF PHYSICAL**

THE NEW JERSEY STATE FIREMEN'S ASSOCIATION RESERVES THE RIGHT TO HAVE THIS APPLICATION REVIEWED  
BY A MEDICAL DOCTOR OF ITS CHOICE, INCLUDING A NEW PHYSICAL EXAMINATION IF NECESSARY.

APPLICATION MUST  
BE RETURNED TO:

LOCAL RELIEF  
SECRETARY

NAME

ADDRESS

ZIP CODE

## Michael Roe

---

**From:** Det. Lt. Guido Bussinelli  
**Sent:** Thursday, April 25, 2019 8:43 AM  
**To:** Michael Roe  
**Subject:** Public Safety Volunteer-Jason Goodrich

The Public Safety Volunteer background check on Jason Goodrich has been completed in accordance with Mahwah Township Ordinance 1853. At this time, the applicant is **recommended** for the applied volunteer position.

Detective Lieutenant Guido Bussinelli #1107  
Mahwah Police Department  
Detective Bureau - Supervisor  
Juvenile Bureau/K9 Unit -Supervisor  
CALEA Accreditation Manager  
Desk: 201-831-2018  
Fax: 201-529-0240  
Email: [gbussinelli@mahwahpd.org](mailto:gbussinelli@mahwahpd.org)



The information contained in this communication including any attachments is from the Mahwah Police Department and should be considered privileged and confidential. It is intended only for the sole use of the designated persons or entities named as addressees. If you are not an intended recipient of this e-mail, any further review, dissemination, distribution, copying, or use of the information contained herein is strictly prohibited. If you have received this communication in error, please immediately notify the Mahwah Police Department at (201) 529-1000 to arrange for the return of this information.



# *Township Of Mahwah*

Municipal Clerk's Office  
475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430

4c

Kathrine G. Coviello, RMC/CMC/MMC  
Municipal Clerk  
kcoviello@mahwahtwp.org

Tel: 201-529-5757 Ext 230  
Fax: 201-529-5740  
www.mahwahtwp.org

To: Township Council

From: Kathrine G. Coviello

Subject: Place-to-Place Transfer (Expansion of Premises) of Liquor License  
JVCV LLC, DBA: Mahwah Wines and Liquor

Date: June 20, 2019

The Retail Liquor License Application and paperwork for a Place-to-Place Transfer (Expansion of Premises) of the Liquor License presently held by JVCV LLC DBA: Mahwah Wines and Liquor has been received. The Establishment is located at 350 Ridge Road. The Establishment is expanding their location to include the area next to their current location. The space was previously occupied by SubWay. Review of the Application and paperwork has been completed. Certificate of Approval and Certificate of Continued Occupancy have been provided by the Township Building Department. The required fees have been paid.

The complete Application and paperwork are available in my office for review and shall also be available at the Combined Work Session and Public Meeting of June 27, 2019.

It is my recommendation the Township Council consider approval of the Place-to Place Transfer (Expansion of Premises) of the Liquor License as mentioned above.





## *Township Of Mahwah*

Municipal Clerk's Office  
475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430

4d

Kathrine G. Coviello, RMC/CMC/MMC  
Municipal Clerk  
kcoviello@mahwahtwp.org

Tel: 201-529-5757 Ext 230  
Fax: 201-529-5740  
www.mahwahtwp.org

To: Township Council

From: Kathrine G. Coviello

Subject: Amendment of Resolution #212-19: Renewal of Liquor Licenses for 2019/2020 Term

Date: June 20, 2019

At the Council Meeting of June 13, 2019, Resolution #212-19 renewing Liquor Licenses for the 2019/2020 Term.

It is necessary for Resolution #212-19 be amended to remove Bolla Operating NJ Corporation. The Liquor License is currently Inactive and has been for 2 Licensing Terms. The Licensee requires a 12:39 from the Director of Alcoholic Beverage Control in order for the License to be renew.

Therefore, I am requesting the Amendment of Resolution #212-19 to remove Bolla Operating NJ Corporation be on the June 27, 2019 Council Meeting.

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. BOX 733**  
**MAHWAH NJ 07430**

Resolution #212-19

Date: June 13, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Artemma			X			
Ervin			X			
Ferguson		X	X			
Paz	X		X			
Wong						X
Wysocki			X			
May			X			

=====

**WHEREAS**, the State of New Jersey, Division of Taxation has provided Tax Clearance Certificates for the following Liquor License Establishments;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah, County of Bergen, State of New Jersey, that the following Alcoholic Beverage Licenses be granted and issued for the year July 1, 2019 through June 30, 2020. The Licensees having submitted Renewal Application Forms, complete in all respects, are qualified to be licensed according to all Statutory, Regulatory and Local Government ABC Laws and Regulations, and have disclosed, and the Township Council has reviewed the source of all funds used in the purchase of the license and licensed business (New License Issuance and Transfer Situations only) and/or any additional financing obtained in the previous license term for use in the licensed business renewal situations:

**PLENARY CONSUMPTION LICENSES**

<u>License Number</u>	<u>Licensee and Address</u>	<u>Fee Paid</u>
0233-33-013-009	Bolla Operating NJ Corporation (Inactive)	\$1,890.00
0233-36-019-008	Hotel Mahwah LLC DBA: Sheraton Crossroads Hotel One International Boulevard	\$1,890.00
0233-33-012-007	Mahwah Bar and Grill Inc. DBA: Mahwah Bar and Grill 2 Island Road	\$1,890.00
0233-33-004-007	Nissirios Brothers Corporation DBA: Stateline Diner 375 Route 17, North	\$1,890.00
0233-33-007-004	KKTT Restaurant Corporation DBA: Roxanne's 150 Franklin Turnpike	\$1,890.00

<u>License Number</u>	<u>Licensee and Address</u>	<u>Fee Paid</u>
0233-33-002-015	Mahwah Fine Dining LLC DBA: River Palm Terrace 209 Ramapo Valley Road	\$1,890.00
0233-33-008-005	Taste Buds Limited Liability Corporation DBA: Mason Jar 219 Ramapo Valley Road	\$1,890.00
0233-36-018-002	Courtyard Management Corporation DBA: Courtyard By Marriott 140 Route 17, South	\$1,890.00
0233-36-020-002	Apple Seven Hospitality Management Inc. DBA: Homewood Suites 375 Corporate Drive	\$1,890.00
0233-33-003-007	True Business LLC (Inactive)	\$1,890.00
0233-33-011-008	Mahwah Liquor LLC (Inactive)	\$1,890.00
0233-33-005-010	Goal Merchandising LLC DBA: Sangria Tapas and Restaurant 1033 MacArthur Boulevard	\$1,890.00
0233-33-001-006	Two Letters LLC DBA: Nonna's Pizza and Pasta 11 Franklin Turnpike	\$1,890.00
0233-36-016-006	New York Steakhouse and Pub Inc. DBA: Boomburger 1808 State Highway 17, South	\$1,890.00

**PLENARY DISTRIBUTION LICENSES**

0233-44-014-008	JCVLC LLC DBA: Mahwah Wine and Liquors 340 Ridge Road	\$1,398.00
0233-44-009-004	Scherer and Company Inc. DBA: Scherer and Company 7 Miller Road	\$1,398.00
0233-44-010-005	Chuckersloot Inc. DBA: Mahwah Liquors 139 Franklin Turnpike	\$1,398.00

**CLUB LICENSE**

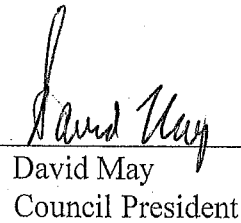
License Number  
0233-031-015-001

Licensee and Address  
Mahwah BPOE Elks #1941  
1 Foxwood Lane

Fee Paid  
\$ 150.00

I hereby certify this resolution consisting of three page(s), was adopted at a Meeting of the Township Council of the Township of Mahwah, on this 13<sup>th</sup> day of June, 2019.

  
Kathrine G. Coviello  
Municipal Clerk

  
David May  
Council President

4e

May 29, 2019

Ms. Katherine Coviello

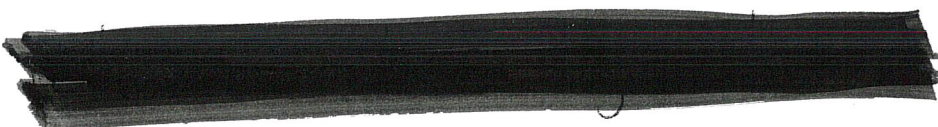
This letter serves as our formal request for Township Council approval in order to obtain a fence permit. Last fall we submitted a permit and it was denied at the time due to needing more information about our pond easement. As you can see on our survey (enclosed), our property reaches out onto the pond. After some time and research, I able to find the Deed of Easement (enclosed). The deed indicates that it is an "easement to maintain a pond" and for no other purposes. When I brought this information back to the zoning department I was advised that I would need further approval from the Township Council. As per the information obtained from the deed, the fence will not pose any potential risk to the pond or easement. In fact, we had removed a wooden fence that previously ran up to the pond, so we are essentially looking to replace the fence for a new one. We are requesting to put up a 54" aluminum fence (indicated in yellow on the survey) and 4' chain link fence (indicated in red on the survey) and are happy to follow the normal permit rules when dealing with a pond, of which I've been told is that the fence has to be 25 feet away. As for the drainage easement (deed of easement enclosed), I understand if the fence can not be put up in this location and we would move the fence over slightly, however, if you could allow the fence to slightly go onto the drainage easement that would be great. If you have any further questions about our proposal please feel free to contact me at [REDACTED] I thank you in advance for your time and assistance.

Sincerely,

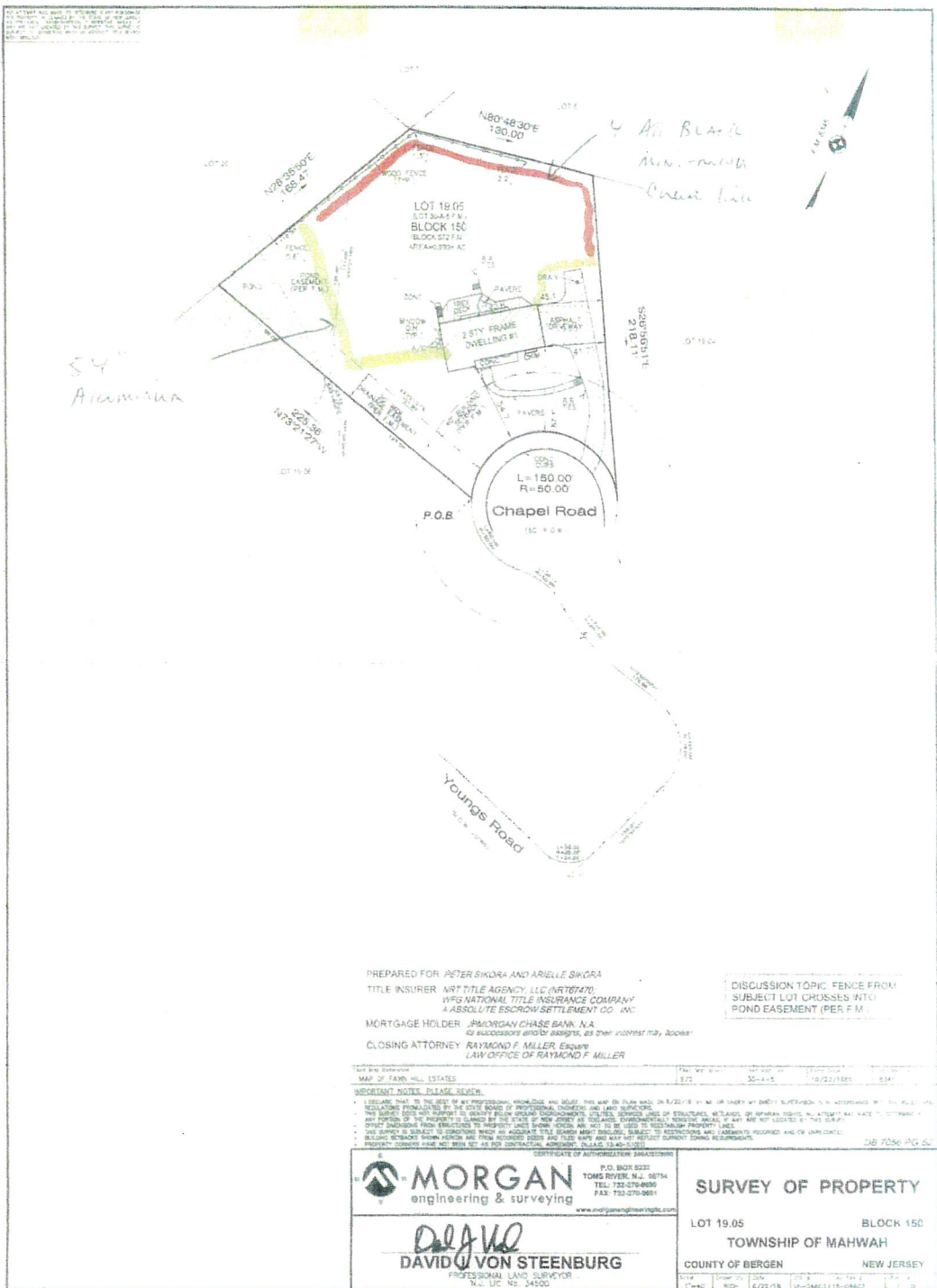


Peter J. Sikora

Property Address:  
1 Chapel Road



REC'D MUNICIPAL CLERK  
JUN 10 11:49:30



RECEIVED

MAR 31 11 27 AM '86

*Car. R. Hunter*  
BERGEN COUNTY CLERK

R2/31/86

DEED OF EASEMENT

Consideration \$  
County Transfer Fee \$100.00  
Recording Fee \$22.00  
By *R* Total \$122.00

KNOW ALL MEN BY THESE PRESENTS, that JOHN AVANZATO, INC., a corporation maintaining offices at 20 Court Street, in the city of Hackensack, County of Bergen and State of New Jersey, Grantors, for and in consideration of the sum of LESS THAN ONE HUNDRED (\$100.00) DOLLARS, in hand paid by the TOWNSHIP OF MAHWAH, a municipal corporation of the State of New Jersey, Grantee, receipt of which is hereby acknowledged, does hereby give, grant, sell and convey unto the Grantee, its successors and assigns forever an Easement to maintain a pond upon the property herein described for said purposes. The Easement shall be a perpetual Easement for the aforesaid purposes and shall cover and encompass the following described property lying and being in the Township of Mahwah, County of Bergen and State of New Jersey:

Being a portion of Lot 30-A-5, Block S-72 as shown on a map entitled, "Final Subdivision Plat, Fawn Hill Estates, Lot 30-A, Block S-72 Township of Mahwah", filed in the Bergen County Clerk's Office on October 23, 1985 as map number 8345, and being more particularly bounded and described as follows:

BEGINNING at a point in the division line between Lots 30-A-4 and 30-A-5 in Block S-72 said point being the following courses and distances from the intersection of the southeasterly prolongation of the northeasterly line of Youngs Road (25 ft. from centerline) and the southwesterly prolongation of the northwesterly line of Chapel Road (50 ft. wide) running thence;

A. Along the prolongation of and then the northwesterly line of Chapel Road, N 23° 33' 30" E 156.91 ft. to a point of curvature, thence;

Prepared by: *Robert E. McGuire*  
Robert E. McGuire, Esq.

MAR 31 86 DEED- 33.488 22.00 .00 22.00



B. Along same northeasterly then northwesterly on a curve to the left having a radius of 75.00 ft. and an arc distance of 125.09 ft. to a point of tangency, thence;

C. Still along same N 72° 00' 00" W 176.98 ft. to a point of curvature, thence;

D. Still along same northwesterly on a curve to the right having a radius of 650.00 ft. and an arc distance of 226.90 ft. to a point of compound curvature, thence;

E. Still along same northwesterly then southwesterly on a curve to the left having a radius of 50.00 ft. and an arc distance of 36.14 ft. to a point of compound curvature, thence;

F. Still along same southwesterly then northwesterly on a curve to the right having a radius of 50.00 ft. and an arc distance of 65.08' to a point in the division line between Lots 30-A-5 and 30-A-4 in Block S-72, thence;

G. Along said division line N 73° 21' 27" W 127.36 ft. to the point of beginning of this description, thence;

1. Along the division line between Lots 30-A-4 and 30-A-5 in Block S-72 N 73° 21' 27" W 98.00 ft. to a point in the division line between Lots 24-1-B and 30-A-5 in Block S-72, thence;

2. Along said line N 28° 35' 50" E 116.00 ft. to a point thence;

3. Across Lot 30-A-5 in Block S-72, S 16° 27' 18" E 135.46 ft. to the point or place of BEGINNING.

TO HAVE AND TO HOLD the aforesaid Easement perpetually to the Township of Mahwah, the Grantee herein, its successors and assigns, forever, together with the right and privilege to the Grantee, its agents and employees, at any and all times when necessary to enter upon the

premises of the Grantor in order to gain access to the intended easement for the purpose of exercising the rights hereby granted.

IN WITNESS WHEREOF, the Grantor has caused these presents to be signed by its proper corporate officers and its proper corporate seal to be affixed hereto this 6<sup>th</sup> day of March, 1986.

JOHN AVANZATO, INC.

ATTEST:  
John Avanzato Sec.  
John Avanzato, Secretary

By John Avanzato Pres.  
John Avanzato, President

STATE OF NEW JERSEY )  
SS:  
COUNTY OF BERGEN )

I certify that on March 6, 1986, personally came before me and he acknowledged under oath, to my satisfaction, that he is the secretary of JOHN AVANZATO, INC., the corporation named in this Deed of Easement; that he is the attesting witness to the signing of this Deed of Easement by the proper corporate officer who is John Avanzato, President of the corporation; that this Deed of Easement was signed and delivered by the corporation as its voluntary act duly authorized by proper resolution of its Board of Directors; that he knows the proper seal of the corporation which was affixed to this Deed of Easement, and he signed this proof to attest to the truth of these facts.

Signed and sworn to before me  
this 6<sup>th</sup> day of March, 1986.

Maryanne P.  
A Notary Public  
My Commission expires on June 1, 1989

John Avanzato Sec.  
John Avanzato, Secretary  
Record & Return:  
McGuire & Regan, Esqs.  
372 Kinderkamack Rd.  
Westwood, N.J. 07675

END OF DOCUMENT BOOK 6999 PAGE 576

RECEIVED

MAR 31 11 27 AM '86

*Cass R. Hartman*  
BERGEN COUNTY CLERK

R3131186

DEED OF EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that JOHN AVANZATO, INC., a corporation maintaining offices at 20 Court Street, in the city of Hackensack, County of Bergen and State of New Jersey, Grantors, for and in consideration of the sum of LESS THAN ONE HUNDRED (\$100.00) DOLLARS, in hand paid by the TOWNSHIP OF MAHWAH, a municipal corporation of the State of New Jersey, Grantee, receipt of which is hereby acknowledged, does hereby give, grant, sell and convey unto the Grantee, its successors and assigns forever a Right-of-Way and Easement to maintain, operate, repair, renew and replace drainage facilities through, around, under and upon the property herein described for said purposes. The Right-of-Way and Easement shall be a perpetual Right-of-Way and Easement for the aforesaid purposes and shall cover and encompass the following described property lying and being in the Township of Mahwah, County of Bergen and State of New Jersey:

Being a portion of Lot 30-A-5, Block S-72 as shown on a map entitled "Final Subdivision Plat, Fawn Hill Estates, Lot 30-A, Block S-72, Township of Mahwah", filed in the Bergen County Clerk's Office on October 23, 1985 as map number 8345, and being more particularly bounded and described as follows:

BEGINNING at a point in the division line between Lots 30-A-4 and 30-A-5 in Block S-72 said point being the following courses and distances from the intersection of the southeasterly prolongation of the northeasterly line of Youngs Road (25 ft. from centerline) and the southwesterly prolongation of the northwesterly line of Chapel Road (50 ft. wide) running thence;

Prepared by *Robert E. McGuire, Esq.*  
Robert E. McGuire, Esq.

BOOK 6999 PAGE 580

Consideration  
Realty Transfer Fee  
Recording Fee  
By  
Totals

MAR 31 86 DEED- 335440 22.00

A. Along the prolongation of and then the north-westerly line of Chapel Road N 23° 33' 30" E 156.91 ft. to a point of curvature thence;

B. Along same northeasterly then northwesterly on a curve to the left having a radius of 75.00 ft. and an arc distance of 125.09 ft. to a point of tangency, thence;

C. Still along same, N 72° 00' 00" W 176.98 ft. to a point of curvature thence;

D. Still along same northwesterly on a curve to the right having a radius of 650.00 ft. and an arc distance of 226.90 ft. to a point of compound curvature, thence;

E. Still along same northwesterly then southwesterly on a curve to the left having a radius of 50.00 ft. and an arc distance of 35.14 ft. to a point of compound curvature, thence;

F. Still along same, southwesterly then northwesterly on a curve to the right having a radius of 50.00 ft. and an arc distance of 65.08 ft. to the point of beginning of this description, thence;

1. Along the division line between Lots 30-A-4 and 30-A-5 in Block S-72 N 73° 21' 27" W 127.36 ft. to a point, thence;

2. Across Lot 30-A-5 in Block S-72, N 16° 27' 18" W 23.87 ft. to a point thence;

3. Still across Lot 30-A-5 in Block S-72, S 73° 21' 27" E 131.93 ft. to a point in the westerly line of Chapel Road, thence;

4. Along said line southwesterly then south-easterly on a curve to the left having a radius of 50.00 ft. and an arc distance of 21.89 ft. to the point or place of BEGINNING.

TO HAVE AND TO HOLD the aforesaid Right-of-Way and Easement perpetually to the Township of Mahwah, the Grantee herein, its successors and assigns, forever, together with the right and privilege to the Grantee

its agents and employees, at any and all times when necessary to enter upon the premises of the Grantor in order to gain access to the intended easement for the purpose of exercising the rights hereby granted.

IN WITNESS WHEREOF, the Grantor has caused these presents to be signed by its proper corporate officers and its proper corporate seal to be affixed hereto this 6<sup>th</sup> day of March, 1986.

JOHN AVANZATO, INC.

ATTEST:

John Avanzato, Jr.  
John Avanzato, Jr. Secretary

By John Avanzato, Jr.  
John Avanzato, Jr. President

STATE OF NEW JERSEY)

SS:

COUNTY OF BERGEN )

I certify that on March 6, 1986, personally came before me and he acknowledged under oath, to my satisfaction that he is the secretary of JOHN AVANZATO, INC., the corporation named in this Deed of Easement; that he is the attesting witness to the signing of this Deed of Easement by the proper corporate officer who is John Avanzato, President of the corporation; that this Deed of Easement was signed and delivered by the corporation as its voluntary act duly authorized by proper resolution of its Board of Directors; that he knows the proper seal of the corporation which was affixed to this Deed of Easement, and he signed this proof to attest to the truth of these facts.

Signed and sworn to before me  
this 6<sup>th</sup> day of March, 1986.

Maryann Ross  
MARYANN ROSS  
A Notary Public  
My Commission Expires 6-3-87

John Avanzato, Jr.  
John Avanzato, Jr. Secretary  
Record & Return:  
McGuire & Regan, Esqs.  
372 Kinderkamack Rd.  
Westwood, NJ 07675

## Kathy Coviello

---

**From:** Michael Kelly <mkelly@boswellengineering.com>  
**Sent:** Wednesday, June 19, 2019 2:37 PM  
**To:** Kathy Coviello  
**Subject:** RE: P. Sikora B 150 L19.05

Kathy,

We have reviewed the property owner's request for the installation of a fence in a pond easement dedicated to the Township for Maintenance of the pond. We take no exception to the granting of the easement encroachment subject to the property owner acknowledging that should the fence be damaged and/or removed by the Township during access the Township will not be responsible for repair and/or replacement of the fence.

This should also be reviewed by the DPW, who would presumably be the entity performing the maintenance.  
Mike K.

---

**From:** Carolyn George <CGeorge@mahwahtwp.org>  
**Sent:** Wednesday, June 19, 2019 12:51 PM  
**To:** Mike Kelly Boswell <mkelly@boswellengineering.com>  
**Subject:** P. Sikora B 150 L19.05

Good afternoon Mike,

Please review the attached letter and documents for a Fence Permit over an easement. Please return your findings to Kathy Coviello. Thank you.

Regards,  
Carolyn George  
Municipal Office  
Township of Mahwah  
475 Corporate Drive  
Mahwah, NJ 07430  
201-529-5757, ext. 232



4f

**RESOLUTION  
TOWNSHIP OF MAHWAH**

P.O. BOX 733  
MAHWAH NJ 07430

Resolution #

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**A RESOLUTION TO SUBMIT TO THE VOTERS OF THE TOWNSHIP OF MAHWAH THE  
PROPOSITION TO INCREASE THE RATE OF TAX REQUIRED TO BE RAISED  
ANNUALLY FOR THE SUPPORT OF THE MAHWAH FREE PUBLIC LIBRARY**

**Whereas**, N.J.S.A. 40:54-8.b(1) sets forth the procedure for the Governing Body of a Municipality, by Resolution, to submit to the Voters of the Municipality, at a General Election, a Proposition to change the Rate of the Tax required to annually be raised for the proper maintenance of a Free Public Library; and

**Whereas**, the Township Council of the Township of Mahwah seeks to determine whether the Voters of the Township of Mahwah want to increase the amount required to be raised by taxation for the support of the Free Public Library above the current minimum amount required by Statute; and

**Whereas**, the Mahwah Public Library Board of Trustees has presented a request and report in support of an increase in funding for the Library.

**Now Therefore Be It Resolved** by the Township Council of the Township of Mahwah that the Township Clerk and the Clerk of the County of Bergen are hereby authorized and directed to submit to the Voters of the Township of Mahwah at the next General Election the following Public Question :

"Shall the Tax Rate annually levied for the support of the Free Public Library in the Township of Mahwah be increased from 3.333 cents per \$100 of Assessed Equalized Value of Real Property to 3.75 cents per \$100 of Assessed Equalized Value of Real Property ?"

**Be It Further Resolved** the Municipal Clerk of the Township of Mahwah shall deliver to the Clerk of Bergen County a Certified Copy of this Resolution.

I hereby certify this resolution consisting of two page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27th day of June, 2019.

---

Kathrine G. Coviello  
Municipal Clerk

---

David May  
Council President

DRAFT



## *Township Of Mahwah*

Municipal Clerk's Office  
475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430

49

Kathrine G. Coviello, RMC/CMC/MMC  
Municipal Clerk  
kcoviello@mahwahtwp.org

Tel: 201-529-5757 Ext 230  
Fax: 201-529-5740  
www.mahwahtwp.org

To: Township Council

From: Kathrine G. Coviello

Subject: Liquor License; Person-to-Person Transfer  
New York Steakhouse and Pub Inc. to Hospitality Ventures  
Management LLC

Date: June 26, 2019

My Office has received the 12 Page Retail Liquor License Application and accompanying paperwork for a Person-to-Person Transfer of the Liquor License presently held by New York Steakhouse and Pub Inc. (Boom Burger) being transferred to Hospitality Ventures Management LLC (Doubletree by Hilton). Required fees have been paid to both the Township and State.

Review of the Application and paperwork has been completed by the Township Attorney. The Police Department has been contacted, Detective Lt. Hebert, which I received verbal comments, which none recommended not transferring the Liquor License. Written comments will be obtained.

The complete Application and paperwork are available in my office for review and shall also be available at the Combined Work Session and Public Meeting of June 27, 2019.

It is my recommendation the Township Council consider approval of the Person-to Person Transfer of the Liquor License, mentioned above, at the Combined Work Session and Public Meeting of June 27, 2019 conditioned upon receiving written comments from Detective Lt. Hebert of the Township Police Department.

**TOWNSHIP OF MAHWAH**  
**ORDINANCE NO. 1863**

**AN ORDINANCE AMENDING CHAPTER XV STREETS, SIDEWALKS  
AND SANITATION AND SECTION 24-17 WIRELESS  
TELECOMMUNICATIONS TOWERS AND ANTENNAS OF THE CODE OF  
THE TOWNSHIP OF MAHWAH AND PROVIDING FOR THE REGULATION  
OF SMALL CELL WIRELESS FACILITIES WITHIN THE MUNICIPAL RIGHT  
OF WAY.**

**WHEREAS**, the Township of Mahwah ("Township") is aware that certain technological developments have made access to its Municipal Rights-of-Way desirable by certain telecommunications companies for the placement of small cell wireless facilities ("Small Cells"); and,

**WHEREAS**, the Township has determined that its public Rights-of-Way, such as they are or may be, themselves constitute a valuable resource, finite in nature, and which exists as a common right of the public to pass and repass freely over and across said lands without unreasonable obstruction or interference, and which therefore must be managed carefully; and,

**WHEREAS**, the Federal Telecommunications Act preserves local government's ability to manage the public Rights-of-Way on a competitively neutral and non-discriminatory basis 47 U.S.C. 332 (c) (7) (A); and,

**WHEREAS**, New Jersey municipalities must give consent before a Small Cell, i.e. a small antenna, can be placed on existing poles pursuant to N.J.S.A. 48:3-19 and for the erection of new poles within the public Rights-of-Way pursuant to N.J.S.A. 48:17-10; and,

**WHEREAS**, the Federal Communications Commission (FCC) has recently adopted an order entitled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment" WT Docket No. 17-79; WC Docket 17-84, which places a shot clock on municipal approval for the placement of Small Cells on Existing Poles and the placement of New Poles in the Municipal Right-of-Way; and,

**WHEREAS**, the erection of New Poles and Ground Level Cabinets in the Municipal Right-of-Way raise significant aesthetic and safety concerns; and,

**WHEREAS**, the FCC in its recent order provides that municipalities can impose aesthetic requirements on small cells where said requirement are: 1) reasonable; 2) no more burdensome than those applied to other types of infrastructure deployment; and 3) published in advance; and,

**WHEREAS**, the Township has determined that it is necessary to set forth clear standards in relation to the siting of Poles, Cabinets and Antennas for the benefit of its citizens and any utilities which use or will seek to make use of said Municipal Rights-of-Way.

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah that:

**Section 1.** Section 24-17.5 of the Code of the Township of Mahwah Permitted Uses is hereby amended by the addition of a new Section 24-17.5 (c) to read as follows:

c. Wireless Facilities in the Right-of-Way. Notwithstanding anything else in Chapter 24 Zoning of the Code of the Township of Mahwah, the installation of antennas, small cells and other communication devices and associated equipment in the public municipal roadway either on existing or new poles are permitted if a Right-of-Way Use Agreement and Right-of-Way Permits are obtained under Code Section 15-2.4 Encroachments in the Public Right-of-Way.

**Section 2.** Chapter XV of the Code of the Township of Mahwah is hereby amended by the addition of a new section 15-2.6 to read as follows:

**15-2.6 Communication Facilities Right-of-Way Permits**

**A. Definitions**

**Administrative Review** means ministerial review of an Application by the Township Council and Township Engineer to determine whether the issuance of a Permit is in conformity with the applicable provisions of this Section.

**Antenna** means communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of Wireless Services. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

**Applicable Codes** means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the Authority, including any amendments adopted by the Authority, or otherwise are applicable in the jurisdiction.

**Applicant** means any Person who submits an Application under this Section.

**Application** means a written request, on a form provided by the Township of Mahwah.

**Authority** means the Township Council of the Township of Mahwah.

**Collocate** means to install or mount a Small Wireless Facility in the Public ROW on an existing Support Structure, an existing Tower, or on an existing Pole to which a Small Wireless Facility is attached at the time of the Application. "Collocation" has a corresponding meaning.

**Communications Facility** means, collectively, the equipment at a fixed location or locations within the Public ROW that enables Communications Services, including: (i) radio transceivers, Antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. A Communications Facility does not include the Pole, Tower or Support Structure to which the equipment is attached.

**Communications Service** means cable service, as defined in 47 U.S.C. § 522(6); information service, as defined in 47 U.S.C. § 153(24); or telecommunications service, as defined in 47 U.S.C. § 153(53).

**Communications Service Provider** means a provider of Communications Services and includes a cable operator, as defined in 47 U.S.C. § 522(5).

**Decorative Pole** means a Pole that is specially designed and placed for aesthetic purposes.

**Eligible Facilities Request** means an eligible facilities request as set forth in 47 C.F.R. Section 1.40001(b)(3), as that section may be amended from time to time.

**FCC** means the Federal Communications Commission of the United States.

**Laws** means, collectively, any and all Federal, State, or local law, statute, common law, code, rule, regulation, order, or ordinance.

**Ordinary Maintenance and Repair** means inspections, testing and/or repair that maintain functional capacity, aesthetic and structural integrity of a Communications Facility and/or the associated Support Structure, Pole or Tower, that does not require blocking, damaging or disturbing any portion of the Public R.O.W.

**Permit** means a written authorization to install, at a specified location(s) in the Public R.O.W., a Communications Facility, Tower or a Pole to support a Communications Facility.

**Permittee** means an Applicant that has received a Permit under this Section.

**Person** means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.



**Pole** means a legally constructed pole, such as a utility, lighting, or similar pole made of wood, concrete, metal or other material, located or to be located within the Public Right of Way. A Pole does not include a Tower or Support Structure and does not include a pole or structure that supports electric transmission lines.

**Provider** means a Communications Service Provider or a Wireless Services Provider, and includes any Person that owns and/or operates within the Public R.O.W. any Communications Facilities, Wireless Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers.

**Public Right of Way or Public R.O.W.** means the area on, below, or above property that has been designated for use as or is used for a public roadway, highway, street, sidewalk, or similar purpose. The term does not include a federal interstate highway, state highway, county right of way or other areas that are not within the legal jurisdiction, ownership or control of the Authority.

**Replace or Replacement** means, in connection with an existing Pole, Support Structure or Tower, to replace (or the replacement of) same with a new structure, substantially similar in design, size and scale to the existing structure and in conformance with this Section and any other applicable regulations in order to address limitations of the existing structure to structurally support Collocation of a Communications Facility.

**Small Wireless Facility** means a Wireless Facility that meets both of the following qualifications: (i) each Antenna could fit within an enclosure of no more than three (3) cubic feet in volume; and (ii) all other wireless equipment associated with the Antenna, including the preexisting equipment, is cumulatively no more than twenty-eight (28) cubic feet in volume.

**State** means the State of New Jersey.

**Support Structure** means a structure in the Public R.O.W. other than a Pole or a Tower to which a Wireless Facility is attached at the time of the Application.

**Tower** means any structure in the Public R.O.W. built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.

**Wireless Facility** means the equipment at a fixed location or locations in the Public R.O.W. that enables Wireless Services. The term does not include: (i) the Support Structure, Tower or Pole on, under, or within which the equipment is located or Collocated; or (ii) coaxial, fiber-optic or other cabling that is between Communications Facilities or Poles or that is otherwise not immediately adjacent to or directly associated with a particular Antenna. A Small Wireless Facility is one type of a Wireless Facility.

**Wireless Services** means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

**Wireless Services Provider** means a Person who provides Wireless Services.

**B. Access to Public Right of Way**

Prior to installing in the Public R.O.W. any Communications Facility, or any Pole built for the sole or primary purpose of supporting a Communications Facility, or any Tower, a Person shall enter into a Right of Way Use Agreement with the Township of Mahwah expressly authorizing use of the Public Right of Way for the Communications Facility, Pole or Tower proposed to be installed.

1. The term of the R.O.W. Use Agreement shall not exceed 15 years.
2. The R.O.W. Use Agreement authorizes the Provider's non-exclusive use of the Public R.O.W. for the sole purpose of installing, maintaining and operating Communications facilities, including any Pole built for the sole or primary purpose of supporting the Communications Facilities and to provide the services expressly authorized in the agreement subject to applicable Laws, this Section and the terms and conditions of the agreement. The agreement authorizes use only of the public R.O.W. in which the Township has an actual interest. It is not a warranty of title or interest in any Public R.O.W. and it does not confer on the Provider any interest in any particular location within the Public R.O.W. No other right or authority is granted except as expressly set forth in the agreement. Nothing herein shall authorize the use of the Township's Poles, Towers, Support Structures, or other structures in the Public R.O.W. All use of the Township's Poles, Towers, Support Structures, and other structures in the Public R.O.W. shall require a separate agreement, and the payment of separate fees for such use.
3. The Provider shall, at its sole cost and expense, keep and maintain its Communications Facilities, Poles, Support Structures and Towers in the Public R.O.W. in a safe condition, and in good order and repair.
4. The Provider shall provide insurance and indemnification of the Township as described in the R.O.W. Use Agreement. The coverage must be at least as broad as:
  - a. Worker's Compensation and Employer's Liability Insurance. Provider shall provide proof of Worker's Compensation Insurance and be in compliance with the Worker's Compensation Law of the State of New Jersey. Employer's Liability: Limit of liability shall be a minimum of \$500,000, in accordance with New Jersey Statute.
  - b. Comprehensive General Liability. Comprehensive general liability ("CGL") insurance with limits no less than \$2,000,000 per occurrence.

c. Automobile Liability. Automobile liability insurance covering claims for bodily injury and property damage arising from all owned, hired and non-owned vehicles with limits of not less than \$1,000,000 combined single limit.

**C. R.O.W. Permit**

1. No person may construct, maintain or perform any other work in the Public R.O.W. related to Communications Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers without first receiving a Permit to the extent required under this Section, and any other permit or authorization required by applicable Laws.
2. The Authority shall not issue a Permit unless the Applicant, or a Provider on whose behalf the Applicant is constructing Communications Facilities, Poles or Towers, has applied for and received the R.O.W. Use Agreement required by this Section, or otherwise has a current and valid franchise with the Township expressly authorizing use of the Public R.O.W. for the Communications Facilities, Poles or Towers proposed in the Application, and all applicable fees have been paid.
3. The Provider shall not locate or maintain its Communications Facilities, Poles and Towers so as to unreasonably interfere with the use of the Public R.O.W. by the Township, by the general public or by other persons authorized to use or be present in or upon the Public R.O.W.

**D. Location and Siting**

1. Height. No Pole shall be taller than thirty-five (35) feet in height including the antennas or 110% of the height of Poles in the Surrounding Streetscape, within 500 feet of the Pole, whichever is higher.
2. Distance from curb line. No Pole shall be farther than eight (8) feet from the curb line.
3. Location, Safety and Aesthetics. No pole shall be erected in the Right-of-Way unless it:
  - a. Is replacing an Existing Pole; or
  - b. Is approved by the Township Council; or
  - c. Is located within the Municipal Right-of-Way; and
  - d. Is at least two hundred (200) linear feet from any other Existing Pole or Proposed Pole along the same side of the street; and

- e. Is not located in an area with the Underground Utilities; and
  - f. Does not inhibit any existing sight triangles; and
  - g. Allows adequate room for the public to pass and re-pass across the Right-of-Way; and
  - h. Is finished and/or painted so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties.
- 4. The Authority may require new poles to be decorative poles if appropriate.
- 5. Pole Mounted Antennas are permitted on New and Existing Poles, provided that each Pole Mounted Antenna:
  - a. Does not exceed three (3) cubic feet in volume; and
  - b. Is finished and/or painted and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
  - c. Does not inhibit sight triangles; and
  - d. Allows adequate room for the public to pass and repass across the municipal right-of-way.
- 6. Pole Mounted Cabinets are permitted on New and Existing Poles, provided that each Pole Mounted Cabinet:
  - a. Does not exceed sixteen (16) cubic feet; and
  - b. Is finished and/or painted and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and
  - c. Does not inhibit sight triangles; and
  - d. Allows adequate room for the public to pass and repass across the municipal right-of-way.
- 7. The Authority may also require that an applicant provide a certification from an engineer licensed in the State of New Jersey attesting to the structural integrity of any Pole Mounted Antenna or Pole Mounted Cabinet.
- 8. Ground-mounted equipment may be used only to house equipment and other supplies in support of the wireless facility.

9. Underground Utilities. Unless otherwise agreed to in writing by the Authority or otherwise required by applicable Laws, whenever any existing electric utilities or Communications Facilities are located underground within a Public R.O.W., the Provider with permission to occupy the same portion of the Public R.O.W. shall locate its Communications Facilities underground at its own expense. The Authority may, in its sole discretion, approve above-ground placement of equipment cabinets, pedestals and similar equipment. For facilities or equipment such as Wireless Facilities that cannot, by their nature, operate unless located above ground, the Provider and Authority shall work to find a suitable location for such facilities or equipment, which may be outside the Public R.O.W.
10. All wireless equipment associated with the Pole or Tower, including the wireless equipment associated with the antenna and any preexisting associated equipment shall not be more than twenty-eight (28) cubic feet in volume.
11. The Provider shall upon completion of construction provide the Township with as-built drawings and a map showing the location of the facility and equipment.

**E. Restoration Requirements**

1. The Provider, or its agent or contractor, shall restore, repair and/or replace any portion of the Public R.O.W. that is damaged or disturbed by the Provider's Communications Facilities, Poles, Towers or work in or adjacent to the Public R.O.W.
2. If the Provider fails to timely restore, repair or replace the Public R.O.W. as required in this subsection, the Authority or its contractor may do so and the Provider shall pay the Authority's costs and expenses in completing the restoration, repair or replacement.

**F. Removal, Relocation and Abandonment**

1. Within 30 days following written notice from the Authority, the Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any of its Communications Facilities, Poles, Support Structures or Towers within the Public R.O.W., including relocation of above-ground Communications Facilities underground (consistent with the provisions of this Section), whenever the Township has determined, in its sole discretion, that such removal, relocation, change or alteration is necessary for the construction, repair, maintenance, or installation of any Township improvement, the operations of the Township in, under or upon the Public R.O.W., or otherwise is in the public interest. The Provider shall be responsible to the

Township for any damages or penalties it may incur as a result of the Provider's failure to remove or relocate Communications Facilities, Poles, Support Structures or Towers as required in this subsection.

2. The Township retains the right and privilege to cut or move any Communications Facility, Pole, Support Structure or Tower located within the Public R.O.W. of the Township, as the Township may determine, in its sole discretion, to be necessary, appropriate or useful in response to any public emergency. If circumstances permit, the Township shall notify the Provider and give the Provider an opportunity to move its own facilities prior to cutting or removing the Communications Facility, Pole, Support Structure or Tower. In all cases the Township shall notify the Provider after cutting or removing the Communications Facility, Pole, Support Structure or Tower as promptly as reasonably possible.
3. A Provider shall notify the Township of abandonment of any Communications Facility, Pole, Support Structure or Tower at the time the decision to abandon is made, however, in no case shall such notification be made later than 30 days prior to abandonment. Following receipt of such notice, the Provider shall remove its Communications Facility, Pole, Support Structure or Tower at the Provider's own expense, unless the Township determines, in its sole discretion, that the Communications Facility, Pole, Support Structure or Tower may be abandoned in place. The Provider shall remain solely responsible and liable for all of its Communications Facilities, Poles, Support Structures and Towers until they are removed from the Public R.O.W. unless the Township agrees in writing to take ownership of the abandoned Communications Facilities, Poles, Support Structures or Towers.
4. If the Provider fails to timely protect, support, temporarily or permanently disconnect, remove, relocate, change or alter any of its Communications Facilities, Poles, Support Structures or Towers or remove any of its abandoned Communications Facilities, Poles, Support Structures or Towers as required in this subsection, the Township or its contractor may do so and the Provider shall pay all costs and expenses related to such work, including any delay damages or other damages the Township incurs arising from the delay.

#### **G. Fees and Charges**

1. **Agreement/License Application Fee.** Every Person requesting a Right of Way Agreement, Franchise Agreement or License Agreement from the Township shall pay an application fee of \$250.00, which shall be paid upon submission of the Right of Way Agreement, Franchise Agreement or License Agreement application.



2. **Permit Application Fee.**
  - a. The Applicant shall pay a Permit application fee of \$500.00 for an Application for up to five small wireless facilities submitted simultaneously by a Provider. The fee of \$100.00 is established for each additional small wireless facility.
  - b. The Applicant shall pay a non-recurring fee for a new pole (not a collocation) intended to support one or more small wireless facilities of \$1,000.00.
3. A \$270.00 per small wireless facility fee per year shall be paid to the Township.
4. **Deposit Towards Anticipated Municipal Expenses.**

B L A N K

5. **Other Fees.** The Applicant or Provider shall be subject to any other generally applicable fees of the township or other government body, such as those required for electrical permits, building permits, or street opening permits, which the Applicant or Provider shall pay as required in the applicable Laws, as well as attachment fees for the use of Township owned Poles, Towers, Support Structures, ducts, conduits or other structures in the Public R.O.W., as set forth in attachment agreements authorizing such use.
6. **No Refund.** Except as otherwise provided in a Right of Way Agreement; Franchise Agreement; License, the Provider may remove its Communications Facilities, Poles or Towers from the Public R.O.W. at any time, upon not less than 30 days prior written notice to the Township, and may cease paying to the Township any applicable recurring fees for such use, as of the date of actual removal of the facilities and complete restoration of the Public R.O.W. In no event shall a Provider be entitled to a refund of fees paid prior to removal of its Communications Facilities, Poles or Towers.

#### **H. Permit Applications**

1. **Permit Required.** Unless expressly authorized in this Section or in writing by the Township Council, no Person may construct, install or maintain in the Public R.O.W. any Communications Facilities, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers, including the installation or Collocation of Communications Facilities on existing Poles, Towers, Support Structures or other structures within the Public R.O.W., without first receiving a Permit. Notwithstanding the foregoing, in the event of an Emergency, a Provider or its duly authorized representative may work in the Public R.O.W. prior to obtaining a Permit, provided that the Provider shall attempt to contact the Township

prior to commencing the work and shall apply for a Permit as soon as reasonably possible, but not later than 24 hours, after commencing the Emergency work. For purposes of this subsection, an "Emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

2. **Permit Application Requirements.** The Application shall be made by the Provider or its duly authorized representative and shall contain the following:

- a. The Applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant.
- b. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.
- c. A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Section 15-2.6.
- d. If applicable, a copy of the authorization for use of the property from the Pole, Tower or Support Structure owner on or in which the Communications Facility will be placed or attached.
- e. Detailed construction drawings regarding the proposed facility.
- f. To the extent the proposed facility involves Collocation on a Pole, Tower or Support Structure, a structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure will structurally support the Collocation (or that the Pole, Tower or Support Structure will be modified to meet structural requirements) in accordance with Applicable Codes.
- g. For any new aboveground facilities, accurate visual depictions or representations, if not included in the construction drawings.

3. **Proprietary or Confidential Information in Application.** Applications are public records that may be made publicly available pursuant to the New Jersey Open Public Records Act. Notwithstanding the foregoing, Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each portion of such materials accordingly, and the Township shall treat the information as proprietary and confidential, subject to the New Jersey Open Public Records Act and

the Township's determination that the Applicant's request for confidential or proprietary treatment of Application materials is reasonable. The Township shall not be required to incur any costs to protect the Application materials from disclosure, other than the Township's routine procedures for complying with the New Jersey Open Public Records Act.

4. **Ordinary Maintenance and Repair.** A Permit shall not be required for Ordinary Maintenance and Repair. The Provider or other Person performing the Ordinary Maintenance and Repair shall obtain any other permits required by applicable Laws and shall notify the Township in writing at least 48 hours before performing the Ordinary Maintenance and Repair.
5. **Material Changes.** Unless otherwise agreed to in writing by the Authority, any material changes to an Application, as determined by the Authority in its sole discretion, shall be considered a new application for purposes of the time limits set forth in Section 15-2.6. I, unless otherwise provided by applicable Laws.
6. **Application Fees.** Unless otherwise provided by applicable Laws, all Applications pursuant to this Section shall be accompanied by the Fees required under Section 15-2.6. G.
7. **Effect of Permit.** A Permit from the Township Council authorizes an Applicant to undertake only the activities in the Public R.O.W. specified in the Application and Permit, and in accordance with this Section and any general conditions included in the Permit. A Permit does not authorize attachment to or use of existing Poles, Towers, Support Structures or other structures in the Public R.O.W.; a Permittee or Provider must obtain all necessary approvals from the owner of any Pole, Tower, Support Structure or other structure prior to any attachment or use. A Permit does not create a property right or grant authority to the Applicant to interfere with other existing uses of the Public R.O.W.
8. **Duration.** Any Permit for construction issued under this Article II shall be valid for a period of 180 days after issuance, provided that the period may be extended for up to an additional 90 days upon written request of the Applicant (made prior to the end of the initial 180 day period) if the failure to complete construction is as a result of circumstances beyond the reasonable control of the Applicant.
9. **Batch Permit.** An Applicant may simultaneously submit not more than five (5) Applications for Communications Facilities, or may file a single, consolidated Application covering such Communications Facilities, provided that the proposed Communications Facilities are to be deployed on the same type of structure using similar equipment and within an

adjacent, related geographic area of the Township. If the Applicant files a consolidated application, the Applicant shall pay the application fee calculated as though each Communication Facility were a separate Application.

#### **I. Application Review**

1. Pre-Application Meeting. Prior to making a formal application with the Township for use of the Municipal Right-of-Way, all applicants are advised to meet voluntarily with the Township Engineer to review the scope of the Applicant's proposal.
2. All applications made under this section shall be expedited so as to comply with the shot clocks set forth in the Federal Communications Commission Order titled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by the Removal of Barriers to Infrastructure Investment." WT Docket No. 17-79; WC Docket No. 170-84.
3. The Township Engineer shall review all applications for the placement of new Poles and Ground Level Cabinets within the municipal R.O.W. and the placement of Pole Mounted Antennas and Pole Mounted Cabinets within the Municipal R.O.W. and advise the Township Council whether the application is complete and whether it meets the requirements of this Section 15-2.6.
4. Except as otherwise provided by applicable Laws, the Authority shall: within thirty (30) days of receiving an Application, notify the Applicant if the Application is incomplete, and identify the missing information. The Applicant may resubmit the completed Application within ten (10) days without additional charge, in which case the Authority shall have thirty (30) days from receipt of the resubmitted Application to verify the application is complete, notify the Applicant that the Application remains incomplete or, in the Township's sole discretion, deny the Application; and
5. The Authority shall review the Application and, if the Application conforms with applicable provisions of Section 15-2.6, the Township Council shall issue the Permit, subject to the standard permit requirements published by the Township.
6. The Authority shall make its final decision to approve or deny the Application within sixty (60) days for a collocation of a small wireless facility to an existing structure, and ninety (90) days to deploy a small wireless facility on a new structure, after the Application is complete (or deemed complete in the event the Township does not notify the Applicant that the Application or resubmitted Application is incomplete). Review of

an Application to deploy a facility other than a small wireless facility using a new structure shall be decided within 150 days.

7. Waiver. The Authority may waive any siting standard set forth in Section 15-2.6 where the Applicant demonstrates that strict enforcement of said Standard:
  - i. Will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C.253(a); or
  - ii. Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. 332(c)(7)(B)(i)(II); or
  - iii. Will violate any requirement set forth by the Federal Communications Commission Order entitled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment." WT Docket No.17-79; WC Docket 17-84.
8. The Township Council shall advise the Applicant in writing of its final decision.

**Section 3.** If any section or provision of this Ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 4.** All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 5.** This Ordinance shall take effect upon final adoption and publication in accordance with law.



# Township Of Mahwah

Municipal Offices: 475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430  
Tel 201-529-5757 • Fax 201-512-0537

Board of Adjustment x 245

Property Maintenance x 246

Zoning/Planning Board x 245

## MEMORANDUM

TO: **Ms. Kathrine Coviello**, Township Clerk  
Mayor Roth and Township Council

FROM: Ms. Geraldine Entrup, Administrative Officer

DATE: June 25, 2019

RE: **Resolution of The Township of Mahwah Planning Board Review of  
Proposed Amendment To Chapter 15 and Chapter 24 of the Code of the  
Township of Mahwah ( (N.J.S.A. 40:55D-26)) Ordinance No. 1863**

Enclosed please find a copy of the referenced Resolution which was memorialized by the Township of Mahwah Planning Board at its meeting held on June 24, 2019.

Sincerely,

Geraldine Entrup  
Administrative Officer

GE/mjw

Attachment

cc: Mr. Q. Wiest, Business Administrator  
Mr. B. Champion, Esq., Township Attorney  
Mr. P. Scandariato, Esq., Planning Board Attorney  
Mr. M. Kelly, Boswell Engineering  
Ms. D. Alaimo Lawlor, Maser Consulting P.A.

2100 MUNICIPAL CLERK  
JUN 25 19 4:00



**RESOLUTION OF THE TOWNSHIP OF MAHWAH PLANNING BOARD  
REVIEW OF PROPOSED AMENDMENT TO CHAPTER 15 AND CHAPTER 24  
OF THE CODE OF THE TOWNSHIP OF MAHWAH (N.J.S.A. 40:55D-26)  
ORDINANCE NO. 1863**

**WHEREAS**, on May 23, 2019 the Mahwah Township Council introduced Ordinance No. 1863, entitled "An Ordinance Amending Chapter XV Streets, Sidewalks and Sanitation and Section 24-17 Wireless Telecommunications Towers and Antennas of the Code of the Township of Mahwah and Providing for the Regulation of Small Cell Wireless Facilities Within the Right of Way"; and

**WHEREAS**, said Ordinance, when adopted, will amend Chapter 24 by adding a new Section 24-17.5(c) to permit antennas, small cells and other communication devices and associated equipment in the public municipal roadway on existing or new poles subject to obtaining a Right-of-Way Use Agreement and Right-of-Way Permit from the Township of Mahwah in accordance with Section 15-2.6 of the Township Code; and

**WHEREAS**, said Ordinance, when adopted, will also amend Chapter 15 by adding a new Section 15-2.6 "Communication Facilities Right-of-Way Permits" setting forth the requirements for applying for and obtaining a Right of Way Use Agreement and Right-of-Way Permit; and

**WHEREAS**, as required by N.J.S.A. 40:55D-64, the Township Council referred Ordinance No. 1863 to the Planning Board for review in accordance with N.J.S.A. 40:55D-26; and

**WHEREAS**, Ordinance No. 1863 was considered and reviewed by the Planning Board at a work session on June 10, 2019, at which time the Planning Board found that Ordinance No. 1863 was consistent with the current Township Master Plan;

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board of the Township of Mahwah that it does hereby make the following findings:

1. N.J.S.A. 40:55D-26 provides that, prior to the adoption of an amendment to a development regulation, the Planning Board shall make and transmit to the Governing Body a report including identification of any provisions in the proposed amendment which are inconsistent with the Master Plan and recommendations regarding those inconsistencies and any other matters as the Board deems appropriate.

2. On May 23, 2019 the Mahwah Township Council introduced and passed on first reading Ordinance No. 1863. This Ordinance, when adopted, will amend Chapter 24 by adding a new Section 24-17.5(c) to permit antennas, small cells and other communication devices and associated equipment in the public municipal roadway on existing or new poles subject to obtaining a Right-of-Way Use Agreement and Right-of-Way Permit from the Township of Mahwah in accordance with Section 15-2.6 of the Township Code. As required by N.J.S.A. 40:55D-64, the Township Council referred Ordinance No. 1863 to the Planning Board for review in accordance with N.J.S.A. 40:55D-26.

3. The Planning Board conducted its review of Ordinance No. 1863 on June 10, 2019. At that time the Board found that, as stated in Ordinance No. 1863, certain technological developments have made the placement of "small cell wireless facilities" in municipal rights of way desirable for telecommunications facilities. The Board further found that the purpose of Ordinance No. 1863 is to enable the Township of Mahwah to manage and protect the Township's rights of way in order to protect and preserve the rights of the public to pass freely over and across said rights of way without unreasonable obstruction and interference. The Board further found that Ordinance 1863 is consistent with the Federal Communications Act which preserves local government's ability to manage public rights-of way on a competitively neutral and nondiscriminatory manner. Finally, the Board found that Ordinance No. 1863 is consistent with the current Township Master Plan insofar as it furthers certain Goals of the Master Plan, including but not limited to Goal 9 ("... to enhance the aesthetic appearance of the municipality") and Goal 11 ("to ensure that traffic and pedestrian circulation issues are affirmatively addressed on a local and regional scale").

**BE IT FURTHER RESOLVED** that, for all of the reasons set forth above, the Board finds that Ordinance No. 1863 is consistent with the Township Master Plan.

**BE IT FURTHER RESOLVED** that the Planning Board recommends that the Governing Body consider the following amendments to Ordinance No. 1863 prior to adoption:

(a) Page 6, Section 15-2.6 D (1) – This section indicates the limits for pole heights and mentions no poles being higher than 110% of the height of poles in the Surrounding Streetscape. The term "Surrounding Streetscape" is vague. The Planning Board recommends that Ordinance No. 1863 contain a definition of this term or indicate the distance of the Surrounding Streetscape from the proposed pole location.

(b) Page 7, Section 15-2.6 D (7) and Page 11, Section 15-2.6 H (2) (f) – These sections refer to items prepared by a licensed engineer. The Planning Board recommends that Ordinance No. 1863 require that the engineer be a "licensed engineer in the State of New Jersey".

(c) Page 10, Section 15.2.6 G (4) – Included in Ordinance No. 1863 are a number of responsibilities for the Township Engineer. These include meeting with the Applicant for a Pre-Application Meeting, reviewing the application, advising the Council on whether the application is complete and could involve the review of structural calculations. We recommend that the costs for these services be paid for by the Applicant. The Planning Board recommends that all Applicants be required to post in an escrow account funds to cover the necessary services of the Township Engineer. The Planning Board recommends an initial escrow amount of \$1,200 per application.

(d) The Planning Board also recommends that wording similar to that included in the Township's Soil Management Code (see below), with respect to the refunding of unexpended portion of the fees and/or escrow posted, be included in Ordinance No. 1863.

(From the Soil Management Code)

d. *Fees.*

1. The application shall be submitted to the Township Planning Board Administrative Officer with a one-time nonrefundable fee in an amount set forth on the attached Schedule "A" which is incorporated herein by reference.
2. In the event of the Township's decision to deny a soil movement permit, all that portion of the fee in excess of the Township's engineering, legal, administrative and other expenses shall be refunded to the applicant.
3. Upon completion of the soil movement operation or the expiration of the permit, any unexpended portion of the fees and/or escrow posted shall be used to pay the Township's engineering, legal, administration and other expenses and any unexpended portion of the escrow fee shall be returned to the applicant.

**BE IT FURTHER RESOLVED,** that the Administrative Officer shall forward a copy of this Resolution to the Township Council for its consideration.

A motion finding Ordinance 1863 to be consistent with the Master Plan, and recommending certain amendments to Ordinance 1863, was adopted on June 10, 2019 by the following vote:

Name	Motion	Second	Yes	No	Abstain	Absent
Mayor Roth			X			
Mr. Crean, Chairman			X			
Mr. Donigian	X		X			
Council Member Ervin			X			
Mr. Grewal			X			
Mr. LoIacono			X			
Mr. Olear		X	X			
Mr. Pallotta			X			
Mr. Van Duren						X
Ms. Jankowski, Alternate I			X			
Ms. Galow, Alternate II						
Total			9	0		1

The Board memorialized its findings at a meeting held on June 24, 2019 by the following vote:

Name	Motion	Second	Yes	No	Abstain	Absent
Mayor Roth			X			
Mr. Crean, Chairman			X			
Mr. Donigian		X	X			
Council Member Ervin			X			
Mr. Grewal			X			
Mr. LoIacono	X		X			
Mr. Olear			X			
Mr. Pallotta			X			
Mr. Van Duren						
Ms. Jankowski, Alternate I			X			
Ms. Galow, Alternate II			X			
Total			10			

MAHWAH PLANNING BOARD

Dated: 6/24/2019

By:

Jeremiah Crean, Chairman

Geraldine Entrup  
Geraldine Entrup  
Administrative Officer

I hereby certify that this is a true copy of the Resolution adopted by the Planning Board of the Township of Mahwah at its meeting held on June 24, 2019

Introduction:  
Public Hearing:  
Effective:

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1867**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, AMENDING AND  
SUPPLEMENTING CHAPTER XXIV "ZONING" OF THE LAND DEVELOPMENT  
CODE TO ESTABLISH A NEW MUD-2 MIXED-USE DEVELOPMENT ZONE AND TO  
SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO**

**WHEREAS**, in compliance with the New Jersey Supreme Court's decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 8, 2015, the Township filed an action with the Superior Court of New Jersey ("Court"), entitled In the Matter of the Application of the Township of Mahwah, a Municipal Corporation of the State of New Jersey, Docket No. BER-L-6281-15, seeking a Judgment of Compliance and Response approving its Affordable Housing Plan (as defined herein), in addition to related relief (the "Compliance Action"); and

**WHEREAS**, the owner of the real property known and designated as Block 26, Lot 2, Block 26, 2, COOO3 and Block 183, Lot 1 intervened in the Compliance Action and subsequently entered into a Settlement Agreement with the Township of Mahwah on March 29, 2018; and

**WHEREAS**, the property consists of approximately 137 acres; and

**WHEREAS**, the Housing Element and Fair Share Plan includes this property, as an inclusionary mixed-use development at a density of 800 residential units, including 15 percent set aside for affordable housing and a non-residential development of up to 300,000 square feet consistent with the Township's B-40 Zoning District; and

**WHEREAS**, this ordinance is intended to effectuate the terms of the Settlement Agreement, along with the Housing Element and Fair Share Plan.

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah as follows:

**Section 1.** The Land Development Code, Chapter XXIV "Zoning", Subsection §24-2.2 "Definitions" is hereby amended and supplemented with the following new underlined text inserted alphabetically:

Big box retail shall mean single-retail establishment having no less than 100,000 square feet of gross floor area. Business may have supplemental in-store services including but not limited to

medical offices, vision centers, snack bars, and auto service and repair. A big box retail facility may include an exterior fuel dispensing station.

Multi-family housing shall mean a building containing three or more dwelling units that share common horizontal and vertical separations.

Restaurant shall mean a building or structure designed, used or intended for use in which either food or beverage or both are sold and consumed primarily within the confines of an enclosed structure on the site. A "restaurant" shall not include refreshment stands commonly called snack or dairy bars. A "restaurant" shall also include pickup or delivery services wherein food is prepared on the premises for off-premises consumption.

Snack bar shall mean a food establishment where service is provided from a counter and consumption takes place outside of the structure or in a common food court area.

**Section 2.** The Land Development Code, Chapter XXIV “Zoning”, Subsection §24-3.1 “Districts Designated” is hereby amended and supplemented with the following new underlined text inserted alphabetically:

#### MUD-2 – Mixed-Use Development 2

**Section 3.** The Land Development Code, Chapter XXIV “Zoning”, Subsection §24-5.3 “Yard Regulations” is hereby amended and supplemented with the following new underlined text:

- e. Side Yard Requirements in the B-40, B-200, MUD-2, OP-200, IP-120, GI-80 and GI-200 Zones.

No building or group of attached buildings shall have an aggregate front building wall in excess of seventy-five (75%) percent of the actual lot width in the B-40, B-200, MUD-2, OP-200, IP-120, GI-80 and GI-200 Zones.

**Section 4.** The Land Development Code, Chapter XXIV “Zoning”, Subsection §24-5.7 “Number of Buildings Restricted” is hereby amended and supplemented with the following new underlined text:

- a. There shall be no more than one (1) principal building on each zone lot in any district, except as permitted elsewhere in the Township Code for Planned Development Groups, CB-360 permitted uses, OP-200 permitted uses, MUD-2 permitted uses, and as permitted in Section 24-6 herein.

Where more than one (1) building is provided on a site outside the OP-200 District, there shall be a minimum distance of twenty-five (25) feet separating buildings from one another or as otherwise regulated by said zone standards.

**Section 5.** The Land Development Code, Chapter XXIV "Zoning", Subsection §24-6.8 "Regulations Governing Certain Accessory Uses" is hereby amended and supplemented with the following new underlined text:

a. Accessory Structures.

1. Accessory Structures in Residential Districts. Accessory structures which are not attached to a principal structure may be erected on a residential lot provided that:

(f) The maximum area of any accessory structure in a residential zone, except for storage sheds, shall be one thousand (1,000) square feet. The maximum height of any accessory structure other than a storage shed shall be twenty (20') feet and shall not exceed the height of the principal structure. These standards shall not apply to the MUD-2 District.

e. Private Tennis Courts. Private tennis courts are permitted as an accessory use in the R-80, MUD-2, and C-80 zones only, provided that:

**Section 6.** The Land Development Code, Chapter XXIV "Zoning", Subsection §24-6.11 "Buffer Zone and General Landscaping Requirements" is hereby amended and supplemented with the following new underlined text:

a. Buffer Zone Requirements.

1. All commercial, industrial and apartment uses adjoining or abutting a residential zone or institutional or public use shall provide a buffer strip or buffer zone on the side or sides facing said use or zone in accordance with the following table.

**Buffer Zone Requirements**

	Buffer Zone		
Zone	(feet)		
District	Depth of Buffer Zone		
Minimum	Maximum		
GA-200	10% of lot depth or width	50	100
B-200	on the side or sides facing		
IP-120	such use or residential		
RM-6	zone		
ORP 200			



MUD-2		50	100
B-40	7 1/2% of lot depth or width	25	50
GI-80	on the side or sides facing such use or residential zone		
B-10	5% of the lot depth or width	10	25
	on the side or sides facing such use or residential zone		

**Section 7.** The Land Development Code, Chapter XXIV “Zoning” is hereby amended and supplemented with the following new underlined text:

§24-4.1.2 MUD-2 Mixed-Use Development Zone Regulations

- a. Purpose. The Mixed-Use Development Zone is intended to develop an underutilized site by constructing a mixed-use development that simultaneously provides credits towards the Township’s affordable housing obligation. The zone will have three distinct areas. The first would be a hotel/office area. The second would be a multi-family area that may include some commercial space. The third would be a commercial area. The MUD-2 Zone regulations are intended to capitalize on the zone’s unique location.
- b. Permitted Uses.
  1. Office park uses on a minimum of 30 acres, as further defined in subsection c.1. below.
  2. Business/retail uses on a minimum of 30 acres as further defined in subsection d.1. below.
  3. Mixed uses on a minimum of 58 acres, as further defined in subsection e.1. below.
- c. Office park use standards and regulations.
  1. Principal, conditional, and accessory uses shall be limited to those listed for the OP-200 Zone.
  2. Area, bulk, and yard standards shall be as follows:
    - (a) Maximum improved lot coverage – 60%
    - (b) Maximum lot coverage – 30%
    - (c) Maximum building height – 300 feet and 25 stories

- (d) Minimum front, side and rear yard building setback – 50 feet, which shall be measured from the development area boundary and not the true lot line.

d. Business/retail use standards and regulations

1. Principal uses shall include the following:

- (a) Any B-40 Zone permitted principal use under the same bulk requirements as prescribed therein.
- (b) Big box retail.

2. Accessory uses shall include the following:

- (a) Off-street parking and loading facilities.
- (b) Signs.
- (c) Accessory storage within a wholly enclosed permanent structure of materials, goods and supplies intended for sale or consumption on the premises.
- (d) Fuel dispensing stations (which shall mean a retail facility for the dispensing of vehicular fuels and no other uses) in connection with, accessory to, and operated by a permitted Big Box Retail establishment. No fueling of tractor trailers shall be permitted. A fuel dispensing facility is not subject to the location requirements of the Township Code Section 24-6.7a.

3. Conditional uses shall include the following:

- (a) Outdoor storage subject to subsection 24-6.8, paragraph c.
- (b) Essential services subject to subsection 24-6.9, paragraph b.

4. Area, Bulk and Yard Requirements.

- (a) Bulk requirements shall be measured from the development area boundary and not the true lot line.
- (b) Development shall include new rights-of-way, either public or private, for building access and site circulation.

- (c) Buildings shall be set back from one another a minimum of fifty (50') from all building facades.
  - (d) Buildings shall be set back a minimum of fifteen (15') feet from parking areas. This requirement does not apply to driveways, loading areas or service bays.
  - (e) Buildings shall be set back a minimum of fifty (50') from the development area boundary.
  - (f) No parking shall be permitted within twenty (20') of a lot line.
5. Affordable Housing. Projects must comply with the State-wide Non-residential Fee Act.
6. Circulation and Off-Street Parking Requirements.
- (a) Off-Street Parking and Loading facilities and standards shall be in accordance with the Township Off-street and Loading Ordinance, Section 24-7.
  - (b) All parking spaces shall measure no less than nine (9') feet in width by eighteen (18') feet in length.
  - (c) All lighting for off-street parking areas shall be so arranged and shielded as to reflect the light downward and prevent any light from shining directly on adjoining streets, residential zones and residential uses.
  - (d) Parking lot lighting shall provide a maintained minimum average of one-half (0.5) footcandles.
  - (e) Within surface parking lots one (1) landscape island shall be provided for every twenty (20) parking spaces. Said landscape island shall contain a minimum of one hundred sixty (160) square feet. At least half of the landscape islands shall contain a shade tree and other landscaping; the remainder shall contain shrubs.
  - (f) Right-of-Way Requirements.
    - (1) The right-of-way and pavement widths of all internal streets, roads and vehicle-traveled ways, whether public or private, shall be determined from sound planning and engineering standards in conformity to the estimated needs of the full proposed development and the traffic to be generated thereby. They shall be adequate in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of fire-fighting and police vehicles.

- (2) Sidewalks shall be required along all streets and roads, whether dedicated public streets or privately owned and maintained, or any combination thereof. Sidewalks shall have a minimum width of four (4) feet.
- (3) All streets and roads, either dedicated public streets or privately owned and maintained, or any combination thereof, shall be subject to all Township ordinances as well as the laws of the State of New Jersey with regard to construction. The developer's private internal road network shall comply with RSIS.
- (4) The Planning Board shall be guided by the following criteria of street grades but shall have the authority to modify same where exceptional circumstances warrant: six (6%) percent for major and arterial streets and ten (10%) percent for collector and local streets. Exceptions to these limitations shall be made after review and written approval by the Township Engineer and Planning Consultant.
- (5) When deemed necessary by the Planning Board, the applicant shall provide a continuous street circulation system with adjoining land areas.
- (6) Where an Official Map or Master Plan, or both, have been adopted, the proposed street system shall conform to the proposals and conditions shown thereon except as may be modified by the Planning Board or governing body, as provided by law.
- (g) Right-of-Way improvements.
  - (1) Monuments, street names and other traffic control devices, shade trees, streetlights, sidewalks, curbs, fire hydrants and all aspects of street construction as well as other improvements shall be subject to local regulations and Township Engineer approval.
  - (2) Shade trees along all public and private rights-of-way shall be provided in accordance with the Township's Tree Preservation Ordinance, Section 14-10.

7. Building Design.

- (a) Buildings are encouraged to incorporate such building elements as entrances, corners, graphic panels, display windows, etc., as a means to provide a visually attractive environment.
- (b) A "human scale" of development should be achieved at grade and along street frontages through the use of such elements as windows, doors, columns, awnings and canopies.

- (c) Multi-tenant buildings shall provide varied storefronts and such elements as noted above for all ground floor tenants.
- (d) Design emphasis should be placed on primary building entrances. They should be vertical in character, particularly when there is the need to provide contrast with a long linear building footprint and such details as piers, columns, and framing should be utilized to reinforce verticality.
- (e) The architectural treatment of a façade shall be completely continued around all street-facing façades of a building. All sides of a building shall be architecturally designed to be consistent regarding style, materials, colors and details.
- (f) If the building has a flat roof, a parapet shall project vertically to hide any roof-mounted mechanical equipment.
- (g) A variety of materials may be appropriate. Masonry, which works well at the base of a building, can vary in size, color and texture and enables the provision of a decorative pattern or bend.
- (h) The use of fabric or metal canopies is to be encouraged, especially over storefronts, at entrances, or over display windows.
- (i) Integration of large-scale graphics into the façade, where appropriate, is encouraged. Logos and trademarks shall be considered signage for the purposes of this ordinance.
- (j) Outdoor dumpsters shall be enclosed with a six (6') foot high wood fence or masonry wall.

#### 8. Landscaping

- (a) All landscaping is subject to compliance with the Township's Landscaping and Buffer requirements, Section 22-6.5.
- (b) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts, provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc., shall be considered.
- (c) Site entrances and unique areas shall have special landscaping treatment. Flowerbed displays are encouraged.

- (d) A minimum of thirty (30%) percent of the plantings proposed shall be indigenous to the region.
  - (e) Foundation plantings shall be provided at all buildings. These plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. The foundation planting shall incorporate evergreen shrubs and groupings of small trees in order to provide human scale to building facades and winter interest.
- e. Mixed uses standards and regulations.
- 1. Permitted uses within the mixed uses area shall include the following:
    - (a) Multi-family residential buildings, however, a minimum of two hundred (200) and a maximum of two hundred and sixteen (216) of the units shall be age-restricted. Age-restricted units shall have a head of household with a minimum age of 55 years old, subject to compliance with federal law, except that no more than two (2) age-restricted residential units may be occupied by employees of the developer or the operating entity for the development, who are employed as superintendents for the development and members of their household under the age of 18 who reside in the development.
    - (b) Home Occupations subject to Section 24-6.8g.
  - 2. Conditionally permitted uses within the mixed uses area include mixed-use multi-family residential buildings, subject to the following conditions:
    - (a) Non-residential uses shall be limited to the B-200 Zone permitted uses.
    - (b) For each 10,000 gross square feet of non-residential space, one additional acre shall be added to the required minimum lot size.
    - (c) A maximum of 75,000 square feet of non-residential space shall be provided.
    - (d) Non-residential space is limited to the first floor.
    - (e) Parking for the non-residential uses shall be required as outlined in Section 24-7.
  - 3. Accessory uses permitted within the mixed uses area include:
    - (a) Parks, playgrounds, open space, dog parks, and tenant recreation facilities including but not limited to clubhouses, swimming pools and tennis courts, subject to 24-6.8a and 24-6.8b. This is a requirement per Section 24-6.12e.5. below.

- (b) Fences and walls subject to Section 24-6.11b.
  - (c) Surface, garage, and structured parking subject to Section 24-7.
  - (d) Leasing and maintenance offices to support residential use.
  - (e) Community rooms and amenity spaces for the use of building owners and/or tenants.
  - (f) Signs, subject to Section 24-6.8f.
4. Area, Bulk and Yard Requirements.
- (a) The maximum improved lot coverage shall be 65%
  - (b) The maximum lot coverage shall be 35%.
  - (c) The maximum building height shall be 65 feet and 5 stories. This is limited to four residential floors over one floor of parking. Or in the case of the conditionally-permitted use, four residential floors over one floor of non-residential.
  - (d) More than one (1) structure shall be permitted on a single tract.
  - (e) In accordance with Section 24-5.1(g), bulk and other requirements shall be measured from the development area boundary and not the true lot line.
  - (f) Development shall include new rights-of-way, either public or private, for building access and site circulation.
  - (g) Setbacks
    - (1) Buildings shall be set back a minimum of fifteen (15') feet from driveways and parking areas. This requirement does not include access drives into buildings.
    - (2) Buildings shall be set back from one another a minimum of fifty (50') feet from all building facades.
    - (3) Buildings shall be set back a minimum of fifty (50') from the development area boundary.
    - (4) No parking shall be permitted within fifty (50') of a lot line.



- (h) Density. Maximum density shall not exceed fourteen (14) units per acre, based on a minimum of fifty-eight (58) acres within the area. In no instance shall the total number of units exceed 800.
- (i) Buffer Areas and Landscaping.
  - (1) Buffer provisions of 24-6.11 apply. Such buffer zone shall be kept in its natural state where wooded; and when natural vegetation is sparse or nonexistent, the landowner may be required to provide a year-round visual screen as determined by the Planning Board.
  - (2) No use or structure, including parking or loading areas, shall be permitted within the required buffer area, but the Planning Board may, upon a finding of reasons therefor, permit a portion of a buffer area to be used for utility easements or streets to ensure access to or from adjacent property.
  - (3) The area shall provide a minimum of 20 acres of open space, running parallel to the Ramapo River.
- 5. Amenities. In accordance with the permitted accessory uses, recreational space is permitted, and shall be herein required as follows. Applicant must provide a minimum six thousand (6,000) square foot clubhouse(s) and two thousand (2,000) square foot pool for the use of residents and their guests. By the time a final certificate of occupancy is issued for the one hundredth (100<sup>th</sup>) residential unit, the developer shall construct four thousand (4,000) square feet of clubhouse space. The remaining two thousand (2,000) square feet of clubhouse space and the pool shall be constructed by the time a certificate of occupancy is issued for the three hundredth (300<sup>th</sup>) residential unit.
- 6. Market-rate residential unit standards.
  - (a) Market-rate residential units shall have the following minimum unit sizes:
    - (1) One (1) bedroom – seven hundred (700) square feet
    - (2) Two (2) bedroom – eight hundred fifty (850) square feet
  - (b) No three (3) bedroom market-rate units are permitted.
- 7. Affordable Housing.
  - (a) Fifteen (15%) percent of the total residential units shall be reserved for, and affordable to, low and moderate income households. The units shall be rental and meet the low/moderate income split required by the Uniform Housing Affordability Controls and provide at least thirteen (13%) percent of the units as very-low income units within each bedroom distribution. Affordable housing

units shall be included within the age-restricted component of the development and shall include at least 30 age-restricted affordable units, but no more than 32 age-restricted affordable units.

- (b) The affordable units shall have a minimum thirty (30) year deed restriction. Any such affordable unit shall comply with UHAC, applicable COAH affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws.
- (c) The units shall meet the bedroom distribution for family and age-restricted units as required by the Uniform Housing Affordability Controls.
- (d) The low and moderate income rental units required to be provided by the developer, as noted herein, shall be distributed among the buildings proposed.
- (e) The developer shall be responsible for retaining a qualified Administrative Agent, as approved by the Township, at the developer's sole cost and expense.

8. Circulation and Off-Street Parking Requirements.

- (a) Tandem parking is permitted under the building when dedicated and/or reserved. However, no more than sixty (60%) percent of the parking space under any one building may be tandem.
- (b) Off-Street Parking and Loading facilities and standards shall be in accordance with the Township Off-street and Loading Ordinance, Section 24-7.
- (c) All parking spaces shall measure no less than nine (9') feet in width by eighteen (18') feet in length.
- (d) All lighting for off-street parking areas shall be so arranged and shielded as to reflect the light downward and prevent any light from shining directly on adjoining streets, single-family detached residential zones and single-family detached homes.
- (e) Parking lot lighting shall provide a maintained minimum average of one-half (0.5) footcandles.
- (f) Within surface parking lots one (1) landscape island shall be provided for every twenty (20) parking spaces. Said landscape island shall contain a minimum of one hundred sixty (160) square feet. At least half of the landscape islands shall contain a shade tree and other landscaping; the remainder shall contain shrubs.
- (g) Right-of-Way Requirements.
  - (1) For the non-residential component of the area, the right-of-way and pavement widths of all internal streets, roads and vehicle-traveled ways, whether public or

private, shall be determined from sound planning and engineering standards in conformity to the estimated needs of the full proposed development and the traffic to be generated thereby. They shall be adequate in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of fire-fighting and police vehicles.

- (2) For the residential component of the area, all streets and roads, either dedicated public streets or privately owned and maintained, or any combination thereof, shall be subject to all Township ordinances as well as the laws of the State of New Jersey with regard to construction. The developer's private internal road network shall comply with RSIS.
  - (3) The Planning Board shall be guided by the following criteria of street grades but shall have the authority to modify same where exceptional circumstances warrant: six (6%) percent for major and arterial streets and ten (10%) percent for collector and local streets. Exceptions to these limitations shall be made after review and written approval by the Township Engineer and Planning Consultant.
  - (4) When deemed necessary by the Planning Board, the applicant shall provide a continuous street circulation system with adjoining land areas.
  - (5) For the non-residential component of the area, sidewalks shall be required along all streets and roads, whether dedicated public streets or privately owned and maintained, or any combination thereof. Sidewalks shall have a minimum width of four (4) feet.
  - (6) Where an Official Map or Master Plan, or both, have been adopted, the proposed street system shall conform to the proposals and conditions shown thereon except as may be modified by the Planning Board or governing body, as provided by law.
- (h) Right-of-Way improvements.
- (1) Monuments, street names and other traffic control devices, shade trees, streetlights, sidewalks, curbs, fire hydrants and all aspects of street construction as well as other improvements shall be subject to local ordinance requirements and Township Engineer approval.
  - (2) Shade trees along all public and private rights-of-way shall be provided in accordance with the Township's Tree Preservation Ordinance, 14-10.

## 9. Building Design.

- (a) No single building shall have a streetfront length of more than two hundred seventy (270') feet.

- (b) Building wall offsets, including both projections and recesses, shall be provided along any street-facing building wall measuring greater than fifty (50') feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall.
- (c) The maximum spacing between such vertical offsets shall be forty (40') feet. The minimum projection or depth of any individual vertical offset shall not be less than eight (8") inches.
- (d) Vertical offsets can include pilasters, projecting bays, changes in façade materials and balconies.
- (e) The architectural treatment of a façade shall be completely continued around all street-facing façades of a building. All sides of a building shall be architecturally designed to be consistent regarding style, materials, colors and details.
- (f) If the building has a flat roof, a parapet shall project vertically to hide any roof-mounted mechanical equipment.
- (g) Roofline offsets shall be provided along any gable roof measuring more than fifty (50') feet in length.
- (h) All entrances to a building shall be defined and articulated by utilizing such elements as lintels, pediments, pilasters, columns, porticos, porches, overhangs, railings, balustrades and other such elements, where appropriate.
- (i) Building façades visible from any street shall consist of durable, long-lasting materials such as brick, stone, cast stone, Hardie plank or other high-quality material.
- (j) Tenant refuse collection systems shall be inside all residential buildings. Outdoor dumpsters are permitted so long as they are screened on three (3) sides by a masonry wall and the gate(s) is composed of a sturdy, solid material.

#### 10. Landscaping

- (a) All landscaping is subject to compliance with the Township's Landscaping and Buffer requirements, Section 22-6.5.
- (b) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts, provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in

size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc., shall be considered.

- (c) Site entrances and unique areas shall have special landscaping treatment. Flowerbed displays are encouraged.
  - (d) A minimum of thirty (30%) percent of the plantings proposed shall be indigenous to the region.
  - (e) Foundation plantings shall be provided at all buildings. These plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. The foundation planting shall incorporate evergreen shrubs and groupings of small trees in order to provide human scale to building facades and winter interest.
11. Traffic Improvement and Recreational Fee. The developer(s) of MUD-2 District shall pay the Township a total of six million dollars (\$6,000,000) for off-tract traffic improvements and recreation improvements to be made within the Township. Half of this fee shall be allocated to the non-residential component and half of this fee shall be allocated to the residential component. A pro rata amount of the fee shall be paid by the developer to the Township when a building permit and certificate of occupancy is issued for residential units or for the tenant fit out of non-residential square footage. Fifty percent (50%) shall be due when building permits are issued, and fifty percent (50%) shall be due when certificates of occupancy are issued. By way of example, when building permits are issued for 80 residential units, the developer will be obligated to pay 5% (five percent) of the fee (50% of 80 divided by 800), and when certificates of occupancy are issued for 80 residential units, the developer will be obligated to pay another five percent (5%). The contributions by the developer(s) to pay this fee shall be in addition to any traffic improvement required by the New Jersey Department of Transportation for the inclusionary mixed-use development, which the developer shall install at its own cost and expense. The Township shall have the discretion to allocate the fee between traffic improvements and recreational improvements within the Township.
12. Site access. Vehicular access to and from the MUD-2 District shall be subject to the review and approval of the Township Police Chief. No vehicular access shall be permitted on the bridge located to the east of the District.

**Section 8.** Whereas, upon adoption of this Ordinance, the Township Planner is directed to amend the official Zoning Map of the Township of Mahwah to illustrate the location of the Mixed-Use Development 2 (MUD-2) District.

**Section 9.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 10.** All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 11.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.

Ordinance No. \_\_\_\_\_

Page: \_\_\_\_\_

Dated: \_\_\_\_\_

Attest

\_\_\_\_\_  
David May  
Council President

\_\_\_\_\_  
Katherine G. Coviello  
Municipal Clerk

I, Kathrine G. Coviello, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Katherine G. Coviello, RMC/CMC/MMC  
Municipal Clerk



# Township Of Mahwah

Municipal Offices: 475 Corporate Drive  
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Tel 201-529-5757 • Fax 201-512-0537

Board of Adjustment x 245

Property Maintenance x 246

Zoning/Planning Board x 245

## MEMORANDUM

TO: Ms. Kathrine Coviello, Township Clerk  
Mayor Roth and Township Council

FROM: Ms. Geraldine Entrup, Administrative Officer

RE: Ordinance #1867

DATE: June 25, 2019

Ordinance #1867 was introduced by the Township Council at their June 13, 2019 meeting, and per your memo dated June 18, 2019, it was requested that the Township Planning Board provide comments by June 25, 2019.

The Planning Board reviewed the Ordinance at their meeting on June 24, 2019, finding it to be consistent with the Master Plan but inconsistent with the Wellhead Protection Ordinance #1803. Due to this inconsistency, the Planning Board objects to the line on Page 2, "A big box retail facility may include an exterior fuel dispensing station." The Planning Board also objects to the line on Page 5, Section 24-4.1.2.d.2.d, "Fuel Dispensing Stations (which shall mean a retail facility for the dispensing of vehicular fuels and no other uses) in connection with, accessory to, and operated by a permitted Big Box Retail establishment. No fueling of tractor trailers shall be permitted. A fuel dispensing facility is not subject to the location requirements of the Township Code Section 24-6.7a." A Resolution is expected to be adopted at the Planning Board's next regularly scheduled meeting on July 22, 2019. Once adopted, a copy of the Resolution will be provided.

Should you have any questions or require additional information, please do not hesitate to contact me. Thank you.

Sincerely,

Geraldine Entrup  
Administrative Officer

GE/mjw

cc: Mr. Q. Wiest, Business Administrator  
Mr. B. Campion, Esq., Township Attorney  
Mr. B. Chewcaskie, Esq., Cleary Giacobbe Alfieri Jacobs, LLC  
Mr. P. Scandariato, Esq., Planning Board Attorney  
Ms. D. Green, P.P., AICP, Maser Consulting P.A.  
Ms. D. Lawlor, FAICP/PP, Maser Consulting P.A.  
Mr. M. Kelly, PE, Boswell Engineering

REC'D MUNICIPAL CLERK  
JUN 25 '19 PM 4:05



Introduction:  
Public Hearing:  
Effective:

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1868**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, AMENDING AND  
SUPPLEMENTING CHAPTER XXIV "ZONING" OF THE LAND DEVELOPMENT  
CODE TO ESTABLISH A NEW MIXED-USE DEVELOPMENT 1 OVERLAY (MUD-1)  
DISTRICT AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE  
THERETO**

**WHEREAS**, Mahwah Township has a constitutionally-mandated requirement to provide affordable housing; and

**WHEREAS**, the Township Council desires to create opportunities for the creation of affordable housing within the Township; and

**WHEREAS**, the Township Council has determined that certain lands are suitable for mixed-use development that includes non-residential and residential uses, these parcels are identified as follows:

Block 82, Lot 1  
Block 82, Lot 2  
Block 82, Lot 4  
Block 82, Lot 8  
Block 82, Lot 10  
Block 82, Lot 12  
Block 82, Lot 16  
Block 82, Lot 19  
Block 82, Lot 22  
Block 82, Lot 25  
Block 82, Lot 26  
Block 82, Lot 28  
Block 82, Lot 29  
Block 82, Lot 30

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah as follows:

**Section 1.** The Land Development Code, Chapter XXIV “Zoning”, Subsection §24-3.1 “Districts Designated” is hereby amended and supplemented with the following new underlined text inserted alphabetically:

MUD-1 – Mixed-use Development 1 Overlay

**Section 2.** The Land Development Code, Chapter “Zoning”, is hereby amended and supplemented with the following new underlined text:

§24-4.1.1 MUD-1 – Mixed-use Development 1 Overlay Zone Regulations.

The following standards shall apply to development within the MUD-1 Overlay Zone. When the standards herein conflict with other provisions of Chapter 24, the standards herein shall apply.

a. Permitted Uses.

1. Ground floor uses with frontage on Ramapo Avenue shall be non-residential.
2. Permitted principal B-10 Zone uses, excluding the following:
  - (a) Churches, other places of worship, including parish houses, Sunday school buildings.
  - (b) Clubs, social recreational buildings.
  - (c) Offices, business and professional.
  - (d) Public schools, parks, playgrounds, firehouses, libraries.
  - (e) Undertakers and funeral parlors.
3. Multi-family housing.
4. A mixture or combination of the above uses.

b. Accessory Uses.

1. Off-street parking subject to Section 22-6.2 and 24-7.
2. Parking decks or structures, subject to the following limitations:

- (a) Decks or structures shall not face East Ramapo Avenue or Franklin Turnpike.
  - (b) Access shall be from King Street or Siding Place.
  - (c) The height of the deck or structure shall be five (5') feet lower than the height of the principle building on the lot.
  - (d) The required setbacks shall be the same as that required for a principal building.
  - (e) The deck or structure shall be architecturally consistent or compatible with the principal building.
3. Loading facilities subject to Section 22-6.3 and 24-7.
4. Signs, subject to Section 24-6.8f, except that:
- (a) Non-residential ground floor uses shall be permitted one (1) wall sign per street frontage, subject to the following parameters:
    - (1) A maximum sign area of thirty-six (36) square feet.
    - (2) The horizontal dimension of the sign shall not exceed eighty (80%) of the width of the building frontage occupied by the individual use.
    - (3) The top edge of a wall sign shall not be installed above the bottom of any second-floor windows or within three (3) feet of the top of a parapet.
    - (4) Said signs may be illuminated.
  - (b) Residential uses shall be permitted one ground or wall sign per street frontage, which identifies the development, subject to the following parameters:
    - (1) A maximum sign area of fifty (50) square feet.
    - (2) The top edge of a wall sign shall not be installed above the bottom of any second-floor windows or within three (3) feet of the top of a parapet.
    - (3) Said signs may be illuminated.

5. Community rooms and amenity spaces related to the residential use for the use of building owners and/or tenants, including, but not limited to recreational and fitness facilities, lobbies, leasing and management offices and mailrooms.
6. Fences and walls subject to Section 24-6.11b.
7. Outdoor dining, associated with permitted restaurant uses, subject to the following conditions:
  - (a) Tables may be located on private property or on the public sidewalk, so long as five (5') feet of sidewalk clearance is maintained.
  - (b) Fencing, bollards or planters shall be used to define the outdoor dining area.
  - (c) No outdoor dining shall be permitted after 12:00 a.m.
  - (d) All lighting shall be downward-facing and shall be turned off no later than 12:30 a.m.
- c. Prohibited Uses.
  1. Drive-through facilities.
  2. Gas and service stations.
  3. Non-residential uses shall be prohibited on the second or third floor.
- d. Area, Bulk and Yard Requirements.
  1. Minimum lot area – 3 acres
  2. Minimum lot width – 150 feet
  3. Maximum front (street) yard setback – 15 feet; however, a maximum of 20% of the linear building frontage may be set back a maximum of 30 feet
  4. Minimum side yard setback, each – 10 feet
  5. Minimum rear yard setback – 40 feet
  6. Maximum improved lot coverage – 95%

7. Maximum lot coverage – 90%
  8. Maximum building height – 3 stories and 38 feet
  9. Maximum density – 14 units per acre
- e. Affordable Housing.
1. Twenty (20%) percent of the units shall be reserved for, and affordable to, low- and moderate-income households. The units shall be family units available to the general public and not restricted to any specific segment of the population and meet the low-/moderate-income split required by the Uniform Housing Affordability Controls (“UHAC”) except in lieu of ten (10%) percent of units at thirty-five (35%) of median income the developer shall provide at least thirteen (13%) percent of the units as very-low income units at thirty (30%) percent of median income within each bedroom distribution if the affordable units are rental in tenure.
  2. The affordable units shall have a minimum thirty (30) year deed restriction. Any such affordable unit shall comply with UHAC, applicable COAH affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws.
  3. The units shall meet the bedroom distribution required by the UHAC.
  4. The developer shall be responsible for retaining a qualified Administrative Agent, as approved by the Township, at the developer’s sole cost and expense.
  5. All necessary steps shall be taken to make the affordable units provided creditworthy pursuant to applicable law.
- f. Off-Street Parking Requirements.
1. Off-street parking shall be in accordance with the Township Off-street and Loading Ordinance, Section 24-7.
  2. All parking spaces shall measure no less than nine (9’) feet in width by eighteen (18’) feet in length.

3. Off-street residential parking shall be provided in accordance with RSIS, non-residential parking shall be provided in accordance with Section 22-6.2a. All required parking shall be provided on site.
  4. Parking lot lighting shall comply with Section 22-6.4.
  5. Within surface parking lots one (1) landscape island shall be provided for every twenty (20) parking spaces. Said landscape island shall contain a minimum of one hundred sixty (160) square feet. At least half of the landscape islands shall contain a shade tree and other landscaping; the remainder shall contain shrubs. Said shade tree shall be three (3") inches in caliper at installation.
  6. Sidewalks and landscaped beds along the East Ramapo Avenue street frontage shall be a minimum of eight (8') feet wide.
- g. Building Design.
1. Building wall offsets, including both projections and recesses, shall be provided along any street-facing building wall measuring greater than fifty (50') feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall.
  2. The maximum spacing between such offsets shall be forty-five (45') feet. The minimum projection or depth of any individual vertical offset shall not be less than one (1') foot.
  3. A "human scale" of development should be achieved at grade and along street frontages through the use of such elements as windows, doors, columns, awnings and canopies.
  4. Multi-tenant buildings shall provide varied storefronts and such elements as noted above for all ground floor tenants.
  5. Design emphasis should be placed on primary building entrances. They should be vertical in character, particularly when there is the need to provide contrast with a long linear building footprint and such details as piers, columns, and framing should be utilized to reinforce verticality.

6. The architectural treatment of a façade shall be completely continued around all street-facing façades of a building. All sides of a building shall be architecturally designed to be consistent regarding style, materials, colors and details.
  7. If the building has a flat roof, a parapet shall project vertically to hide any roof-mounted mechanical equipment.
  8. Building façades visible from any street shall consist of durable, long-lasting materials.
  9. Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.
  10. All rooftop mechanical equipment shall be screened from view from all vantage points at grade or below the roof.
  11. Placement of any packaged terminal air conditioner units within the façade is prohibited.
- h. Landscaping.
1. Areas of the property not used for buildings, parking or other impervious surfaces shall be landscaped.
  2. Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts, provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc., shall be considered.
  3. Foundation plantings shall be provided around all buildings if the sidewalk is not directly adjacent to the structure. These plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. The foundation planting shall



incorporate evergreen shrubs and groupings of small trees in order to provide human scale to building facades and winter interest.

4. If an outdoor dumpster is utilized for the storage of trash and recycling, it shall be screened and fully enclosed with a solid enclosure a minimum six (6') feet in height. Alternatively, refuse and recycling may be stored inside the building(s).

**Section 3.** Whereas, upon adoption of this Ordinance, the Township Planner is directed to amend the official Zoning Map of the Township of Mahwah to illustrate the location of the Mixed-Use Development 1 Overlay (MUD-1) District.

**Section 4.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 5.** All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 6.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.



# Township Of Mahwah

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Board of Adjustment x 245

Property Maintenance x 246

Zoning/Planning Board x 245

## MEMORANDUM

TO: Ms. Kathy Coviello, Township Clerk  
Mayor Roth and Township Council

FROM: Ms. Geraldine Entrup, Administrative Officer

RE: Ordinance #1868

DATE: June 25, 2019

Ordinance #1868 was introduced by the Township Council at their June 13, 2019 meeting, and per your memo dated June 18, 2019, it was requested that the Township Planning Board provide comments by June 25, 2019.

The Planning Board reviewed the Ordinance at their meeting on June 24, 2019, finding it was consistent with the Township Master Plan. A Resolution is expected to be adopted at the Planning Board's next regularly scheduled meeting on July 22, 2019. Once adopted, a copy of the Resolution will be provided.

Should you have any questions or require additional information, please do not hesitate to contact me. Thank you.

Sincerely,

Geraldine Entrup  
Administrative Officer

GE/mjw

cc: Mr. Q. Wiest, Business Administrator  
Mr. B. Champion, Esq., Township Attorney  
Mr. B. Chewcaskie, Esq., Cleary Giacobbe Alfieri Jacobs, LLC  
Mr. P. Scandariato, Esq., Planning Board Attorney  
Ms. D. Green, P.P., AICP, Maser Consulting P.A.  
Ms. D. Lawlor, FAICP/PP, Maser Consulting P.A.  
Mr. M. Kelly, PE, Boswell Engineering

REC'D MUNICIPAL CLERK  
JUN 25 '19 PM 4:05

Introduction:  
Public Hearing:  
Effective:

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1869**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, AMENDING AND  
SUPPLEMENTING CHAPTER XXIV "ZONING" OF THE LAND DEVELOPMENT  
CODE TO ESTABLISH A NEW MULTI-FAMILY 1 HOUSING DISTRICT AND TO  
SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO**

**WHEREAS**, Mahwah Township has a constitutionally-mandated requirement to provide affordable housing; and

**WHEREAS**, the Township Council desires to create opportunities for the creation of affordable housing within the Township; and

**WHEREAS**, the Township Council has determined that certain lands known as 1 Fyke Road, identified as Block 21, Lots 21, 22 and 23 are suitable for inclusionary development; and

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah as follows:

**Section 1.** The Land Development Code, Chapter XXIV "Zoning", Subsection §24-3.1 "Districts Designated" is hereby amended and supplemented with the following new underlined text inserted alphabetically:

MF-1 – Multi-family-1

**Section 2.** The Land Development Code, Chapter XXIV "Zoning", Subsection §24-4.1 "Schedules of Regulations" is hereby amended and supplemented as shown in the attached Zoning Schedule of Area, Bulk and Yard Requirements, which is attached to the end of this document.

**Section 3.** The Land Development Code, Chapter XXIV "Zoning", is hereby amended and supplemented with the following new underlined text:

§24-4.1.3 MF-1 Multi-family-1 Zone Regulations.

The following standards shall apply to development within the MF-1 Zone. When the standards herein conflict with other provisions of Chapter 24, the standards herein shall apply.

a. Permitted Uses.

1. Townhomes.
2. Stacked townhomes, which are defined as a one (1) family unit in a row of at least three (3) such units, where units are stacked on each other. Units may be multi-level; however, all units shall have common fire-resistant walls and have direct access from the outside.
3. Affordable housing units within a townhome configuration, which may be designed as one-over-one condominium flats.

b. Accessory Uses.

1. Home occupations subject to Section 24-6.8g.
2. Parks, playgrounds, open space, and tenant recreation facilities.
3. Fences and walls subject to Section 24-6.11b.
4. Surface parking subject to Section 24-7.
5. Community rooms and amenity spaces for the use of building owners and/or tenants.
6. Signs, subject to Section 24-6.8f. Additionally, a ground sign, next to the site entrance, identifying the development shall be permitted. Said sign shall not exceed twenty-five (25) square feet, may be illuminated and shall be setback ten (10') feet from any property line.

c. Area, Bulk and Yard Requirements.

1. Area, Yard and Bulk Controls shall be in accordance with the Zoning Schedule of Area, Bulk and Yard Requirements at the end of this chapter.

2. Density. Maximum density of the site shall not exceed fourteen (14) units per disturbed/impervious acre. In no event shall the density within the zone exceed a total of forty-two (42) residential units including any affordable housing units.
3. Internal setbacks.
  - (a) Buildings shall be setback at least twenty-five (25') feet from one another.
  - (b) No building shall exceed one hundred and fifty (150') feet in length.
  - (c) Buildings shall be setback a minimum of five (5') feet from parking lots.
  - (d) No parking shall be permitted within twenty (20') feet of an adjacent single-family use.
- d. Affordable Housing.
  1. Twenty (20%) percent of the units shall be reserved for, and affordable to, low- and moderate-income households. The units shall be family units available to the general public and not restricted to any specific segment of the population and meet the low-/moderate-income split required by the Uniform Housing Affordability Controls ("UHAC") except in lieu of ten (10%) percent of units at thirty-five (35%) of median income the developer shall provide at least thirteen (13%) percent of the units within each bedroom distribution as very-low-income units at thirty (30%) percent of median income if the affordable units are rental in tenure.
  2. The affordable units shall have a minimum thirty (30) year deed restriction. Any such affordable unit shall comply with UHAC, applicable affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws.
  3. The units shall meet the bedroom distribution required by the UHAC.
  4. The developer shall be responsible for retaining a qualified Administrative Agent, as approved by the Township, at the developer's sole cost and expense.
  5. All necessary steps shall be taken to make the affordable units provided creditworthy pursuant to applicable law.

e. Off-Street Parking Requirements.

1. Off-street parking shall be in accordance with the Township Off-street and Loading Ordinance, Section 24-7.
2. All parking spaces shall measure no less than nine (9') feet in width by eighteen (18') feet in length.
3. Off-street parking shall be provided in accordance with RSIS.
4. Parking lot lighting shall comply with Section 22-6.4.
5. Within surface parking lots one (1) landscape island shall be provided for every twenty (20) parking spaces. Said landscape island shall contain a minimum of one hundred sixty (160) square feet. At least half of the landscape islands shall contain a shade tree and other landscaping; the remainder shall contain shrubs. Said shade tree shall be three (3") inches in caliper at installation.

f. Building Design.

1. Building wall offsets, including both projections and recesses, shall be provided along any street-facing building wall measuring greater than forty (40') feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall.
2. The maximum spacing between such offsets shall be thirty-five (35') feet. The minimum projection or depth of any individual vertical offset shall not be less than one (1') foot.
3. Vertical offsets can include, but are not limited to, pilasters, projecting bays, changes in façade materials and balconies.
4. The architectural treatment of a façade shall be completely continued around all street-facing façades of a building. All sides of a building shall be architecturally designed to be consistent regarding style, materials, colors and details.
5. If the building has a flat roof, a parapet shall project vertically to hide any roof-mounted mechanical equipment.

6. Roofline offsets shall be provided along any gable roof measuring more than forty (40') feet in length.
7. Building façades visible from any street shall consist of durable, long-lasting materials such as brick, stone, cast stone, Hardie plank or other high-quality material.
8. Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.

g. Landscaping.

1. Areas of the property not used for buildings, parking or other impervious surfaces shall be landscaped.
2. Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts, provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc., shall be considered.
3. There shall be a minimum ten- (10') foot-wide landscaped buffer adjacent to any existing single-family properties. The only improvements that are permitted to encroach on this buffer are utilities and driveways.
4. Buffer plantings shall consist of a combination of shade trees, evergreen trees, ornamental trees and shrubs. Existing shade and evergreen trees within the buffer area may be counted in fulfilling the required buffer planting.
5. Buffer plants shall include, at a minimum, the following:
  - a. One shade tree for every seventy-five (75') linear feet of buffer;
  - b. One evergreen tree for every forty (40') linear feet of buffer;
  - c. Ten (10) shrubs for every fifty (50') linear feet of buffer.

6. Buffer plants shall be the following size at the time of planting:
  - a. Shade trees shall be planted at a minimum three (3") inch caliper and shall be a minimum of twelve (12) to fourteen (14) feet in height, balled and burlapped.
  - b. Evergreen trees shall be planted at a minimum height of seven (7') feet, balled and burlapped.
  - c. Shrubs shall be planted at a minimum of three (3') feet in height. All shrubs shall be evergreen.
7. Foundation plantings shall be provided around all buildings. These plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. The foundation planting shall incorporate evergreen shrubs and groupings of small trees in order to provide human scale to building facades and winter interest.
8. If an outdoor dumpster is utilized for the storage of trash and recycling, it shall be screened and fully enclosed with a solid enclosure a minimum six (6') feet in height. Alternatively, refuse and recycling may be stored inside of the building(s).
9. The above standard shall supplement the requirements of Section 22-6.5a and supersede said design standards when there is a conflict.

**Section 4.** Whereas, upon adoption of this Ordinance, the Township Planner is directed to amend the official Zoning Map of the Township of Mahwah to illustrate the location of the Multi-family-1 (MF-1) District.

**Section 5.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 6.** All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 7.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.



# ZONING SCHEDULE OF AREA, BULK AND YARD REQUIREMENTS

## TOWNSHIP OF MAHWAH

Zone	District	Minimum Area Requirements			Maximum Bulk Requirements				Minimum Yard Requirements			
		Lot Area	Lot Width	Lot Depth	Improved	Lot Coverage	Bldg. Ht.	Front Yard	Side Yard			
					Lot Coverage		Principal**		One	Both	Rear Yard	
					(Sq. Ft.)		(Ft.)		(Ft.)	(%)	(%)	Feet
C-200	Conservation				See Schedule of Area, Bulk and Yard Requirements for C-200 Conservation District.							
R-80	One-Family	80,000	200	300	20	10	35	2 1/2	60	40	80	50
R-40	One-Family	40,000	150	175	30	15	35	2 1/2	40	30	60	40
R-20	One-Family	20,000	100	150	40	20	35	2 1/2	35	20	40	35
R-15	One-Family	15,000	90	125	40	20	35	2 1/2	30	10	25	30
R-10	One-Family	10,000	75	100	40	25	35	2 1/2	30	10	25	30
R-5	One-Family	5,000	50	100	40	30	35	2 1/2	25	6	18	25
R-11	One-Family	5,000	50	100	40	30	35	2 1/2	25	6	18	25
	Two-Family	11,000	80	100	50	30	35	2 1/2	25	10	25	25
GA-200	One-Family	10,000	75	100	40	25	35	2 1/2	30	10	25	30
	Garden Apt.	200,000	300	400	70	30	35	2 1/2	50	30	60	75
PRD-4	One-Family	20,000	100	150	40	20	35	2 1/2	35	20	40	35
	Other Uses (PRD)				See subsection 24-6.10.							
PRD-6	One-Family	20,000	100	150	40	20	35	2 1/2	35	20	40	35
	Other Uses (PRD)				See subsection 24-6.10.							
RM-6	One-Family	20,000	100	150	40	20	35	2 1/2	35	20	40	35
	Mobile Homes	400,000	400	500	50	30	35	2 1/2	See subsection 24-6.3.			
B-200	Shopping Center	200,000	300	400	80	40	40	3	75	40	75	75
B-40	Highway Business	40,000	150	200	80	40	40	3	75	20	40	40
B-12	General Business	12,000	80	100	80	40	40	3	40	15	30	40
B-10	Neighborhood Business	10,000	50	100	80	50	40	3	10	10	20	40
OP-200	Office Park	200,000	300	400	60	30	300	25	See subsection 24-5.3f.			
IP-120	Industrial Park	120,000	300	400	70	35	40	3	60	40	75	65
GI-80	General Industry	80,000	200	300	80	40	40	3	50	25	50	65
CEM	Cemetery	200,000	300	400	--	35	35	--	See subsection 24-6.9.			
FP	Flood Plain				See subsection 24-6.1h.							
CED/R-40	Cont. Econ. Dev't.				See Ordinance 462.							
BZ	Buffer Zone				See subsection 24-6.11.							
PRD-4S	Adult/Patio Housing				See subsection 24-6.10.							
*L.O.D.	Limited Office District	80,000	200	200	30	5	35	2	60	30	60	40
CB	Community Business	90,000	360	400	70	25	40	3	75	40	80	75
PED	Public Education District	87,120 (2 acres)	150	300	65	30	35	2 1/2	35	25	50	35
MF-1	Multi-Family-1	4.5 acres	-	-	60	30	38	3	25	15	30	25

\* One parking space required for each 125 square feet.

\*\* See subsection 24-5.2 concerning height limits in the OP-200 Zone.

(Ord. #574; Ord. #622; Ord. #815; Ord. #860; Ord. #883; 1976 Code Ch. 179; Ord. #955, §5; Ord. #1036, §III; Ord. #1161; Ord. #1211, §III; Ord. #1252, §1; Ord. #1298; Ord. #1324, §§I, II; Ord. #1448)



# Township Of Mahwah

Municipal Offices: 475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430  
Tel 201-529-5757 • Fax 201-512-0537

Board of Adjustment x 245

Property Maintenance x 246

Zoning/Planning Board x 245

## MEMORANDUM

TO: **Ms. Kathy Coviello**, Township Clerk  
Mayor Roth and Township Council

FROM: Ms. Geraldine Entrup, Administrative Officer

RE: Ordinance #1869

DATE: June 25, 2019

Ordinance #1869 was introduced by the Township Council at their June 13, 2019 meeting, and per your memo dated June 18, 2019, it was requested that the Township Planning Board provide comments by June 25, 2019.

The Planning Board reviewed the Ordinance at their meeting on June 24, 2019, finding it was consistent with the Township Master Plan. A Resolution is expected to be adopted at the Planning Board's next regularly scheduled meeting on July 22, 2019. Once adopted, a copy of the Resolution will be provided.

Should you have any questions or require additional information, please do not hesitate to contact me. Thank you.

Sincerely,

Geraldine Entrup  
Administrative Officer

GE/mjw

cc: Mr. Q. Wiest, Business Administrator  
Mr. B. Campion, Esq., Township Attorney  
Mr. B. Chewcaskie, Esq., Cleary Giacobbe Alfieri Jacobs, LLC  
Mr. P. Scandariato, Esq., Planning Board Attorney  
Ms. D. Green, P.P., AICP, Maser Consulting P.A.  
Ms. D. Lawlor, FAICP/PP, Maser Consulting P.A.  
Mr. M. Kelly, PE, Boswell Engineering

RECD MUNICIPAL CLERK  
JUN 25 '19 PM4:05

Introduction:  
Public Hearing:  
Effective:

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1870**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, AMENDING AND  
SUPPLEMENTING CHAPTER XXIV "ZONING" OF THE LAND DEVELOPMENT  
CODE TO ESTABLISH A NEW MULTI-FAMILY 2 HOUSING DISTRICT AND TO  
SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO**

**WHEREAS**, Mahwah Township has a constitutionally-mandated requirement to provide affordable housing; and

**WHEREAS**, the Township Council desires to create opportunities for the creation of affordable housing within the Township; and

**WHEREAS**, the Township Council has determined that a portion of certain lands known as 70 Island Road, identified as Block 56, Lot 74 are suitable for inclusionary development; and

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah as follows:

**Section 1.** The Land Development Code, Chapter XXIV "Zoning", Subsection §24-3.1 "Districts Designated" is hereby amended and supplemented with the following new underlined text inserted alphabetically:

MF-2 – Multi-family-2

**Section 2.** The Land Development Code, Chapter XXIV "Zoning", Subsection §24-4.1 "Schedules of Regulations" is hereby amended and supplemented as shown in the attached Zoning Schedule of Area, Bulk and Yard Requirements, which is attached to the end of this document.

**Section 3.** The Land Development Code, Chapter "Zoning", is hereby amended and supplemented with the following new underlined text:

§24-4.1.4 MF-2 Multi-family-2 Zone Regulations.

The following standards shall apply to development within the MF-2 Zone. When the standards herein conflict with other provisions of Chapter 24, the standards herein shall apply.

a. Permitted Uses.

1. Multi-family housing.
2. Municipal uses, including off-street parking.

b. Accessory Uses.

1. Home occupations subject to Section 24-6.8g.
2. Parks, playgrounds, open space, and tenant recreation facilities.
3. Fences and walls subject to Section 24-6.11b.
4. Surface parking subject to Section 24-7.
5. Community rooms and amenity spaces for the use of building owners and/or tenants.
6. Signs, subject to Section 24-6.8f. Additionally, a ground sign, next to the site entrance, identifying the development shall be permitted. Said sign shall not exceed twenty-five (25) square feet, may be illuminated and shall be setback a minimum of ten (10') feet from any property line.

c. Area, Bulk and Yard Requirements.

1. Area, Yard and Bulk Controls shall be in accordance with the Zoning Schedule of Area, Bulk and Yard Requirements at the end of this chapter.
2. Density. Maximum density of the site shall not exceed fifteen (15) units per acre.
3. Internal setbacks.
  - (a) Buildings shall be setback a minimum of five (5') feet from driveways and parking areas.
  - (b) No parking shall be permitted within twenty (20') feet of an adjacent single-family use.

d. Affordable Housing.

1. One-hundred (100%) percent of the units shall be reserved for, and affordable to, low- and moderate-income households. The units shall meet the low-/moderate-income split required by the Uniform Housing Affordability Controls ("UHAC") except in lieu of ten (10%) percent of units at thirty-five (35%) of median income the developer shall provide at least thirty (13%) percent of the units as very-low income units at thirty (30%) percent of median income within each bedroom distribution
2. The affordable units shall have a minimum thirty (30) year deed restriction. Any such affordable unit shall comply with UHAC, applicable affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws.
3. The units shall meet the bedroom distribution required by the UHAC.
4. The developer shall be responsible for retaining a qualified Administrative Agent, as approved by the Township, at the developer's sole cost and expense.
5. All necessary steps shall be taken to make the affordable units provided creditworthy pursuant to applicable law.
6. The affordable units shall be reserved for families or special needs households.

e. Off-Street Parking Requirements.

1. Off-street parking shall be in accordance with the Township Off-street and Loading Ordinance, Section 24-7.
2. All parking spaces shall measure no less than nine (9') feet in width by eighteen (18') feet in length.
3. Off-street parking shall be provided in accordance with RSIS.
4. Parking lot lighting shall comply with Section 22-6.4.
5. Within surface parking lots one (1) landscape island shall be provided for every twenty (20) parking spaces. Said landscape island shall contain a minimum of one hundred sixty (160) square feet. At least half of the landscape islands shall contain a shade tree

and other landscaping; the remainder shall contain shrubs. Said shade tree shall be a minimum of three (3) inches caliper at installation.

f. Building Design.

1. Building wall offsets, including both projections and recesses, shall be provided along any street-facing building wall measuring greater than forty (40') feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall.
2. The maximum spacing between such offsets shall be thirty-five (35') feet. The minimum projection or depth of any individual vertical offset shall not be less than one (1') foot.
3. Vertical offsets can include pilasters, projecting bays, changes in façade materials and balconies.
4. The architectural treatment of a façade shall be completely continued around all street-facing façades of a building. All sides of a building shall be architecturally designed to be consistent regarding style, materials, colors and details.
5. If the building has a flat roof, a parapet shall project vertically to hide any roof-mounted mechanical equipment.
6. Roofline offsets shall be provided along any gable roof measuring more than fifty (50') feet in length.
7. Building façades visible from any street shall consist of durable, long-lasting materials such as brick, stone, cast stone, Hardie plank or other high-quality material.
8. Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devise shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.

g. Landscaping.

1. Areas of the property not used for buildings, parking or other impervious surfaces shall be landscaped.

2. Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts, provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc., shall be considered.
3. There shall be a minimum ten- (10') foot-wide landscaped buffer adjacent to any existing single-family homes. The only improvements permitted to encroach on this buffer are utilities.
4. Buffer plantings shall consist of a combination of shade trees, evergreen trees, ornamental trees and shrubs. Existing shade and evergreen trees within the buffer area may be counted in fulfilling the required buffer planting.
5. Buffer plants shall include, at a minimum, the following:
  - (a) One shade tree for every seventy-five (75') linear feet of buffer;
  - (b) One evergreen tree for every forty (40') linear feet of buffer;
  - (c) Ten (10) shrubs for every fifty (50') linear feet of buffer.
6. Buffer plants shall be the following size at the time of planting:
  - (a) Shade trees shall be planted at a minimum three (3") inch caliper and shall be a minimum of twelve (12) to fourteen (14) feet in height, balled and burlapped.
  - (b) Evergreen trees shall be planted at a minimum height of seven (7') feet, balled and burlapped.
  - (c) Shrubs shall be planted at a minimum of three (3') feet in height. All shrubs shall be evergreen.
7. Foundation plantings shall be provided around all buildings. These plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. The foundation planting shall incorporate evergreen shrubs and groupings of small trees in order to provide human scale to building facades and winter interest.

8. If an outdoor dumpster is utilized for the storage of trash and recycling, it shall be screened and fully enclosed with a solid enclosure a minimum six (6') feet in height. Alternatively, refuse and recycling may be stored inside of the building(s).
9. The above standard shall supplement the requirements of Section 22-6.5a and supersede said design standards when there is a conflict.

**Section 4.** Whereas, upon adoption of this Ordinance, the Township Planner is directed to amend the official Zoning Map of the Township of Mahwah to illustrate the location of the Multi-family-2 (MF-2) District.

**Section 5.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 6.** All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 7.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.





# Township Of Mahwah

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Board of Adjustment x 245

Property Maintenance x 246

Zoning/Planning Board x 245

## MEMORANDUM

TO: **Ms. Kathy Coviello**, Township Clerk  
Mayor Roth and Township Council

FROM: Ms. Geraldine Entrup, Administrative Officer

RE: Ordinance #1870

DATE: June 25, 2019

Ordinance #1870 was introduced by the Township Council at their June 13, 2019 meeting, and per your memo dated June 18, 2019, it was requested that the Township Planning Board provide comments by June 25, 2019.

The Planning Board reviewed the Ordinance at their meeting on June 24, 2019, finding it was consistent with the Township Master Plan. A Resolution is expected to be adopted at the Planning Board's next regularly scheduled meeting on July 22, 2019. Once adopted, a copy of the Resolution will be provided.

Should you have any questions or require additional information, please do not hesitate to contact me. Thank you.

Sincerely,

Geraldine Entrup  
Administrative Officer

GE/mjw

cc: Mr. Q. Wiest, Business Administrator  
Mr. B. Champion, Esq., Township Attorney  
Mr. B. Chewcaskie, Esq., Cleary Giacobbe Alfieri Jacobs, LLC  
Mr. P. Scandariato, Esq., Planning Board Attorney  
Ms. D. Green, P.P., AICP, Maser Consulting P.A.  
Ms. D. Lawlor, FAICP/PP, Maser Consulting P.A.  
Mr. M. Kelly, PE, Boswell Engineering

REC'D MUNICIPAL CLERK  
JUN 25 '19 PM 4:05

Introduction:  
Public Hearing:  
Effective:

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1871**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, TO DELETE AND REPLACE  
SUBSECTION 13 "AFFORDABLE HOUSING REGULATIONS" OF CHAPTER XXIV  
"ZONING" WITHIN THE LAND DEVELOPMENT CODE TO ADDRESS THE  
REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING  
AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE  
TOWNSHIP'S AFFORDABLE HOUSING OBLIGATIONS**

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

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

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah, as follows:

**Section 1.** The Land Development Code, Chapter XXIV "Zoning", Subsection 13 is hereby deleted in its entirety and replaced as follows:

**§24-13 AFFORDABLE HOUSING REGULATIONS.**

**§24-13.1 Statutory authorization.**

The Legislature of the State of New Jersey has, in the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., delegated the authority to local governments to adopt an ordinance to provide a realistic opportunity for sound shelter for low- and moderate-income households. Therefore, the Council of the Township of Mahwah does ordain as follows:

**§24-13.2      Monitoring and Reporting Requirements.**

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

- a. Beginning on the first anniversary of the Judgment of Compliance and Repose, and on every anniversary of that date through July 1, 2025, the Township agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (LGS), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the NJDCA, COAH, or LGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- b. Beginning on the first anniversary of the Judgment of Compliance and Repose, and on every anniversary of that date through July 1, 2025, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- c. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall provide the opportunity for any party to submit comments to the municipality, which comments shall be provided to all parties to this litigation regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented.

- d. Within 30 days of the third anniversary of the Judgment of Compliance and Repose, and every third year thereafter until July 1, 2025, as required by N.J.S.A. 52:27D-329.1, the Township 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 its family very-low-income requirements. Such posting shall provide the opportunity for any party to submit comments to the municipality, which comments shall be provided to all parties to this litigation, on the issue of whether the municipality has complied with its very-low-income housing obligation.

### **§24-13.3 Definitions.**

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

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

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

*ADMINISTRATIVE AGENT* shall mean the entity designated by the Township to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26) and responsible for administering the affordability controls on low- and moderate-income units created in the Township of Mahwah to ensure that the restricted units are affirmatively marketed and sold or rented, as applicable, only to very-low-, low- and moderate-income households.

*AFFIRMATIVE MARKETING* shall mean 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* shall mean the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

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

*AFFORDABLE HOUSING DEVELOPMENT* shall mean a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the

Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred (100%) percent affordable housing development.

*AFFORDABLE HOUSING PROGRAM(S)* shall mean any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

*AFFORDABLE UNIT* shall mean a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

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

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

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

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

*CERTIFIED HOUSEHOLD* shall mean a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

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

*COURT* shall mean the Superior Court of New Jersey, Law Division, Bergen County.

*DCA* shall mean the State of New Jersey Department of Community Affairs.

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

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

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

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

*LOW-INCOME HOUSEHOLD* shall mean a household with a total gross annual household income equal to fifty (50%) percent or less of the regional median household income by household size.

*LOW-INCOME UNIT* shall mean a restricted unit that is affordable to a low-income household.

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

*MARKET-RATE UNITS* shall mean housing not restricted to low- and moderate-income households that may sell or rent at any price.

*MEDIAN INCOME* shall mean the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

*MODERATE-INCOME HOUSEHOLD* shall mean a household with a total gross annual household income in excess of fifty (50%) percent but less than eighty (80%) percent of the regional median household income by household size.

*MODERATE-INCOME UNIT* shall mean a restricted unit that is affordable to a moderate-income household.

*MUNICIPAL HOUSING LIAISON* shall mean the municipal employee duly designated by the governing body with the responsibility for monitoring, reporting oversight and general administration of the affordable housing program for the Township of Mahwah.

*NON-EXEMPT SALE* shall mean 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* shall mean 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* shall mean the maximum housing value in each housing region affordable to a four-person household with an income at eighty (80%) percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

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

*RENT* shall mean 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* shall mean a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under the Urban Home Ownership Recovery Program ("UHORP") or the Market Oriented Neighborhood Investment Program ("MONI").

*UHAC* shall mean the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

*VERY-LOW-INCOME HOUSEHOLD* shall mean a household with a total gross annual household income equal to thirty (30%) percent or less of the regional median household income by household size.

*VERY-LOW-INCOME UNIT* shall mean a restricted unit that is affordable to a very-low-income household.

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

#### **§24-13.4      Applicability.**

- a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Mahwah pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.
- b. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

#### **§24-13.5      Rehabilitation Program.**

- a. Mahwah'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 pursuant to N.J.A.C. 5:28.
- b. Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.



- c. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of ten (10) years (the control period). For owner occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
- d. The Township of Mahwah shall dedicate approximately fifteen thousand (\$15,000) dollars for each unit to be rehabilitated through this program.
- e. The Township of Mahwah shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township.
- f. The Township of Mahwah shall designate, subject to the approval of the Court, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. 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 to be adopted by resolution of the governing body and subject to approval of the Court. 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).
- g. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and UHAC, but shall be administered in accordance with the following:
  - 1. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
  - 2. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
  - 3. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
  - 4. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

**§24-13.6      Alternative Living Arrangements.**

- a. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
  1. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
  2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- b. With the exception of units established with capital funding through a twenty (20)-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty (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.

**§24-13.7 Inclusionary Zoning.**

- a. To implement the fair share plan in a manner consistent with the terms of the June 8, 2018 Settlement Agreement, ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning shall be permitted on the following properties consistent with the provisions of Mahwah's Housing Element and Fair Share Plan and the terms of the Settlement Agreement.
  1. Mahwah will rezone the site known as Crossroads, identified as Block 26, Lot 2 and Block 183, Lot 1 to permit a mixed-use inclusionary development of up to 800 units with a fifteen (15%) percent set-aside.
  2. Mahwah will rezone the site known as 1 Fyke Road, identified as Block 21, Lots 21, 22 and 23 to permit an inclusionary multi-family development with a twenty (20%) percent affordable housing set-aside.
  3. Mahwah will rezone Block 82 in its entirety to permit a mixed-use inclusionary development with a twenty (20%) percent affordable housing set-aside.

4. Mahwah will rezone the site known as 70 Island Road, identified as Block 56, Lot 74 to permit an inclusionary multi-family development that is one hundred (100%) percent affordable.
5. Developments in the ML-1 Zone District shall be required to provide one hundred (100%) percent of all dwelling units to be affordable to low- and moderate-income households.
6. Developments in the ML-2 Zone District shall be required to provide twenty-two (22%) percent of all dwelling units to be affordable to low- and moderate-income households. This provision shall not apply to the project known as Beaver Creek / Paddington Square (Block 109, Lots 16 and 19) which has one hundred (100%) percent market rate units as a result of a Settlement Agreement in the Urban League lawsuit which provided for a monetary payment in lieu of on-site construction of affordable units.

**§24-13.8 Phasing Schedule for Inclusionary Zoning.**

In inclusionary developments the following schedule shall be followed:

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

**§24-13.9 New Construction.**

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

1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least thirteen (13%) percent of all restricted rental units shall be very-low-income units (affordable to a household earning thirty (30%) percent or less of regional median income by household size). The very-low-income units shall be counted as part of the required number of low-income units within the development.
2. In each affordable development, at least fifty (50%) percent of the restricted units within each bedroom distribution shall be very-low- or low-income units.

3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
    - (a) The combined number of efficiency and one-bedroom units shall be no greater than twenty (20%) percent of the total low- and moderate-income units;
    - (b) At least thirty (30%) percent of all low- and moderate-income units shall be two bedroom units;
    - (c) At least twenty (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.
  4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- b. Accessibility Requirements:
1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:
  2. 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; and
    - (b) An adaptable kitchen on the first floor; and
    - (c) An interior accessible route of travel on the first floor; and
    - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

- (e) If not all of the foregoing requirements in 2(a) through 2(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs 2(a) through 2(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Mahwah has collected funds from the developer sufficient to make ten (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 Township of Mahwah's Affordable Housing Trust Fund sufficient to install accessible entrances in ten (10%) percent of the affordable units that have been constructed with adaptable entrances.
  - (3) The funds deposited under paragraph (f)(2) above shall be used by the Township of Mahwah for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
  - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Mahwah for the conversion of adaptable to accessible entrances.
  - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
  - (6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements.

Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

c. Design:

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

d. Maximum Rents and Sales Prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures set forth in the Settlement Agreement dated June 8, 2018.
  - (a) Regional income limits shall be established for the region that the Township is located within (i.e. Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household four shall be eighty (80%) percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be fifty (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 thirty (30%) percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- (b) The income limits attached to the Settlement Agreement are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2017 and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
  - (c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty (60%) percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty-two (52%) percent of median income.
  3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen (13%) percent of all low- and moderate-income rental units shall be affordable to very-low-income households, which very-low-income units shall be part of the low-income requirement.
  4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy (70%) percent of median income, and each affordable development must achieve an affordability average of fifty-five (55%) percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
  5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
    - (a) A studio shall be affordable to a one-person household;

- (b) A one-bedroom unit shall be affordable to a one and one-half person household;
  - (c) A two-bedroom unit shall be affordable to a three-person household;
  - (d) A three-bedroom unit shall be affordable to a four and one-half person household;  
and
  - (e) A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
- (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household;  
and
  - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to ninety-five (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 twenty-eight (28%) of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty (30%) percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing



region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

10. The rents of very-low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine (9%) percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

**§24-13.10 Utilities.**

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

**§24-13.11 Occupancy Standards and Preference.**

- a. Standards. In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:
  1. Provide an occupant for each bedroom;
  2. Provide children of different sexes with separate bedrooms;
  3. Provide separate bedrooms for parents and children; and
  4. Prevent more than two persons from occupying a single bedroom.
- b. Preference. In accordance with N.J.S.A. 52:27D-311(j) the Township and Developer or residential development owner may enter into an agreement to provide a preference for affordable housing to low- and moderate-income veterans who served in time of war or other emergency, as defined in section 1 of P.L.1963, c.171 (C. 54:4-8.10), of up to 50 (50%) percent of the affordable units in that particular project. This preference shall be established in the applicant selection process for available affordable units so that applicants who are veterans who served in time of war or other emergency, as referenced in this subsection, and who apply within ninety (90) days of the initial marketing period

shall receive preference for the rental of the agreed-upon percentage of affordable units. After the first ninety (90) days of the initial one hundred and twenty (120) day marketing period, if any of those units subject to the preference remain available, then applicants from the general public shall be considered for occupancy. Following the initial one hundred and twenty (120) day marketing period, previously qualified applicants and future qualified applicants who are veterans who served in time of war or other emergency, as referenced in this subsection, shall be placed on a special waiting list as well as the general waiting list. The veterans on the special waiting list shall be given preference for affordable units, as the units become available, whenever the percentage of preference-occupied units falls below the agreed upon percentage. Any agreement to provide affordable housing preferences for veterans pursuant to this subsection shall not affect a municipality's ability to receive credit for the unit from COAH, or its successor.

**§24-13.12 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

- a. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Mahwah takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- b. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- c. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- d. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

- e. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- f. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**§24-13.13 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.**

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

- a. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- c. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- d. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 24-13.16.

**§24-13.14 Buyer Income Eligibility.**

- a. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as 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 fifty (50%) percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty (80%) percent of median income.
- b. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Council, and subject to the Court's approval, permit a moderate-income

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

- c. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- d. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed thirty-three (33%) percent of the household's eligible monthly income.

**§24-13.15 Limitations on Indebtedness Secured by Ownership Unit; Subordination.**

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

**§24-13.16 Capital Improvements To Ownership Units.**

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

maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

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

**§24-13.17 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, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Mahwah takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- b. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. 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.
- c. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  1. Sublease or assignment of the lease of the unit;
  2. Sale or other voluntary transfer of the ownership of the unit; or

3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

**§24-13.18 Rent Restrictions for Rental Units; Leases.**

- a. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- b. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- c. Application fees (including the charge for any credit check) shall not exceed five (5%) 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. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least fifteen (15%) percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

**§24-13.19 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 thirty (30%) percent of the regional median household income by household size.
  2. Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of the regional median household income by household size.
  3. Moderate-income rental units shall be reserved for households with a gross household income less than eighty (80%) percent of the regional median household income by household size.

- b. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five (35%) percent (forty (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 thirty-five (35%) percent (forty (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 thirty-five (35%) percent (forty (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 reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- c. The applicant shall file documentation sufficient to establish the existence of the circumstances in a.1 through b.5 above with the Administrative Agent, who shall counsel the household on budgeting.

**§24-13.20      Establishment of Municipal Housing Liaison position and compensation; powers and duties.**

- a. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Township of Mahwah.
- b. Subject to the approval of the Court, the Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee.

- c. The Municipal Housing Liaison shall be responsible for monitoring, reporting, oversight and general administration of the affordable housing program for the Township of Mahwah, including the following responsibilities which may not be contracted out to an Administrative Agent:
  - 1. Serving as the Township of Mahwah's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents, and interested households;
  - 2. Monitoring the status of all restricted units in the Township of Mahwah's Housing Element and Fair Share Plan;
  - 3. Compiling, verifying and publishing on the Township's website all referenced monitoring reports as required by the Court;
  - 4. Coordinating meetings with affordable housing providers and the administrative agent(s) as applicable; and
  - 5. Attending continuing education programs as required to obtain and maintain certification as a Municipal Housing Liaison.
- d. Subject approval by the Court, the Township of Mahwah may contract with or authorize a consultant, authority, government or any agency charged by the governing body, which entity shall have the responsibility of administering the affordable housing program of the Township of Mahwah. If the Township of Mahwah contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and affirmative marketing plan, the Municipal Housing Liaison shall supervise the contracting administrative agent.
- e. Compensation. Compensation shall be fixed by the governing body at the time of the appointment of Municipal Housing Liaison.

**§24-13.21      Establishment of Administrative Agent position; powers and duties.**

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



a. Affirmative Marketing:

1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Mahwah and the provisions of N.J.A.C. 5:80-26.15; and
2. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
3. Notifying the following entities of the availability of affordable housing units in the Township of Mahwah and providing them with copies of or links to application forms: Fair Share Housing Center, the Latino Action Network, Bergen County NAACP, Bergen Urban League and Bergen County Housing Coalition.

b. Household Certification:

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

c. Affordability Controls:

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

d. Resales and Re-rentals:

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

e. Processing Requests from Unit Owners:

1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
2. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

3. Notifying the municipality of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

f. Enforcement:

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

g. Additional Responsibilities:

1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
2. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

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

**§24-13.22 Affordable Marketing Requirements.**

- a. The Township of Mahwah shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- b. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 1 and is required to be followed throughout the period of restriction.
- c. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties.
- d. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Township of Mahwah shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- e. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- f. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

- g. The affirmative marketing process for available affordable units shall begin at least four (4) months (120 days) prior to the expected date of occupancy.
- h. Applications for affordable housing shall be available in several locations, including, at a minimum, the Sussex County Main Library; the Hudson County Administration Building; the Passaic County Administration Building; the Bergen County Administration Building; the Mahwah Municipal Building, the Mahwah Public Library; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- i. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Mahwah along with copies of the preliminary application forms to the following entities: Fair Share Housing Center, the Latino Action Network, Bergen County NAACP, Bergen Urban League and Bergen County Housing Coalition.
- j. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

**§24-13.23 Enforcement of Affordable Housing Regulations.**

- a. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- b. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:
  - 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

- (a) A fine of not more than five hundred (\$500.00) dollars per day or imprisonment for a period not to exceed ninety (90) days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
  - (b) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Mahwah Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - (c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
- (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the

municipality for such. Failure of the Owner to claim such balance within the two (2)-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the 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.
- (e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

**§24-13.24 Appeals.**

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

**Section 2.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 3.** All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.





# Township Of Mahwah

Municipal Offices: 475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430  
Tel 201-529-5757 • Fax 201-512-0537

Board of Adjustment x 245

Property Maintenance x 246

Zoning/Planning Board x 245

## MEMORANDUM

TO: **Ms. Kathy Coviello**, Township Clerk  
Mayor Roth and Township Council

FROM: Ms. Geraldine Entrup, Administrative Officer

RE: Ordinance #1871

DATE: June 25, 2019

Ordinance #1871 was introduced by the Township Council at their June 13, 2019 meeting, and per your memo dated June 18, 2019, it was requested that the Township Planning Board provide comments by June 25, 2019.

The Planning Board reviewed the Ordinance at their meeting on June 24, 2019, finding it was consistent with the Township Master Plan. A Resolution is expected to be adopted at the Planning Board's next regularly scheduled meeting on July 22, 2019. Once adopted, a copy of the Resolution will be provided.

Should you have any questions or require additional information, please do not hesitate to contact me. Thank you.

Sincerely,

Geraldine Entrup  
Administrative Officer

GE/mjw

cc: Mr. Q. Wiest, Business Administrator  
Mr. B. Champion, Esq., Township Attorney  
Mr. B. Chewcaskie, Esq., Cleary Giacobbe Alfieri Jacobs, LLC  
Mr. P. Scandariato, Esq., Planning Board Attorney  
Ms. D. Green, P.P., AICP, Maser Consulting P.A.  
Ms. D. Lawlor, FAICP/PP, Maser Consulting P.A.  
Mr. M. Kelly, PE, Boswell Engineering

REGD MUNICIPAL CLERK  
JUN 25 '19 PM4:05

Introduction:  
Public Hearing:  
Effective:

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1872**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, TO DELETE AND REPLACE  
SUBSECTION 15 "DEVELOPMENT FEES" OF CHAPTER XXIV "ZONING" WITHIN  
THE LAND DEVELOPMENT CODE TO PROVIDE FOR THE COLLECTION OF  
DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED  
BY THE NEW JERSEY FAIR HOUSING ACT**

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

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

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah, that the Land Development Code, Chapter XXIV "Zoning", Subsection 15 "Development Fees" be deleted and replaced in its entirety to regulate the collection and disposition of development fees to be used in connection with the Township's affordable housing programs, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

**Section 1.** The Land Development Code, Chapter XXIV "Zoning", Subsection 15 "Development Fees" is hereby deleted and replaced in its entirety as follows:

**§25-15 DEVELOPMENT FEES.**

**§24-15.1 Purpose.**

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

#### **§24-15.2 Basic Requirements.**

- a. This Ordinance shall not be effective until approved by the Court.
- b. The Township of Mahwah shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

#### **§24-15.3 Definitions.**

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

*Affordable Housing Development* shall mean 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 one hundred (100%) percent affordable housing development.

*COAH or the Council* shall mean the New Jersey Council on Affordable Housing established under the Fair Housing Act.

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

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

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

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

#### **§24-15.4 Residential Development Fees.**

a. Imposition of Fees.

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

Example: If an approval allows four (4) units to be constructed on a site that was zoned for two (2) units, the fees would equal one and one-half (1.5%) percent of the equalized assessed value on the first two units; and six (6%) percent of the equalized assessed value for the two (2) additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application

b. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments.

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

2. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, except that expansion of an existing residential structure which increases the living space by less than twenty (20%) percent and/or the volume of the existing structure by less than twenty (20%) percent shall be exempt from paying a development fee. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
3. Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

**§24-15.5 Non-Residential Development Fees.**

a. Imposition of Fees.

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

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

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

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

#### **§24-15.6 Collection Procedures.**

- a. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- c. The Construction Official responsible for the issuance of a Construction Permit shall notify the Township Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- d. Within fifteen (15) days of receipt of such notification, the Township Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- e. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- f. Within ten (10) business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should the Township of Mahwah fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- h. Half (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected prior to the issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.
- i. Appeal of Development Fees.
  - 1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Township of Mahwah. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, et seq., within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

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

**§24-15.7 Affordable Housing Trust Fund.**

- a. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Township of Mahwah for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  1. Payments in lieu of on-site construction or for a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Mahwah;
  2. Funds contributed by developers to make ten (10%) percent of the adaptable entrances in a townhouse or other multi-story attached dwelling unit development accessible;
  3. Rental income from municipally-operated units;
  4. Repayments from affordable housing program loans;
  5. Recapture funds;
  6. Proceeds from the sale of affordable units; and
  7. Any other funds collected in connection with Mahwah's affordable housing program.
- c. In the event of a failure by the Township of Mahwah to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds



within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Mahwah, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

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

#### **§24-15.8 Use of Funds.**

- a. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Mahwah's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- b. Funds shall not be expended to reimburse the Township of Mahwah for past housing activities.

- c. At least thirty (30%) percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty (30%) percent or less of the median income for Housing Region 1, in which Mahwah is located.
  - 1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
  - 2. Affordability assistance to households earning thirty (30%) percent or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income. The specific programs to be used for very-low-income affordability assistance shall be identified and described within the Spending Plan.
  - 3. Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Township of Mahwah, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. The Township of Mahwah may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- e. No more than twenty (20%) percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
  - 1. In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the twenty (20%) percent of collected development fees that may be expended on administration.

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

#### **§24-15.9      Monitoring.**

The Township of Mahwah shall provide annual reporting of Affordable Housing Trust Fund Activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or LGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended.

#### **§24-15.10      Ongoing Collection of Fees.**

- a. The ability for the Township of Mahwah to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Township of Mahwah has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- b. If the Township of Mahwah fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
- c. The Township of Mahwah shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Township of Mahwah retroactively impose a development fee on such a development. The Township of Mahwah also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

**Section 2.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 3.** All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.

Ordinance No. \_\_\_\_\_

Page: \_\_\_\_\_

Dated: \_\_\_\_\_

Attest

\_\_\_\_\_  
David May  
Council President

\_\_\_\_\_  
Katherine G. Coviello  
Municipal Clerk

I, Kathrine G. Coviello, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Katherine G. Coviello, RMC/CMC/MMC  
Municipal Clerk

Appendix V through  
CC will be inserted  
upon adoption and/or  
approval.



Board of Adjustment x 245

# Township Of Mahwah

Municipal Offices: 475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430  
Tel 201-529-5757 • Fax 201-512-0537

Property Maintenance x 246

Zoning/Planning Board x 245

## MEMORANDUM

TO: Ms. Kathy Coviello, Township Clerk  
Mayor Roth and Township Council

FROM: Ms. Geraldine Entrup, Administrative Officer

RE: Ordinance #1872

DATE: June 25, 2019

Ordinance #1872 was introduced by the Township Council at their June 13, 2019 meeting, and per your memo dated June 18, 2019, it was requested that the Township Planning Board provide comments by June 25, 2019.

The Planning Board reviewed the Ordinance at their meeting on June 24, 2019, finding it was consistent with the Township Master Plan. A Resolution is expected to be adopted at the Planning Board's next regularly scheduled meeting on July 22, 2019. Once adopted, a copy of the Resolution will be provided.

Should you have any questions or require additional information, please do not hesitate to contact me. Thank you.

Sincerely,

Geraldine Entrup  
Administrative Officer

GE/mjw

cc: Mr. Q. Wiest, Business Administrator  
Mr. B. Campion, Esq., Township Attorney  
Mr. B. Chewcaskie, Esq., Cleary Giacobbe Alfieri Jacobs, LLC  
Mr. P. Scandariato, Esq., Planning Board Attorney  
Ms. D. Green, P.P., AICP, Maser Consulting P.A.  
Ms. D. Lawlor, FAICP/PP, Maser Consulting P.A.  
Mr. M. Kelly, PE, Boswell Engineering

REC'D MUNICIPAL CLERK  
JUN 25 '19 PM 4:06

Introduction:  
Public Hearing:  
Effective:

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1873**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH TO DELETE AND REPLACE  
SUBSECTION 16 "HOUSING PLAN ENFORCEMENT AND PENALTIES" OF  
CHAPTER XXIV "ZONING" WITHIN THE LAND DEVELOPMENT WITH  
SUBSECTION 16 "TOWNSHIP-WIDE SET-ASIDE ORDINANCE" TO ESTABLISH A  
TOWNSHIP-WIDE SET-ASIDE REQUIREMENT AND TO SET FORTH THE  
STANDARDS AND CRITERIA APPLICABLE THERETO**

**WHEREAS**, the Township Council of the Township of Mahwah desires to create a realistic opportunity for the creation of affordable housing within the Township; and

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

**WHEREAS**, after a Fairness Hearing held on July 10, 2018 and by Order dated July 12, 2018, the Hon. Christine Farrington, J.S.C. approved a series of settlement agreements between the Township of Mahwah, Fair Share Housing Center, and two developer-intervenors intended to establish the Township's affordable housing obligations; and

**WHEREAS**, pursuant to the requirements of the July 12, 2018 Order, the Township of Mahwah intends to supplement its Zoning Ordinance to include provisions addressing Mahwah's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, the Mahwah Planning Board has adopted a Housing Element and Fair Share Plan dated May 29, 2019 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

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

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

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah, as follows:

**Section 1.** The Land Development Code Chapter XXIV “Zoning”, Subsection 16 is hereby deleted and replaced with a new Subsection 16 entitled “Township-Wide Set-Aside Requirements”, said section to read as follows:

**§24-16 Township-Wide Set-Aside Requirements.**

- a. Any property in the Township of Mahwah that receives planning board approval, zoning board approval, a zoning change, density variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development, which multi-family residential development will yield five (5) or more new dwelling units, shall provide a minimum affordable housing set-aside of twenty (20%) percent as the Township is located in the Highlands Region.
- b. This requirement shall not apply to residential development on sites that are zoned for inclusionary residential development as part of the Township’s Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning.
- c. This requirement does not, and shall not be construed to, grant any property owner or developer the right to any rezoning, variance or other relief, nor does this requirement establish any obligation on the part of the Township of Mahwah to grant any such rezoning, variance or other relief.
- d. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement.
- e. All affordable units created pursuant to this Section shall be governed by the provisions of Section 24-13, “Affordable Housing Regulations”.

**Section 2.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 3.** All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.





# Township Of Mahwah

Municipal Offices: 475 Corporate Drive  
P.O. Box 733 • Mahwah, NJ 07430  
Tel 201-529-5757 • Fax 201-512-0537

Board of Adjustment x 245

Property Maintenance x 246

Zoning/Planning Board x 245

## MEMORANDUM

TO: Ms. Kathy Coviello, Township Clerk  
Mayor and Township Council

FROM: Ms. Geraldine Entrup, Administrative Officer

RE: Ordinance #1873

DATE: June 25, 2019

Ordinance #1873 was introduced by the Township Council at their June 13, 2019 meeting, and per your memo dated June 18, 2019, it was requested that the Township Planning Board provide comments by June 25, 2019.

The Planning Board reviewed the Ordinance at their meeting on June 24, 2019, finding it was consistent with the Township Master Plan. A Resolution is expected to be adopted at the Planning Board's next regularly scheduled meeting on July 22, 2019. Once adopted, a copy of the Resolution will be provided.

Should you have any questions or require additional information, please do not hesitate to contact me. Thank you.

Sincerely,

Geraldine Entrup  
Administrative Officer

GE/mjw

cc: Mr. Q. Wiest, Business Administrator  
Mr. B. Champion, Esq., Township Attorney  
Mr. B. Chewcaskie, Esq., Cleary Giacobbe Alfieri Jacobs, LLC  
Mr. P. Scandariato, Esq., Planning Board Attorney  
Ms. D. Green, P.P., AICP, Maser Consulting P.A.  
Ms. D. Lawlor, FAICP/PP, Maser Consulting P.A.  
Mr. M. Kelly, PE, Boswell Engineering

REC'D MUNICIPAL CLERK  
JUN 25 '19 PM 4:05

**TOWNSHIP OF MAHWAH**  
**ORDINANCE NO. 1874**

**AN ORDINANCE AMENDING SECTIONS 2-5, 2-6, 2-13, 22-11 AND 24-12  
OF THE CODE OF THE TOWNSHIP OF MAHWAH AND DELETING THE  
PROVISIONS FOR A HOUSING COMMISSION AND DIVISION OF HUMAN  
SERVICES AND AFFORDABLE HOUSING.**

**WHEREAS**, the Township of Mahwah has recently completed the implementation of the land use ordinances required for compliance with the Township's affordable housing obligations; and

**WHEREAS**, the Township Housing Commission and the Division of Human Services are no longer required; and

**WHEREAS**, the operation of the Access Transportation Program can be located within the Division of Senior Activities,

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah as follows:

**Section 1.** Section 2-5.1.b.9 of the Code of the Township of Mahwah, Boards and Commissions, Housing Commission is DELETED.

**Section 2.** Section 2-6.14 of the Code of the Township of Mahwah, Division of Human Services and Affordable Housing, is DELETED.

**Section 3.** Section 2-6.15 of the Code of the Township of Mahwah, Duties of Director of Human Services, is DELETED.

**Section 4.** Section 2-6.21 of the Code of the Township of Mahwah, Division of Senior Services, is amended by the addition of a new subsection 2-6.21.d to read as follows:

- d. The head of the Division of Senior Activities shall operate and supervise the Access Transportation Program.

**Section 5.** Section 2-13.8 of the Code of the Township of Mahwah, Housing Commission, is DELETED.

**Section 6.** Section 21-1.10., Land Use, Citizens Advisory Committee, is DELETED.

**Section 7.** Section 22-11.6.c.4.(f), Site Plan, is amended to read as follows:

- f. Other reasonable information as required by the Planning Board.

**Section 8.** Section 24-12 of the Code of the Township of Mahwah, Housing Commission, is DELETED.

**Section 9. Severability**

If any section, páragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 10. Repealer**

All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 11. Effective Date**

This ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.

**TOWNSHIP OF MAHWAH  
BOND ORDINANCE NO. 1875**

BOND ORDINANCE PROVIDING FOR THE CONSTRUCTION AND  
RENOVATION OF DEPARTMENT OF PUBLIC WORKS BUILDINGS IN  
AND BY THE TOWNSHIP OF MAHWAH, IN THE COUNTY OF  
BERGEN, NEW JERSEY, APPROPRIATING \$750,000 FROM THE  
WATER UTILITY AND SEWER UTILITY THEREFOR AND  
AUTHORIZING THE ISSUANCE OF \$712,500 FROM THE WATER  
UTILITY AND THE SEWER UTILITY BONDS OR NOTES OF THE  
TOWNSHIP TO FINANCE THE COST THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MAHWAH, IN THE  
COUNTY OF BERGEN, NEW JERSEY (not less than two-thirds of all members thereof  
affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Township of Mahwah, in the County of Bergen, New Jersey (the "Township"). For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$750,000. Although no down payment is required as the purpose authorized herein is deemed self-liquidating and the bonds and bond anticipation notes authorized herein are deductible from the gross debt of the Township, as more fully explained in Section 6(e) of this bond ordinance, an amount of \$37,500 is provided as a down payment for this purpose. The down payment is now available by virtue of provisions for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$712,500 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the construction of a new Department of Public Works building and the renovation of an existing Department of Public Works building, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is \$1,425,000, comprised of the bonds or bond anticipation notes as stated in Section 2 hereof and the \$712,500 in bonds or bond anticipation notes authorized to be issued pursuant to a bond ordinance being introduced and finally adopted simultaneously with this bond ordinance.

(c) The estimated cost of the improvement or purpose is equal to \$1,500,000, comprised of the amount of the appropriation herein made therefor and the \$750,000 appropriated by a bond ordinance being introduced and finally adopted simultaneously with this bond ordinance.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are

permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Township may lawfully undertake as a self-liquidating purpose of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 27.50 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$712,500, but that the net debt of the Township determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$750,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

(e) This bond ordinance authorizes obligations of the Township solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for a purpose that is deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from the gross debt of the Township pursuant to N.J.S.A. 40A:2-44(c).

Section 7. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally



recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1876**

BOND ORDINANCE PROVIDING FOR THE CONSTRUCTION AND  
RENOVATION OF DEPARTMENT OF PUBLIC WORKS BUILDINGS IN  
AND BY THE TOWNSHIP OF MAHWAH, IN THE COUNTY OF  
BERGEN, NEW JERSEY, APPROPRIATING \$750,000 THEREFOR AND  
AUTHORIZING THE ISSUANCE OF \$712,500 BONDS OR NOTES OF  
THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MAHWAH, IN THE  
COUNTY OF BERGEN, NEW JERSEY (not less than two-thirds of all members thereof  
affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Township of Mahwah, in the County of Bergen, New Jersey (the "Township") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$750,000, including the sum of \$37,500 as the down payment required by the Local Bond Law. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$712,500 pursuant to the Local Bond Law. In anticipation of the

issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the construction of a new Department of Public Works building and the renovation of an existing Department of Public Works building, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is \$1,425,000, comprised of the bonds or bond anticipation notes as stated in Section 2 hereof and the \$712,500 in bonds or bond anticipation notes authorized to be issued pursuant to a self-liquidating bond ordinance being introduced and finally adopted simultaneously with this bond ordinance.

(c) The estimated cost of the improvement or purpose is equal to \$1,500,000, comprised of the amount of the appropriation herein made therefor and the \$750,000 appropriated by a self-liquidating bond ordinance being introduced and finally adopted simultaneously with this bond ordinance.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters

in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Township may lawfully

undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 27.50 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$712,500, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$750,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

**TOWNSHIP OF MAHWAH**  
ORDINANCE NO. 1877

**AN ORDINANCE AMENDING SECTION 2-21 ACCESS FOR ALL IN MAHWAH COMMISSION.**

**WHEREAS**, there is a need to revise the membership of the Access For All in Mahwah Commission to reflect the current structure of municipal departments,

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah as follows:

**Section 1.** Section 2-21.3c of the Code of the Township of Mahwah Functions and Duties, is revised to read as follows:

c. All actions shall be passed by a majority vote of a quorum of the public members. A quorum shall be defined as public members of the Commission, which shall not include the representatives of the Fire Department, Police Department, Department of Public Works, Emergency Service, Township Clerk, Council Liaison, and member of School Board.

**Section 2.** Section 2-21.4 of the Code of the Township of Mahwah, Members, is amended to read as follows:

- a. Twenty (20) voting members , of which at lease one (1) shall be from the Fire Department, Police Department, Department of Public Works, Emergency Service, the Township Clerk, a Council Liaison and a member of the School Board in addition to residents of the Township with disabilities, or parents of a child with a disability or a resident family member who is the caregiver of a person with a disability. Appointments shall be made by the Mayor with the consent of a majority of the Council except for the Council Liaison to be appointed by the Council.
- b. The specific appointments to the aforesaid Commission shall be made by the Mayor with the consent of the Township Council for three-year terms except for the Council Liaison which shall be a one year appointment by the Council. Initial terms shall be staggered as follows:
  1. Seven (7) members shall be appointed to a one-year term.
  2. Seven (7) members shall be appointed to a two-year term.
  3. Six (6) members shall be appointed to a three-year term.
- c. The Commission shall have the right to appoint volunteer, non-voting members. The Commission may appoint as many of these members as is deemed appropriate.

**Section 3. Severability**

If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 4. Repealer**

All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section 5. Effective Date**

This ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.



**TOWNSHIP OF MAHWAH**  
**ORDINANCE NO. 1878**

**AN ORDINANCE AMENDING CHAPTER 27 OF THE CODE OF THE TOWNSHIP OF MAHWAH AND PROVIDING FLOOD DAMAGE PREVENTION REGULATIONS.**

**WHEREAS**, the Federal Emergency Management Agency (FEMA) has determined that modified flood hazard determinations (FHDs) affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for the Township of Mahwah will be in effect as of August 28, 2019; and

**WHEREAS**, prior to August 28, 2019 the Township is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt flood plain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations;

**NOW THEREFORE BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MAHWAH THAT:**

**SECTION 1.** Chapter 27 of the code of the Township of Mahwah is hereby renamed as The Flood Damage Prevention Ordinance and is amended in its entirety to read as follows:

**CHAPTER XXVII - THE FLOOD DAMAGE PREVENTION ORDINANCE**

**27-1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

**27-1.1 STATUTORY AUTHORIZATION**

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Township Council of the Township of Mahwah, of Bergen County, New Jersey does ordain as follows:

**27-1.2 FINDINGS OF FACT**

- a) The flood hazard areas of the Township of Mahwah are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**27-1.3 STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a) Protect human life and health;
- b) Minimize expenditure of public money for costly flood control projects;

- c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d) Minimize prolonged business interruptions;
- e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### **27-1.4 METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b) Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

#### **27-2 DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**AH Zone-** Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone

**AO Zone-** Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

**Appeal** — A request for a review of the Township Engineer's interpretation of any provision of this ordinance or a request for a variance.

**Area of Shallow Flooding** — A designated AO or AH zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** — Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

**Base Flood** — A flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** — The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**Basement** — Any area of the building having its floor subgrade (below ground level) on all sides.

**Breakaway Wall** — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

**Development** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

**Digital Flood Insurance Rate Map (DFIRM)** — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Elevated Building** — A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**Erosion** — The process of gradual wearing away of land masses.

**Existing Manufactured Home Park or Subdivision** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Flood or Flooding** — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) The overflow of inland or tidal waters and/or
- b) The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Insurance Rate Map (FIRM)** — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

**Floodplain Management Regulations** — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more than 0.2 foot.

**Freeboard** — A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**Highest Adjacent Grade** — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

**Historic Structure** — Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved State program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in States without approved programs.

**Lowest Floor** — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

**Manufactured Home** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Manufactured Home Subdivision** — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**New Construction** — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

**Recreational Vehicle** — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Start of Construction** — (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348)) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

**Substantial Damage** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Township of Mahwah, from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **27-3.4 ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **27-3.5 INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be:

- a) Considered as minimum requirements;
- b) Liberally construed in favor of the governing body; and,
- c) Deemed neither to limit nor repeal any other powers granted under State statutes.

#### **27-3.6 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Township of Mahwah, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **27-4 ADMINISTRATION**

#### **27-4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in section 27-3.2. Application for a Development Permit shall be made on forms furnished by the Township's Planning and Zoning Department Engineer and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b) Elevation in relation to mean sea level to which any structure has been floodproofed.
- c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 27-5.2-2; and,
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### **27-4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Township Engineer is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

#### **27-4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Township Engineer shall include, but not be limited to:

##### **27-4.3-1 PERMIT REVIEW**

- a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of 27-5.3 (a) are met.

##### **27-4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA**

When base flood elevation and floodway data has not been provided in accordance with 27-3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Administrative Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer sections 27-5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 27-5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

##### **27-4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED**

- a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed structures:
  - i. verify and record the actual elevation (in relation to mean sea level); and
  - ii. maintain the floodproofing certifications required in section 27-4.1 (c).
- c) Maintain for public inspection all records pertaining to the provisions of this ordinance.

##### **27-4.3-4 ALTERATION OF WATERCOURSES**

- a) Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

##### **27-4.3-5 SUBSTANTIAL DAMAGE REVIEW**

- a) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
- b) Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Bureau of Flood Control.
- c) Ensure substantial improvements meet the requirements of sections 27-5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, 27-5.2-2, SPECIFIC

STANDARDS, NONRESIDENTIAL CONSTRUCTION and 27-5.2-3, SPECIFIC  
STANDARDS, MANUFACTURED HOMES.

**27-4.3-6 INTERPRETATION OF FIRM BOUNDARIES**

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 27-4.4.

**27-4.4 VARIANCE PROCEDURE**

**27-4.4-1 APPEAL BOARD**

- a) The Planning Board as established by Municipal Land Use Law shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b) The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Township Engineer in the enforcement or administration of this ordinance.
- c) Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the New Jersey Superior Court, as provided in NJSA 40:55D.
- d) In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - i. the danger that materials may be swept onto other lands to the injury of others;
  - ii. the danger to life and property due to flooding or erosion damage;
  - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. the importance of the services provided by the proposed facility to the community;
  - v. the necessity to the facility of a waterfront location, where applicable;
  - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - vii. the compatibility of the proposed use with existing and anticipated development;
  - viii. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- e) Upon consideration of the factors of section 27-4.4-1 (d) and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- f) The Township Business Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

**27-4.4-2 CONDITIONS FOR VARIANCES**



- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- d) For all new construction and substantial improvements, the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### **27-5.1-4 SUBDIVISION PROPOSALS**

- a) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
- d) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

#### **27-5.1-5 ENCLOSURE OPENINGS**

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two (2) exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

#### **27-5.2 SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 27-3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in section 27-4.3-2, USE OF OTHER BASE FLOOD AND FLOODWAY DATA, the following standards are required:

##### **27-5.2-1 RESIDENTIAL CONSTRUCTION**

- a) New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities(including all electrical, heating, ventilating, air- conditioning and other service equipment) and sanitary facilities, elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, ;

- b) Require within any AO or AH zone on the municipality's DFIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

#### **27-5.2-2 NONRESIDENTIAL CONSTRUCTION**

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities as well as all electrical, heating, ventilating, air-conditioning and other service equipment: either

- a) Elevated at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, and
- b) Require within any AO or AH zone on the municipality's DFIRM to elevate above the depth number specified in feet plus one (1) foot, above the highest adjacent grade (at least three (3) feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;
- c) or (relabel a,b and c below as c, d and e)
- d) Be floodproofed so that below the more restrictive, base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 6-1, the structure is watertight with walls substantially impermeable to the passage of water;
- e) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- f) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section 27-4.3-3 (b) ii.

#### **27-5.2-3 MANUFACTURED HOMES**

- a) Manufactured homes shall be anchored in accordance with section 27-5.1-1 (b).
- b) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
  - i. Be consistent with the need to minimize flood damage,
  - ii. Be constructed to minimize flood damage,
  - iii. Have adequate drainage provided to reduce exposure to flood damage,
  - iv. Be elevated on a permanent foundation such that the top of the lowest floor is at or above the more restrictive base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1 and,
  - v. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

#### **27-5.3 FLOODWAYS**

Located within areas of special flood hazard established in section 27-3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood

waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- b) If section 27-5.3 (a) is satisfied, all new construction and substantial improvements must comply with section 27-5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.
- c) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the accumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

## SECTION 2 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

## SECTION 3 REPEALER

Any ordinances or sections of ordinances existing at the time of adoption of this ordinance which conflict with the provisions of this ordinance is hereby repealed.

## SECTION 4 ADOPTION

This Ordinance shall be effective upon adoption and shall remain in force until modified, amended or rescinded by the Township Council of the Township of Mahwah, Bergen County, New Jersey.

ENACTED AND ADOPTED by the Township Council of the Township of Mahwah, New Jersey on \_\_\_\_\_, 2019.

ATTEST: *[Board, Council, etc.]* of the *(twp/city/boro)* of *(municipality)*,

\_\_\_\_\_  
*(twp/city/boro)* of *(municipality)*, Secretary

By: \_\_\_\_\_  
*[Board, Council, etc.]* President

APPROVED, this [day] day of [month], [year], by the Mayor of [Name of Municipality]

ATTEST:

*[Name of Municipality]* Secretary

Mayor \_\_\_\_\_

TOWNSHIP OF MAHWAH  
ORDINANCE NO. 1879

AN ORDINANCE SETTING SALARIES FOR THE MAYOR AND COUNCILMEMBERS FOR 2019

**WHEREAS**, the Mayor and Township Council wish to amend the salaries for the Mayor and Township Councilmembers; and

**WHEREAS**, the last adjustment to the salary for the Mayor was in 2007 and the last adjustment in salary for Councilmembers was in 1998;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Mahwah that the salaries for the year 2019 be as follows:

<u>TITLES</u>				<u>ANNUAL SALARY</u>	
				<u>MINIMUM</u>	<u>MAXIMUM</u>
<b>LEGISLATIVE</b>					
Council President				\$11,000	\$11,000
Council Vice President				\$10,000	\$10,000
Council Person				\$10,000	\$10,000
<b>OFFICE OF THE MAYOR</b>					
Mayor				\$20,000	\$20,000

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution # 218-19**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**BE IT RESOLVED**, that the Township Council of the Township of Mahwah hereby authorizes the Mayor and Municipal Clerk to execute the Developer's Agreement between the Township and Lithia Northwest Real Estate, LLC for property located at 440 Franklin Turnpike, Block 110.01, Lot 7 in the Township of Mahwah. Said Developer's Agreement is subject to the filing of the required securities being approved by the Township Attorney.

**BE IT FURTHER RESOLVED**, that the Municipal Clerk shall forward a copy of this resolution to the Mayor, Township Engineer, Township Attorney, Business Administrator, Director of Planning and Zoning, and Lithia Northwest Real Estate, LLC.

I hereby certify that this resolution consisting of one page was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019.

\_\_\_\_\_  
Kathrine Coviello, RMC/CMC/MMC  
Municipal Clerk

\_\_\_\_\_  
David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
P.O. BOX 733  
MAHWAH NJ 07430

Resolution # 219-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

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**WHEREAS**, NJSA 54:4-3.30 et seq. Law of 1948, Chapter 259 amended, provides a Claim for Property Tax Exemption for 100% Disabled Veterans; and

**WHEREAS**, Mr. Thomas Dulkis resides at 422 Forest Road, Mahwah, NJ, in Block 165, Lot 26; and

**WHEREAS**, Mr. Thomas Dulkis was declared a 100% Permanently and Totally Disabled Veteran by the United States Department of Veterans Affairs on April 24, 2019; and

**WHEREAS**, Mr. Thomas Dulkis' Application for Property Tax Exemption, Chapter 259, was approved by the Township of Mahwah's Tax Assessor on June 11, 2019;

**NOW, THEREFORE, BE IT RESOLVED** that the Tax Collector shall hereby cancel the 2019 2<sup>nd</sup> Taxes and forward on Block 138, Lot 85.

**BE IT FURTHER RESOLVED** that the Municipal Clerk shall forward a copy of this Resolution to the Tax Assessor, Tax Collector, Chief Financial Officer and the Auditor.

I hereby certify this resolution consisting of one page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27th day of June, 2019.

---

Kathrine G. Coviello  
Municipal Clerk

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David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution # 221-19**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, bids were solicited on May 13, 2019 for Bid MTB#18-21 "Cupola Renovation at Richard J. Martel Municipal Complex"; and

**WHEREAS**, two bids were received at the bid opening held on June 13, 2019; and

**WHEREAS**, Township Council has determined that the lowest responsive/responsible bidder is Dell-Tech Inc.; and

**WHEREAS**, the Business Administrator has provided a Certification As To Availability of Funds (to be confirmed upon the return of the CMFO);

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Mahwah hereby awards bid MTB#18-21 "Cupola Renovation at the Richard J. Martel Municipal Complex" to Dell-Tech Inc., for the Bid in the amount of \$99,700.00; and

**BE IT FURTHER RESOLVED**, that compensation for said contract shall be claimed, approved and paid in the manner set forth in N.J.S.A. 40A:5-18 and pursuant to agreement to be entered into between the parties; and

**BE IT FURTHER RESOLVED**, that the award of MTB#18-21 shall not exceed \$99,700.00 contract amount without further authorization of the Governing Body and the Chief Financial Officer has certified that the funds are available in Capital Account C-10-18-832-E02 and Buildings & Grounds operating account 9-01-C03-203; and

**BE IT FURTHER RESOLVED** that the Municipal Clerk shall forward a copy of this Resolution to the Business Administrator; CMFO; QPA, DPW Director, Buildings & Grounds Foreman and Blueline Architecture, LLC, and Dell-Tech Inc., 930 New York Avenue, Trenton, NJ 08638.

I hereby certify this resolution consisting of two page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27<sup>th</sup> day of June, 2019.

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Kathrine Coviello, RMC/CMC/MMC  
Municipal Clerk

---

David May  
Council President



**RESOLUTION  
TOWNSHIP OF MAHWAH  
P.O. BOX 733  
MAHWAH, NJ 07430**

Resolution #222-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, the Township Council of Mahwah by Resolution #018-19, dated January 3, 2019 awarded a Professional Services contract to Raymond R. Wiss, Esq. as Township Labor and Employment Law Attorney for 2019, in the not-to-exceed amount of \$18,000.00; and

**WHEREAS**, said contract needs to be amended to provide for an increase in the contract amount of \$12,000.00 to provide for possible, additional, legal services through year-end 2019; and

**WHEREAS**, the Business Administrator has provided a Certification As To Availability of Funds in Operating Account 9-01- -B30-286 (Special Counsel) (to be confirmed by the CMFO upon his return);

**NOW, THEREFORE, BE IT RESOLVED** that the Mahwah Township Council does hereby amend said contract to increase by \$12,000.00 the total contract to an amount not-to-exceed \$30,000.00; and

**BE IT FURTHER RESOLVED** that the Terms and Conditions of said contract are not otherwise amended by this action; and

**BE IT FURTHER RESOLVED** that the contract amount shall not exceed \$30,000.00 without further authorization of the Governing Body and the Chief Financial Officer has certified that the funds are available in Operating Account 9-01- -B30-286; and

**BE IT FURTHER RESOLVED**, that a notice of this action be printed in the official newspaper of the Township of Mahwah; and

**BE IT FURTHER RESOLVED**, that the Township Clerk shall keep a copy of this Resolution on file and available for inspection in the office of the Township Clerk and shall forward a copy of this Resolution to the Mayor; Business Administrator; CMFO; QPA; Administrative Support Specialist; and Raymond R. Wiss, Esq. of Wiss & Bouregy, P.C., 345 Kinderkamack Road, Westwood, N.J. 07675.

I hereby certify this resolution consisting of two page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019.

---

Kathrine Coviello RMC/CMC/MMC  
Municipal Clerk

---

David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution #223-19**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, by Resolution #226-17, dated June 8, 2017, the Township Council awarded a Professional Services Contract to Boswell Engineering, Inc. ("Boswell"), to perform Engineering Design Services for the Township in connection with the Rehabilitation of the Hearthstone Pumping Station for a not-to-exceed amount of \$72,000.00; and

**WHEREAS**, Boswell has submitted proof of payment of a fees to the State of New Jersey (\$5,675.00) and Northwest Bergen County Utilities Authority (\$100.00) in conjunction with the project, which fee payments should be reimbursed to Boswell; and

**WHEREAS**, in the absence of the CMFO, the Business Administrator has provided a Certification as to Availability of Funds in Account #9-60- -103-219 (Sewer -Auditing/ Engineering/ Legal/ Consultants) (to be confirmed by the CMFO upon his return);

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Mahwah that the aforesaid, not-to-exceed, Contract amount be and is hereby increased by \$5,775.00 to an amended, not-to-exceed, Contract amount of \$77,775.00; and

**BE IT FURTHER RESOLVED**, that all other Terms and Conditions of the original Contract are not otherwise amended; and

**BE IT FURTHER RESOLVED**, that the amended Contract amount of \$77,775.00 shall not be exceeded without the further authorization of the Governing Body and the CMFO has certified that funds are available; and

**BE IT FURTHER RESOLVED**, that the Mayor and Township Clerk be and are hereby authorized and directed to execute an Amendment to the aforesaid Contract in form to be approved by the Township Attorney; and

**BE IT FURTHER RESOLVED**, that a notice of this action be printed in the official newspaper of the Township of Mahwah; and

**BE IT FURTHER RESOLVED**, that the Township Clerk shall keep a copy of this Resolution and Contract Amendment on file and available for inspection in the office of the Township Clerk and shall forward a copy of this Resolution to the Mayor; Business Administrator; QPA; CMFO; and Boswell Engineering, Inc., 330 Phillips Avenue, South Hackensack, New Jersey 07606-1722.

I hereby certify this Resolution consisting of two pages, was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27<sup>th</sup> day of June, 2019.

---

Kathrine G. Coviello, RMC/CMC/MMC  
Municipal Clerk

---

David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution # 224-19**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, the Township of Mahwah has items as shown on the attached list that are not needed for public purposes; and

**WHEREAS**, the Township is desirous of selling these items in an “as is” condition without express or implied warranties; and

**WHEREAS**, Municibid is on NJ State Contract T-2581;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah as follows:

- (1) The items on the attached list are not needed for public service and shall be auctioned individually, online, and conducted through Municibid pursuant to State Contract T-2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with Municibid are available online at [municibid.com](http://municibid.com) and also available at the office of Municipal Clerk, of the Township of Mahwah.
- (2) The address of the auction site is [Municibid.com](http://Municibid.com)
- (3) The sale is being conducted pursuant to Local Finance Notice 2008-09.
- (4) All items shall be sold in an “as-is” condition without expressed or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said excess items.
- (5) The Township of Mahwah reserves the right to accept or reject any bid submitted.
- (6) The Township shall dispose of any item in accordance with all applicable environmental regulations if any item does not sell on the Municibid auction.

**BE IT FURTHER RESOLVED** that a notice of date, time and place of the public sale together with a description of the items to be sold will be advertised in the official newspaper, pursuant to N.J.S.A 40A:11-36.

**BE IT FURTHER RESOLVED** that the Municipal Clerk shall maintain a copy of this Resolution on file and shall forward a copy to the Mayor; Business Administrator; CMFO; QPA, Director of Public Works; and Municibid, Greg Berry, 2401 Walnut St. 6<sup>th</sup> Floor, Philadelphia, PA 19103.

I hereby certify that this resolution consisting of two page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27<sup>th</sup> day of June, 2019.

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Kathrine Coviello RMC/CMCMMC  
Municipal Clerk

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David May  
Council President

**Equipment List for Surplus Property Auction**

1 – 2003 Ford Van	VIN# - 1FDXE45F93HA70702
1 – 2008 Chevrolet El Dorado Van	VIN# - 1GBJG316281173632

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution # 225-19**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, the Township of Mahwah Youth Sports Boosters ("TMYSB") desires to purchase and install a replacement storage shed of approximately 10' x 20' at Continental Soldiers Park;

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Mahwah does hereby approve the installation of a replacement storage shed of approximately 10' x 20' at Continental Soldiers Park by the TMYSB, said storage shed to be purchased and maintained by the TMYSB, and said installation to be overseen and approved by the Department of Public Works; and

**BE IT FURTHER RESOLVED**, that the Township Clerk shall keep a copy of this Resolution on file and available for inspection in the office of the Township Clerk and shall forward a copy of this Resolution to the Mayor, Business Administrator, Director of Public Works, Director of Recreation, and the Township of Mahwah Youth Sports Boosters.

I hereby certify that this resolution consisting of one page, was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019.

\_\_\_\_\_  
Kathrine Coviello, RMC/CMC/MMC  
Municipal Clerk

\_\_\_\_\_  
Dave May  
Council President



**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
P.O. BOX 733  
MAHWAH NJ 07430

Resolution # 226-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**BE IT RESOLVED** the Kennel License Application submitted by Tam-Boer Kennels, 391 Forest Road, Mahwah, NJ is hereby approved for the period of July 1, 2019 through June 30, 2020.

**BE IT FURTHER RESOLVED** that the Municipal Clerk shall forward a copy of this resolution to the above-referenced firm, New Jersey Department of Health – Veterinary Public Health Program and the Mahwah Board of Health.

I hereby certify this resolution consisting of one page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27<sup>th</sup> day of June, 2019.

\_\_\_\_\_  
Kathrine G. Coviello  
Municipal Clerk

\_\_\_\_\_  
David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
P.O. BOX 733  
MAHWAH NJ 07430

Resolution #227-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

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**BE IT RESOLVED** by the Township Council of the Township of Mahwah that Firefighter Jason C. Goodrich of 14 Island Road is hereby appointed a Member of the Mahwah Fire Department Fire Company #1 conditional upon approval of the New Jersey State Firemen's Association.

**BE IT FURTHER RESOLVED** that the Municipal Clerk shall forward a copy of this resolution to the Fire Chief and Firefighter Goodrich.

I hereby certify this resolution consisting of one page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27th day of June, 2019.

---

Kathrine G. Coviello  
Municipal Clerk

---

David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
P.O. BOX 733  
MAHWAH NJ 07430

Resolution # 228-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

=====

**WHEREAS**, a Liquor License Application has been filed for the Place-to-Place Transfer (Expansion of Premises) of Plenary Retail Distribution License Number 0233-33-014-008 issued to JVCV LLC, DBA: Mahwah Wine and Liquor currently heretofore located at 340 Ridge Road in the Township of Mahwah, New Jersey; and

**WHEREAS**, the submitted Application is complete in all respects, the Transfer Fees have been paid and the Liquor License has been properly renewed for the Current License Term.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Mahwah, County of Bergen, State of New Jersey does hereby approve, effective June 28, 2019, the Place-to-Place Transfer (Expansion of Premises) of the aforesaid Plenary Retail Distribution licensed premises to expand their existing location, at 340 Ridge Road, to the adjourning Retail Space at 350 Ridge Road in the Township of Mahwah. And does hereby direct Municipal Clerk to endorse the Liquor License Certificate as follows: "This License, subject to all of its Terms and Conditions, is hereby transferred to the premises located at 350 Ridge Road, Mahwah, New Jersey."

I hereby certify this resolution consisting of one page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, this 27th day of June, 2019.

\_\_\_\_\_  
Kathrine G. Coviello  
Municipal Clerk

\_\_\_\_\_  
David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
P.O. BOX 733  
MAHWAH NJ 07430

Resolution # 229-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

=====

**WHEREAS**, Resolution #212-19, renewing Liquor Licenses for the 2019/2020 Licensing Term, at the Council Meeting of June 3, 2019; and

**WHEREAS**, the Liquor License for Bolla NJ Corporation cannot be renewed at this time as the Establishment remains Inactive and must make Application to the Director of the Alcoholic Beverage Control for a 12:39 Ruling; and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah, County of Bergen, State of New Jersey, that Resolution #212-19, adopted on June 13, 2019, is hereby amended to remove Liquor License #0233-33-013-009 held by Bolla Operating NJ Corporation.

**BE IT FURTHER RESOLVED** that at such time the 12:39 Ruling is received from the Director of the Alcoholic Beverage Control the Municipal Clerk shall place the renewal of the Liquor License on the next Council Meeting Agenda for consideration.

I hereby certify this resolution consisting of one page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, this 27th day of June, 2019.

\_\_\_\_\_  
Kathrine G. Coviello  
Municipal Clerk

\_\_\_\_\_  
David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
P.O. BOX 733  
MAHWAH NJ 07430

Resolution # 230-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, Mr. Peter J. Sikora, Owner of Property located at 1 Chapel Road, in Block 150, Lot 19.05, is requesting permission from the Township Council to place a fence within the Municipal Easement located on his property; and

**WHEREAS**, the Township Engineer's Associate has reviewed the Request and advised the Township Council that he takes no exception to the placement of the fence in the Municipal Easement; and

**WHEREAS**, the Request has also been reviewed by the Township Sewer Department; and

**WHEREAS**, the Township Council has reviewed the Recommendations of the Township Engineer's Associate and the Township Sewer Department and with the Recommendations set forth, would approve the installation of the fence.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah as follows:

1. The Township of Mahwah Township Council consents to the installation of the fence within the Municipal Easement on the property located in Block 150, Lot 19.05, commonly known as 1 Chapel Road.
2. Contingent upon the consent, Mr. Paul Sikora shall be required to provide to the Township written confirmation that if the Township is required access to the Easement Area and the fence is damaged, the Township will bear no responsibility or replacement of the fence or damages.

3. Mr. Paul Sikora shall also enter into an Access Agreement to be recorded in the Office of the Bergen County Clerk, which documents this Agreement so that any future Owners of the Property will have knowledge of the Agreement.

**BE IT FURTHER RESOLVED** that a copy of this Resolution shall be provided to Mr. Paul Sikora.

I hereby certify this resolution consisting of two page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27<sup>th</sup> day of June, 2019.

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Kathrine G. Coviello  
Municipal Clerk

---

David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution #231-19**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, the Township of Mahwah is trading in 200 Sig Sauer P226 magazines that are no longer of use to the Police Department, for a credit of \$1,600.00 towards the purchase of new Glock 9mm. magazines.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah, that 200 Sig Sauer P226 magazines each be removed from the Township Fixed Asset Inventory if necessary; and

**BE IT FURTHER RESOLVED** that a copy of this Resolution will be kept on file and available for inspection in the Office of the Township Clerk and that the Township Clerk shall forward a copy of this Resolution to the Business Administrator, QPA, Chief Financial Officer, Accounts Payable, Police Chief, and Airpark Holdings, Inc., dba Amchar Wholesale, Inc., 100 Airpark Drive, Rochester, NY 14624.

I hereby certify this resolution consisting of one page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27<sup>th</sup> day of June 2019.

\_\_\_\_\_  
Kathrine G. Coviello, RMC/CMC/MMC  
Municipal Clerk

\_\_\_\_\_  
David May  
Council President

TOWNSHIP OF MAHWAH  
P.O. BOX 733  
MAHWAH, NJ 07430

Resolution # 232-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**RESOLUTION APPROVING AFFIRMATIVE MARKETING PLAN FOR  
AFFORDABLE HOUSING UNITS**

**WHEREAS**, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, et seq., the Township of Mahwah is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created within the Township of Mahwah, are affirmatively marketed to low- and moderate-income households, particularly those living and/or working within Housing Region 1, the COAH Housing Region encompassing the Township of Mahwah.

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah as follows:

Affirmative Marketing Plan

- A. All affordable housing units in the Township of Mahwah shall be marketed in accordance with the provisions herein.
- B. The Township of Mahwah has a Prior Round Obligation and a Third Round Obligation covering the years from 1999-2025. This Affirmative Marketing Plan shall apply to all developments that contain or will contain low- and moderate-income units, including those that are part of the Township's Prior Round Fair Share Plan and its current Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan.
- C. The Affirmative Marketing Plan shall be implemented by one or more Administrative Agent(s) designated by and/or under contract to the Township of Mahwah. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the



developers/sellers/owners of affordable unit(s), and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Administrative Agent.

D. In implementing the Affirmative Marketing Plan, the Administrative Agent, acting on behalf of the Township of Mahwah, shall undertake, at the minimum, all of the following strategies:

1. Publication of an advertisement in one or more newspapers of general circulation within the housing region.
2. At least one additional regional marketing strategy using one of the other sources listed below.

E. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Township of Mahwah is located in COAH Housing Region 1, consisting of Bergen, Hudson, Passaic and Sussex Counties.

F. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following requirements:

1. All newspaper articles, announcements and requests for applications for very-low-, low- and moderate-income units shall appear in The Record, Jersey Journal, Herald News, New Jersey Herald and 24 Horas.
2. The primary marketing shall take the form of at least two press releases and/or a paid display advertisement in the above newspapers. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.
3. The advertisement shall include a description of the:
  - a. Address of the units;

- b. Range of prices for the units;
- c. Size, as measured in bedrooms, of units;
- d. Maximum income permitted to qualify for the units;
- e. Location of applications;
- f. Business hours when interested households may obtain an application; and
- g. Application fees.

G. Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program shall be available/posted in the following locations:

- 1. Mahwah Township Municipal Building
- 2. Mahwah Public Library
- 3. Mahwah Township website
- 4. Developer's Sales/Rental Offices

H. Applications shall be sent to:

- 1. Sussex County Main Library
- 2. Hudson County Administration Building
- 3. Passaic County Administration Building
- 4. Bergen County Administration Building

Applications shall be mailed by the Administrative Agent and Municipal Housing Liaison to prospective applicants upon request. Also, applications shall be available at the developer's sales/rental office.

I. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Bergen, Hudson, Passaic and Sussex Counties that will

aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers identified in Attachment A, Section 3e of Mahwah's *Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 1* (attached to and hereby made part of this Resolution) as well as the following entities: Fair Share Housing Center, the Latino Action Network, Bergen County NAACP, Bergen Urban League and Bergen County Housing Coalition.

1. Bi-annual informational circulars and applications shall be sent to the administrators of each of the following agencies within the counties of Bergen, Hudson, Passaic and Sussex:

Welfare or Social Service Board (via the Director)  
Rental Assistance Office (local office of DCA)  
Office on Aging

2. A flyer and preliminary application shall be sent to the chief personnel administrators of all of the major employers within the region, as listed on Attachment A, Section 3e.
  3. In addition, specific notification of the availability of affordable housing units in Mahwah shall be provided to the following entities: Fair Share Housing Center, the Latino Action Network, Bergen County NAACP, Bergen Urban League and Bergen County Housing Coalition.
- J. A random selection method to select occupants of very-low-, low- and moderate-income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (l). The Affirmative Marketing Plan shall provide a regional preference for very-low-, low- and moderate-income households that live and/or work in COAH Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very-low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the Township prior to the affirmative marketing of the units.
- K. The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify very-low-, low- and moderate-income households; to place income eligible households in very-low-, low- and moderate-income units upon initial occupancy; to provide for the initial occupancy of very-low-, low- and moderate-income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of

affordability controls; to assist with outreach to very-low-, low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C 5:80-26-1, et seq.

- L. The Administrative Agent shall provide or direct qualified very-low-, low- and moderate-income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.
- M. All developers/owners of very-low-, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.
- N. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very-low-, low- and moderate-income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.
- O. The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C.5:80-26-1, et seq.

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately in accordance with law.

I hereby certify that this resolution, consisting of five pages, was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019 .

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Kathrine Coviello RMC/CMC/MMC  
Municipal Clerk

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David May  
Council President

TOWNSHIP OF MAHWAH  
P.O. BOX 733  
MAHWAH, NJ 07430

Resolution #233-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**RESOLUTION OF INTENT TO BOND IN THE EVENT THAT THERE IS A  
SHORTFALL IN FUNDING TO EFFECTUATE CERTAIN AFFORDABLE HOUSING  
MECHANISMS IN ITS HOUSING ELEMENT AND FAIR SHARE PLAN**

**WHEREAS**, the Township Council of the Township of Mahwah desires to create a realistic opportunity for the creation of affordable housing within the Township; and

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

**WHEREAS**, after a Fairness Hearing held on July 10, 2018 and by Order dated July 12, 2018, the Hon. Christine Farrington, J.S.C. approved a series of settlement agreements between the Township of Mahwah, Fair Share Housing Center, and a developer-intervenor intended to establish the Township's affordable housing obligations; and

**WHEREAS**, in accordance with the July 12, 2018 Order, the Mahwah Planning Board has adopted a Housing Element and Fair Share Plan dated June 10, 2019 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, the Housing Element and Fair Share Plan provides for a municipally-sponsored Rehabilitation Program, extension of controls program, the Madeline Senior 100% affordable development and a 100% affordable housing development at 70 Island Road, in addition to other developer-funded mechanisms; and

**WHEREAS**, the Township has adopted a Development Fee Ordinance in order to generate revenue for the Township's Affordable Housing Trust Fund; and

**WHEREAS**, the Township of Mahwah anticipates that monies collected and deposited in the Affordable Housing Trust Fund, along with other permitted funding sources, will be sufficient to effectuate the above-referenced mechanisms; and

**WHEREAS**, the Township of Mahwah is committed to securing judicial approval of its Housing Element and Fair Share Plan; and

**WHEREAS**, the Township of Mahwah acknowledges the COAH rules and regulations that provide that, although utilization of a mandatory development fee ordinance is an appropriate mechanism to raise money for the purpose of off-setting the expenses incurred in connection with the Housing Element and Fair Share Plan, there must be an alternative funding source in the event that insufficient monies are derived from the mandatory development fee ordinance or other resources, or the funds are not received in a timely fashion, for the purpose of effectuating the municipally-sponsored Rehabilitation Program, extension of controls program, Madeline Senior 100% affordable development or constructing the 100% affordable housing development at 70 Island Road; and

**WHEREAS**, the Township of Mahwah wishes to express its commitment to cover such funding shortfalls and to fully implement the mechanisms set forth in its Housing Element and Fair Share Plan through bonding or other lawful means.

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah, that it does hereby confirm its intent that in the event that the projected funding from the mandatory development fee ordinance the Township has adopted is insufficient to complete the aforementioned affordable housing mechanisms, it is the intention of the Township Council of the Township of Mahwah to adopt appropriate bond ordinances in order to provide the requisite funding in an appropriate time frame.

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately in accordance with law.

I hereby certify that this resolution, consisting of two pages, was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019.

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Kathrine Coviello RMC/CMC/MMC  
Municipal Clerk

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David May  
Council President

TOWNSHIP OF MAHWAH  
P.O. BOX 733  
MAHWAH, NJ 07430

Resolution # 234-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**RESOLUTION ADOPTING THE 'OPERATING MANUAL' AND 'HOME  
IMPROVEMENT PROGRAM MANUAL'  
FOR THE TOWNSHIP OF MAHWAH**

**WHEREAS**, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, *et seq.*, the Township of Mahwah is required to adopt all program operating manuals, which set forth the procedures for administering the program(s) and their associated affordability controls for affordable housing units created within the Township of Mahwah.

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Mahwah, that the Township does hereby adopt the following attached operating manuals:

1. Operating Manual
2. Home Improvement Program Manual

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately in accordance with law.

I hereby certify that this resolution, consisting of one page, was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27<sup>th</sup> day of June, 2019.

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Kathrine Coviello RMC/CMC/MMC  
Municipal Clerk

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David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**

P.O. BOX 733  
MAHWAH NJ 07430

Resolution #235-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

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**A RESOLUTION TO SUBMIT TO THE VOTERS OF THE TOWNSHIP OF MAHWAH THE  
PROPOSITION TO INCREASE THE RATE OF TAX REQUIRED TO BE RAISED  
ANNUALLY FOR THE SUPPORT OF THE MAHWAH FREE PUBLIC LIBRARY**

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**Whereas**, N.J.S.A. 40:54-8.b(1) sets forth the procedure for the Governing Body of a Municipality, by Resolution, to submit to the Voters of the Municipality, at a General Election, a Proposition to change the Rate of the Tax required to annually be raised for the proper maintenance of a Free Public Library; and

**Whereas**, the Township Council of the Township of Mahwah seeks to determine whether the Voters of the Township of Mahwah want to increase the amount required to be raised by taxation for the support of the Free Public Library above the current minimum amount required by Statute; and

**Whereas**, the Mahwah Public Library Board of Trustees has presented a request and report in support of an increase in funding for the Library.

**Now Therefore Be It Resolved** by the Township Council of the Township of Mahwah that the Township Clerk and the Clerk of the County of Bergen are hereby authorized and directed to submit to the Voters of the Township of Mahwah at the next General Election the following Public Question :

"Shall the Tax Rate annually levied for the support of the Free Public Library in the Township of Mahwah be increased from 3.333 cents per \$100 of Assessed Equalized Value of Real Property to 3.75 cents per \$100 of Assessed Equalized Value of Real Property ?"



**Be It Further Resolved** the Municipal Clerk of the Township of Mahwah shall deliver to the Clerk of Bergen County a Certified Copy of this Resolution.

I hereby certify this resolution consisting of two page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27th day of June, 2019.

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Kathrine G. Coviello  
Municipal Clerk

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David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
**P.O. Box 733**  
**MAHWAH, NJ 07430**

**Resolution #236-19**

**Date: June 27, 2019**

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, Mahwah employee #243 went on sick leave on September 28, 2018; and

**WHEREAS**, according to the Contract Agreement between the Township of Mahwah and the employee's union, when an employee's injury, illness or disability extends beyond three months, the matter must be referred to the Township Council for their approval or disapproval.

**NOW, THEREFORE, BE IT RESOLVED**, that the Township Council approves an extension of sick time for employee #243 through \_\_\_\_\_, 2019; and

**BE IT FURTHER RESOLVED**, that the Township Clerk shall keep a copy of this Resolution on file and available for inspection in the office of the Township Clerk and shall forward a copy of this Resolution to the Business Administrator, HR Manager, and the Chief of Police.

I hereby certify this resolution consisting of one page was adopted at a meeting of the Township Council of the Township of Mahwah, on the 27th day of June, 2019.

\_\_\_\_\_  
Kathrine Coviello, RMC/CMC/MMC  
Municipal Clerk

\_\_\_\_\_  
David May  
Council President

**RESOLUTION**  
**TOWNSHIP OF MAHWAH**  
P.O. BOX 733  
MAHWAH NJ 07430

Resolution #237-19

Date: June 27, 2019

Name	Motion	Second	Yes	No	Abstain	Absent
Ariemma						
Ervin						
Ferguson						
Paz						
Wong						
Wysocki						
May						

**WHEREAS**, an Application has been filed for a Person-to-Person Transfer of Liquor License Number 0233-36-016-006, heretofore issued to New York Steakhouse and Pub Inc. (Boom Burger); and

**WHEREAS**, the submitted Application is complete in all respects, the Transfer Fee has been paid, and the License has been properly renewed for the 2019/2020 License Term; and

**WHEREAS**, the Applicants are 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 Applicants have 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** the Township Council of the Township of Mahwah, County of Bergen, State of New Jersey, does hereby approve effective June 28, 2019, the Person-to-Person Transfer of the aforesaid Liquor License to Hospitality Venture Management LLC (Doubletree By Hilton) and does hereby direct the Municipal 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 Hospitality Ventures Management LLC (Doubletree By Hilton), effective June 28, 2019".

I hereby certify this Resolution consisting of one page(s), was adopted at a meeting of the Township Council of the Township of Mahwah, on this 27th day of June, 2019.

\_\_\_\_\_  
Kathrine G. Coviello  
Municipal Clerk

\_\_\_\_\_  
David May  
Council President