

**TOWNSHIP OF CHATHAM  
TOWNSHIP COMMITTEE MEETING MINUTES  
FEBRYARY 26, 2009**

Mayor Tubbs called the regular meeting of the Township Committee of the Township of Chatham to order at 7:39 PM.

**Adequate Notice** of this meeting of the Township Committee was given as required by the Open Public Meetings Act as follows: Notice was given to both The Chatham Courier and the Morris County Daily Record on January 8, 2009; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 8, 2009; and notice was filed with the Township Clerk on January 8, 2009.

Boy Scout Den #15 led the flag salute.

**Roll Call**

Answering present to the roll call were Committeeman Gallop, Committeeman Brower, Deputy Mayor Hagner and Mayor Tubbs. Committeeman O'Connor was absent.

**Proclamation**

Mayor Tubbs read aloud the attached proclamation declaring February 1 – 8, 2009 as Scouting Anniversary Week. Boy Scout Den #15 was present at the meeting to accept the proclamation, and they also made a presentation. Mayor Tubbs thanked the Boy Scouts and Scout Leaders for their attendance at the meeting.

**Approval of Agenda**

Committeeman Brower moved to approve the agenda. Deputy Mayor Hagner seconded the motion, and it carried unanimously.

**Reports**

Committeeman Brower reported that the Senior Center improvements are progressing. Deputy Mayor Hagner reported that Council Member Bruce Harris from Chatham Borough asked if Township Committee meetings could also be broadcast on their public access channel, and she and Mr. Salvias will be meeting with Mr. Harris to work out the logistics before a decision is made. Deputy Mayor Hagner also reported that the Planning Board is going to be discussing revisions to the Master Plan, and she asked if the Township Committee would have any role in approving changes to the Master Plan. Attorney Woodward explained that the Planning Board creates the Master Plan at public meetings, and any land use ordinances are created and approved by the Township Committee but are reviewed by the Planning Board prior to public hearing and adoption. Deputy Mayor Hagner also reported that the proposal for a Safe Routes to School Grant would need to be discussed by the Township Committee. Committeeman Gallop reported that the Open Space Committee has begun looking at some new goals for 2009. He also reported that there are some issues with outstanding Green Acres funds still owed to the Township. Committeeman Gallop further reported that the front page of the Township website has been updated, and he described the new sections. Mayor Tubbs added that there is a feature on the website that allows for residents to register for e-mail notification when the website is updated. Mayor Tubbs then reported that at the next Township Committee meeting, the heads of the different boards and committees would begin making their annual reports. The 2009 Budget will also be discussed. Furthermore, Mayor Tubbs thanked Administrator Ciccarone for the work he has done to secure an agreement for 15 parking permits for Township residents at the Madison train station. A Public Safety Committee meeting was held, and Mayor Tubbs gave an update on the Police accreditation process. Mayor Tubbs also reported that Anna Riker had contacted him regarding the Summer Series, and if the Township was going to move forward with the series this year, fundraising efforts would need to begin. The Committee spoke in favor of moving ahead with the Summer Series. Committeeman Gallop asked about Shovel Ready Projects. Administrator Ciccarone said that Engineer Ruschke has been in touch with various State agencies on this topic, and the Township would be applying for funding for road maintenance

projects. Committeeman Gallop asked if it could be used for sidewalks on Shunpike Road. Administrator Ciccarone said that the sidewalks are not currently a “shovel-ready” project. Committeeman Brower suggested that the Township analyze any offers for money, and raised a concern about earmarks. Administrator Ciccarone reported that the 2009 budget should come in under the tax levy cap and spending cap, although the state aid figures have not yet been released. Attorney Woodward updated the Township Committee on Green Acres funding, and he said that the DEP asked for some additional information on the properties before they release the funds they owe to the Township. Committeeman Gallop raised a concern about Green Acres adding conditions after deals had been closed. Attorney Woodward explained the circumstances surrounding the purchase of one the properties. Mayor Tubbs reported that Engineer Ruschke has been in touch with the DEP regarding the Shunpike Fields application, and additional information has been submitted to the DEP.

**Hearing of Citizens/Petitions**

Mayor Tubbs opened the Hearing of Citizens.  
Hearing none, Mayor Tubbs closed the Hearing of Citizens.

**Public Hearing/Final Adoption of Ordinances**

**ORDINANCE 2009-01**  
**ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY ACCEPTING CONSERVATION EASEMENT FOR BLOCK 39, LOT 13.01, 42 MOUNTAIN AVENUE**

**WHEREAS**, Raja B. Maganti and Tejaswini Maganti are the owners of 42 Mountain Avenue, Block 39, Lot 13.01 on the Tax Map, and have, pursuant to a resolution of the Board of Adjustment granting variances for the construction of a single family residence on said premises, been required to convey a Conservation Easement to the Township, that includes without limitation an area of steep slopes, all as more particularly described in a metes and bounds description, dated February 5, 2007, prepared by William G. Hollows, NJPE and LS #27473, attached to said easement; and

**WHEREAS**, the Township Committee wishes to accept and authorize the Mayor and Clerk to execute such easement agreement;

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the above described conservation is hereby accepted and the Mayor and Clerk are hereby authorized to execute a conservation easement agreement, in form similar to that attached hereto, with the owners of Block 39, Lot 13.01, 42 Mountain Avenue, which easement shall be as described in accordance with the metes and bounds description prepared by William G. Hollows, NJPE and LS #27473, dated February 5, 2007, and which shall be approved by the Township Attorney.

Mayor Tubbs opened the Public Hearing on Ordinance 2009-01.  
Hearing none, Mayor Tubbs closed the Public Hearing.

Committeeman Brower moved to adopt Ordinance 2009-01. Committeeman Gallop seconded the motion.

**Roll call:** Committeeman Gallop, Aye; Committeeman O’Connor, Absent; Committeeman Brower, Aye; Deputy Mayor Hagner, Aye; Mayor Tubbs, Aye.

**ORDINANCE 2009-03**  
**AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE LAND DEVELOPMENT REGULATIONS ORDINANCE OF THE TOWNSHIP AS RESPECTS APPLICATION FORMS**

**BE IT ORDAINED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, as follows:

1. Appendix IV, Application Form, to Chapter XXX, Land Development, of the Code of the Township of Chatham be and the same hereby is repealed and deleted from said Chapter.
2. This ordinance shall take effect as provided by law.

Mayor Tubbs opened the Public Hearing on Ordinance 2009-03.  
Hearing none, Mayor Tubbs closed the Public Hearing.

Committeeman Gallop moved to adopt Ordinance 2009-03. Committeeman Brower seconded the motion.

**Roll call:** Committeeman Gallop, Aye; Committeeman O'Connor, Absent; Committeeman Brower, Aye; Deputy Mayor Hagner, Aye; Mayor Tubbs, Aye.

**Introduction of Ordinances**

**ORDINANCE 2009-04**

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING (COAH) REGARDING COMPLIANCE WITH THE MUNICIPALITY'S PRIOR ROUND AND THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS**

**BE IT ORDAINED** by the Township Committee of the Township of Chatham, County Morris, State of New Jersey that Chapter XXIX, Affordable Housing Administration, of the Code of the Township of Chatham is hereby repealed in its entirety and the following ordinance to address the requirements of the Council on Affordable Housing (COAH) regarding compliance with the municipality's prior round and third round affordable housing obligations is hereby adopted in its place:

Section 1. Affordable Housing Obligation

- (a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- (b) The Township of Chatham 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 Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways the Township of Chatham shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- (c) This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- (d) The Township of Chatham shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Township of Chatham Municipal Building, Municipal Clerk's Office, 58 Meyersville Road, Chatham, NJ 07928, New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, [www.nj.gov/dca/affiliates/coah](http://www.nj.gov/dca/affiliates/coah).

**Section 2. Definitions**

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

“Accessory apartment” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

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

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

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

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

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

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

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

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

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

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

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

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

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

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

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

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

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

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any 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” means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

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

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

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

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

“Median income” means the median income by household size for the applicable county, as adopted annually by COAH.

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

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

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

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

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

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

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

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

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

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

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

### **Section 3. Affordable Housing Programs**

The Township of Chatham has determined that it will use the following mechanisms to satisfy its affordable housing obligations:

- (a) A Rehabilitation program.
  1. The Township of Chatham’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.

2. Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.
  3. The Township of Chatham will address its rehabilitation requirement of 19 units through its participation in the Morris County Homeowner Rehabilitation Program.
  4. The program is maintained by the Morris County Division of Community Development. The program is funded through the U.S. Department of Housing and Urban Development (HUD). This program is a cooperative effort of the federal government through the Morris County Board of Chosen Freeholders and 37 municipalities to meet housing and neighborhood needs throughout the County. The Housing Rehabilitation Program is only one of the many activities receiving funding through this annual grant. Funds are to be used for major repairs or conditions related to health or safety. Examples of Work: roof replacement, furnace replacement, upgrade electrical, construct new well or septic, sewer or water hook-ups, provide handicapped access; and Type of Assistance: No Interest, No Payment 6-Year or 10-Year Forgivable Loan (Term is dependent on amount of assistance).
  5. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 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.
  4. The Township of Chatham shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
  5. The Township of Chatham shall not adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township of Chatham
  6. The Township of Chatham shall designate, subject to the approval of COAH, the Morris County Division of Community Development to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The County 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 COAH. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the County.
  7. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
    - i. 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.
    - ii. 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.
    - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
    - iv. 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.
- (b) An Accessory Apartment program.
1. All accessory apartments shall meet the following conditions:
    - i. Accessory apartments are permitted by the Zoning Ordinance for various zoning districts, provided the units are affordable to low- and moderate-income households. Accessory apartments may be developed as low-income or moderate-income units (accessory apartments may be limited to only low- or only moderate-income units as determined in the Fair Share Plan).

- ii. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.
  - iii. At the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to a household which is either a low- or moderate-income household.
  - iv. Rents of accessory apartments shall be affordable to low- or moderate-income households as per COAH and UHAC regulations.
  - v. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment.
  - vi. The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
  - vii. The Township of Chatham's accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
  - viii. No accessory apartment created as a result of this article or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.
2. The maximum number of creditable accessory apartments shall be equal to 10 percent of the Township of Chatham fair share obligation, whichever is greater (Additional units may be approved by COAH if the municipality has demonstrated successful completion of its accessory apartment program).
  3. The Township of Chatham shall designate an administrative entity to administer the accessory apartment program that shall have the following responsibilities:
    - i. The Administrative Agent shall administer the accessory apartment program, including advertising, income qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the affordable accessory apartment program in accordance with the UHAC.
    - ii. The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the provisions of this section/article. All denials shall be in writing with the reasons clearly stated.
    - iii. In accordance with COAH requirements, the Township of Chatham shall provide at least \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
  4. Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
    - i. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;
    - ii. Rough elevations showing the modifications of any exterior building façade to which changes are proposed; and
    - iii. A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect construction.

- (c) A Market to Affordable program.
1. A market to affordable program is established to permit the purchase or subsidization of units through a written agreement with the property owner and sold or rented to low- and moderate-income households. Subject to the provisions of 2iii below, the market to affordable programs may produce both low- and moderate-income units (the program may be limited to only low- or only moderate-income units as per the Fair Share Plan).
  2. The following provisions shall apply to market to affordable programs:
    - i. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
    - ii. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
    - iii. The municipality will provide a minimum of \$25,000 per unit to subsidize each moderate-income unit and/or \$30,000 per unit to subsidize the each low-income unit, with additional subsidy depending on the market prices or rents in a municipality.
    - iv. The maximum number of creditable market to affordable units shall be equal to no more than 10 for sale units and 10 rental units or a combined total of 10 percent of the fair share obligation, whichever is greater. (Additional units may be approved by COAH if the municipality demonstrates the successful completion of its initial market to affordable program.)
  3. The units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
    - i. Bedroom distribution (N.J.A.C. 5:80-26.3(b) and (c));
    - ii. Low/moderate income split (N.J.A.C. 5:80-26.3(a)); and
    - iii. Affordability average (N.J.A.C. 5:80-26.3(d) and (e)); however:
      - A. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
      - B. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.
- (d) Extending of Controls.
1. During the third affordable housing period, the existing controls on 75 affordable units in the Township of Chatham will expire before 2018.
  2. The Township of Chatham intends to extend the controls on these units
  3. The Township intends to extend the affordability restrictions for another 30-year period administratively at the time of resale.
- (e) Special Needs Housing.
1. A special needs program is hereby established to permit the construction of a special needs structure municipal property with an entity that will be determined at a later date.
  2. The Township also intends to work with the provider of an existing group home to expand the existing facility by two (2) bedrooms and to carry forward the 12 credits of affordable units from the existing group home.
  3. These bedrooms shall be for individuals that meet the definition of very low income that is an individual with a total gross annual income equal to 30 percent or less of the median income.

**Section 4. New Construction**

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

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

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.
2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
  - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
  - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and
  - iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

(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 N.J.A.C. 5:97-3.14.
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:
  - i. An adaptable toilet and bathing facility on the first floor;
  - ii. An adaptable kitchen on the first floor;
  - iii. An interior accessible route of travel on the first floor;
  - iv. An interior accessible route of travel shall not be required between stories within an individual unit;
  - v. 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
  - vi. 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 and N.J.A.C. 5:97-3.14, or evidence that the Township of Chatham has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
    - A. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
    - B. To this end, the builder of restricted units shall deposit funds within the Township of Chatham's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
    - C. The funds deposited under paragraph B. above shall be used by the Township of Chatham for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a

person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

- D. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of Chatham
- E. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Chatham's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
- F. 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 and N.J.A.C. 5:97-3.14.

**(c) Maximum Rents and Sales Prices**

- 1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH.
- 2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
- 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.
  - i. At least 10 percent of all low- and moderate-income rental units shall be affordable to households earning no more than 30 percent of median income.
- 4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- 5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
  - i. A studio shall be affordable to a one-person household;
  - ii. A one-bedroom unit shall be affordable to a one and one-half person household;
  - iii. A two-bedroom unit shall be affordable to a three-person household;
  - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
  - v. A four-bedroom unit shall be affordable to a six-person household.
- 6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
  - i. A studio shall be affordable to a one-person household;
  - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and

- iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- 7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- 8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- 9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- 10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
- 11. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

**Section 6. Affirmative Marketing Requirements**

- (a) The Township of Chatham shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, 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 also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 3 and covers the period of deed restriction.
- (c) The Administrative Agent designated by the Township of Chatham shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- (d) In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (e) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (f) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of Chatham.

**Section 7. Occupancy Standards**

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

**Section 8. 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 until the Township of Chatham elects to release the unit from such requirements however, and prior to such an election, 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, for at least 30 years.
- (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.
- (d) At the time of the first sale of the unit, the 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 requirements of 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 that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**Section 9. 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 method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (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 capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

**Section 10. 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 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

**Section 11. Limitations on indebtedness secured by ownership unit; subordination**

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

**Section 12. 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 until the Township of Chatham elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, 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, for at least 30 years.
- (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 Morris. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
  1. Sublease or assignment of the lease of the unit;
  2. Sale or other voluntary transfer of the ownership of the unit; or
  3. The entry and enforcement of any judgment of foreclosure.

**Section 13. Price Restrictions for Rental Units; Leases**

- (a) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated 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 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.

**Section 14. Tenant Income Eligibility**

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

1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
  2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
  3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  3. The household is currently in substandard or overcrowded living conditions;
  4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

**Section 15. Administration**

- (a) The position of Municipal Housing Liaison (MHL) for the Township of Chatham is established by this ordinance. The Township of Chatham shall make the actual appointment of the MHL by means of a resolution.
1. The MHL must be either a full-time or part-time employee of Township of Chatham
  2. The person appointed as the MHL must be reported to COAH for approval.
  3. The MHL must meet all COAH requirements for qualifications, including initial and periodic training.
  4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Chatham including the following responsibilities which may not be contracted out to the Administrative Agent:
    - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
    - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
    - iii. When applicable, supervising any contracting Administrative Agent.
    - iv. Monitoring the status of all restricted units in the Township of Chatham's Fair Share Plan;
    - v. Compiling, verifying and submitting annual reports as required by COAH;
    - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and

- vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
- (b) The Township of Chatham shall designate by resolution of the Township Committee, subject to the approval of COAH, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- (c) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of COAH. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (d) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
  - 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
  - 2. Affirmative Marketing;
  - 2. Household Certification;
  - 3. Affordability Controls;
  - 4. Records retention;
  - 5. Resale and re-rental;
  - 6. Processing requests from unit owners; and
  - 7. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
  - 8. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

**Section 16. Enforcement of Affordable Housing Regulations**

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
    - i. A fine of not more than \$15,000 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
    - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Chatham Affordable Housing Trust Fund of the gross amount of rent illegally collected;

- iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
- 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
  - (c) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
  - (d) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
  - (e) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
  - (f) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
  - (g) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
  - (h) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

**Section 17. Appeals**

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Executive Director of COAH.

**Section 18. Repealer**

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

**Section 19. Severability**

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

**Section 20. Effective Date**

This ordinance shall take effect as provided by law.

Attorney Woodward explained that this ordinance is required as part of the process of compliance with COAH regulations. It describes the process for satisfying the affordable housing obligations, and it is the implementation of the plan submitted to COAH. Deputy Mayor Hagner asked if this ordinance would replace any portion of the Township Code. Attorney Woodward said that it would replace Chapter XXIX. Mayor Tubbs asked about handicapped accessibility, and Administrator Ciccarone said that new units would have to comply with certain standards. Mayor Tubbs also inquired about the number of bedrooms equaling the number of age-restricted units. Attorney Woodward explained that in age restricted development, the number of units would equal the number of bedrooms, whereby a two-bedroom unit could be offset by an efficiency that did not have a bedroom. Deputy Mayor Hagner asked about funding for rehabilitation units. Attorney Woodward said that he would check with Township Planner Frank Banisch on the wording of the clause regarding rehabilitation units. He also explained that in order for the Township to get Third Round Substantive Certification from COAH, this ordinance must be adopted. Committeeman Brower voiced his opposition to this ordinance. Administrator Ciccarone explained that the plan would involve extending controls on the existing units, converting 10 market units to affordable units, creating 2 new group homes, and creating 10 affordable accessory apartments. Mayor Tubbs added that this ordinance would help to protect the Township. Attorney Woodward further recommended that this ordinance be introduced and adopted.

Committeeman Gallop moved to introduce Ordinance 2009-04. Mayor Tubbs seconded the motion.

**Roll call:** Committeeman Gallop, Aye; Committeeman O'Connor, Absent; Committeeman Brower, Nay; Deputy Mayor Hagner, Nay; Mayor Tubbs, Aye.

Ordinance 2009-04 was not introduced. Mayor Tubbs asked Attorney Woodward to make some recommended changes, and said that the ordinance would be placed on the agenda for the next Township Committee meeting. Attorney Woodward asked that the Township Committee members contact him with any questions on this ordinance.

**Consent Agenda**

**RESOLUTION 2009-059  
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF CHATHAM, ACKNOWLEDGING RECEIPT OF REPORTS AND MINUTES FROM  
VARIOUS BOARDS AND COMMITTEES**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following monthly reports of departments be acknowledged as received:

- Tax Collector – 2008 Annual Report, January 2009
- Animal Control – January
- Chatham Emergency Squad – January
- Municipal Court – January
- Fire Official – 2008 Annual Report
- Construction Official – January

Police Department – January  
Public Works – January

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following minutes from various boards and committees be acknowledged as received:

Open Space – November 2008, January 2009

**RESOLUTION 2009-060**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING MINUTES OF MEETINGS**

**BE IT RESOLVED** that the Township Committee of the Township of Chatham acknowledges receipt of and approves the minutes of the Township Committee meeting held on February 12, 2009.

**RESOLUTION 2009-061**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING EXECUTIVE SESSION MINUTES OF MEETINGS**

**BE IT RESOLVED** that the Township Committee of the Township of Chatham acknowledges receipt of and approves Executive Session minutes of the Township Committee meetings held on February 12, 2009.

**RESOLUTION 2009-063**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, REFUNDING OVERPAYMENT OF TAXES**

**WHEREAS**, due to inadvertence, error, tax appeal settlement or judgement, an overpayment of property taxes has been made for the following property; and

**WHEREAS**, the Tax Collector has recommended the refund of such overpayment,

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following refunds be made:

<u>BLOCK</u>	<u>LOT</u>	<u>OWNER NAME &amp; ADDRESS</u>	<u>AMOUNT</u>
62.08	1	CitiMortgage Attn: Shondell Ringo P.O. Box 23689 Rochester, NY 14692  Re: 16 Nicholson Drive	\$1645.73

**RESOLUTION 2009-064**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING ONE-DAY SPECIAL PERMIT FOR LIQUOR LICENSE**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following permit for a One-Day Liquor License is hereby approved:

<u>Name of Organization</u>	<u>Dates of Social Affair</u>	<u>Place where Affair will be held</u>
Chatham Township Volunteer Fire Department	June 6, 2009	Chatham Township Volunteer Fire Department 495 River Road Chatham, NJ 07928

**RESOLUTION 2009-065**  
**TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, RELEASING DEVELOPER ESCROW ACCOUNT AND/OR PERFORMANCE BOND BALANCES**

**WHEREAS**, developers are required to deposit monies with the Township for the purposes of offsetting Township professional costs to review plans or to inspect approved development and for the purpose of ensuring the satisfactory completion of public or private improvements; and

**WHEREAS**, these deposited monies, following all necessary withdrawals to cover Township expenses or costs, may be released upon satisfactory completion of work, receipt of review board decisions, or completion of guaranteed work, upon passage of a Township resolution authorizing such release.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following guarantee amount or account balances, with interest adjustments as prescribed by state and local laws, may be released to the depositor of record:

<u>NAME</u>	<u>A/C NUMBER</u>	<u>AMOUNT</u>
Mandhir Sen 567 River Road Chatham, NJ 07928 Re: Block 63, Lot 9.03	7760011236	\$64.07
Michael Rosenberg 1 Karlin Drive Chatham, NJ 07928 Re: Block 17, Lot 82	7760011177	\$500.00
Frederick Leoloff 6 Woodlawn Drive Chatham, NJ 07928 Re: Block 57, Lot 15	7760011238	\$240.00
Jack Haberman 11 Ridge Road Chatham, NJ 07928 Re: Block 6, Lot 2	7760011148	\$333.33

**RESOLUTION 2009-066  
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF  
CHATHAM REFUNDING CONSTRUCTION PERMIT FEE**

**WHEREAS**, the Township Committee has considered the request submitted by the Construction Office Manager with regard to the fee that was paid for a permit to remove an underground storage tank;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following amount be refunded to the depositor of record:

<u>NAME</u>	<u>PERMIT #</u>	<u>AMOUNT</u>
Care Environmental Remediation Services, Inc. Attn: Mr. Ward G. Donigian, Senior Project Manager 1248 Sussex Turnpike, Bldg. A, Unit 6 Randolph, NJ 07869	07-0513	\$65.00
Re: Block 123, Lot 13 9 Overlook Road		

**RESOLUTION 2009-067  
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF  
CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AUTHORIZING AN  
INTERLOCAL AGREEMENT AMONG THE TOWNSHIP OF CHATHAM, BOROUGH  
OF CHATHAM AND THE SCHOOL DISTRICT OF THE CHATHAMS REGARDING  
BALLFIELD MAINTENANCE FOR 2009**

**WHEREAS**, the Borough of Chatham, Township of Chatham and School District of the Chathams utilize each other's fields for various athletic activities, including, without limitation, baseball and softball; and

**WHEREAS**, there exists a need for preparation of the ball fields owned by the School District at Milton Avenue School and Washington Avenue School in the Borough and the Southern Boulevard School in the Township (hereinafter collectively “the ball fields”), and used by the joint recreation program of the Township of Chatham and the Borough of Chatham (hereinafter “the joint recreation program for baseball, softball and t-ball; and

**WHEREAS**, there may also exist a need for minor maintenance and repair of the ball diamonds, deemed a part of “the ball fields,” owned by the School District at the Middle School in the Borough and Chatham High School in the Township, and used by the joint recreation program for baseball, softball and t-ball; and

**WHEREAS**, the Borough and the Township have offered, and the School District is willing to accept said offer, for the Borough and the Township to prepare fields for games, i.e. raking, lining, grooming of pitchers mounds and batters boxes using volunteers during the 2009 Spring and Summer Recreation Season (March through July); and

**WHEREAS**, there may also be a need for minor repairs and renovation work to be performed by volunteers before the start of the Spring Season, under the supervision of the Public Works Departments of the Township and the Borough and/or the Board of Education; and

**WHEREAS**, this Agreement is authorized pursuant to State Law, specifically, N.J.S.A. 40:8A-1, et seq., N.J.S.A. 40:12-9, and N.J.S.A. 18A20-22;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the Mayor and Clerk are hereby authorized and directed to execute an Interlocal Agreement with the Township of Chatham and the School District of the Chathams providing that:

1. The Borough and the Township, as part of their joint recreation program, agree to perform minor maintenance and minor repairs of the ball fields prior to the 2009 Spring Recreation Season, under the supervision of the respective Public Works Department of the Borough and the Township, and to perform routine game preparation work during the season.
2. The School District grants permission for, and the right of access to, the Borough and the Township to prepare said ball fields and that the School District agrees to indemnify and hold harmless the Borough and the Township, and the volunteers, from any and all liability that may arise as a result of said maintenance.
3. The term of this Agreement shall commence on Monday, March 10, 2009 and end on Monday, July 31, 2009;
4. The Borough, the Township and the School District represent to each other that all necessary municipal or School District actions, as the case may be, to authorize and effectuate this Agreement have been taken and that each entity will take all future action reasonably necessary to effectuate the terms and conditions of said Agreement during its term; and
5. The laws of the State of New Jersey govern this Agreement.

**BE IT FURTHER RESOLVED**, that an original fully executed copy of the Interlocal Agreement shall be maintained in the Office Clerk.

#### **RESOLUTION 2009-068**

### **RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPOINTING MUNICIPAL JUDGE**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that Vincent J. McMann, Jr. be appointed Municipal Judge for a three year term effective March 1, 2009 through March 1, 2012.

#### **RESOLUTION 2009-069**

### **RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING ONE-DAY SPECIAL PERMIT FOR LIQUOR LICENSE**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following permit for a One-Day Liquor License is hereby approved:

<u>Name of Organization</u>	<u>Dates of Social Affair</u>	<u>Place where Affair will be held</u>
The Presbyterian Church of Chatham Township	March 28, 2009	Green Village Firehouse 529 Green Village Road Green Village, NJ 07935

**RESOLUTION 2009-070**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP**  
**OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING**  
**ONE-DAY SPECIAL PERMIT FOR LIQUOR LICENSE**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following permit for a One-Day Liquor License is hereby approved:

<u>Name of Organization</u>	<u>Dates of Social Affair</u>	<u>Place where Affair will be held</u>
Torey J. Sabatini School	March 14, 2009	Green Village Firehouse 529 Green Village Road Green Village, NJ 07935

**RESOLUTION 2009-071**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP**  
**OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING**  
**ONE-DAY SPECIAL PERMIT FOR LIQUOR LICENSE**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following permit for a One-Day Liquor License is hereby approved:

<u>Name of Organization</u>	<u>Dates of Social Affair</u>	<u>Place where Affair will be held</u>
Kings Road School PTO	May 8, 2009	Green Village Firehouse 529 Green Village Road Green Village, NJ 07935

**RESOLUTION 2009-072**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF**  
**CHATHAM APPROVING RAFFLES FOR PTO KINGS ROAD SCHOOL**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that off-premise and on-premise raffles to be conducted by PTO Kings Road School on May 8, 2009, at the Green Village Firehouse, 529 Green Village Road, Chatham Township, are hereby approved.

**RESOLUTION 2009-073**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF**  
**CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING A**  
**SETTLEMENT OF THE TAX APPEAL OF HOME PROPERTIES CHATHAM HILL,**  
**LLC**

**WHEREAS**, Home Properties Chatham Hill, LLC, has appealed its assessment for the year 2007 in the Tax Court of New Jersey, Docket No. 002858-2007; and

**WHEREAS**, the Tax Assessor of the Township of Chatham has recommended acceptance of a proposed settlement of this appeal;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that the above-referenced tax appeal be settled and the Municipal Attorney shall be authorized to execute a Stipulation of Settlement in the following amounts:

**BLOCK: 48.23**  
**LOT: 126.03**  
**STREET ADDRESS: Southern Boulevard**  
**YEAR: 2007**

	<b>Original Assessment</b>	<b>County Board Judgment</b>	<b>Requested 2007 Tax Court Judgment</b>
<b>Land:</b>	\$11,760,000.00	Direct Appeal	\$11,760,000.00
<b>Impvts:</b>	<u>\$16,660,000.00</u>		<u>\$13,696,000.00</u>
<b>Total:</b>	\$28,420,000.00		\$25,456,000.00

**BLOCK: 48.17**

**LOT: 126.02**  
**STREET ADDRESS: Southern Boulevard**  
**YEAR: 2007**

	<b>Original Assessment</b>	<b>County Board Judgment</b>	<b>Requested 2007 Tax Court Judgment</b>
<b>Land:</b>	\$ 6,720,000.00	Direct Appeal	\$ 6,720,000.00
<b>Impvts:</b>	<u>\$ 9,520,000.00</u>		<u>\$ 7,824,000.00</u>
<b>Total:</b>	\$16,240,000.00		\$14,544,000.00

Interest due on any refund will be waived by Home Properties Chatham Hill, LLC, provided it receives a credit for the total refund due against the next quarterly tax bill due following the date of entry of Judgment by the Tax Court.

Committeeman Gallop asked about the appointment of the Municipal Judge, and if it is a mandatory three-year term. He also asked if that would inhibit the Township from engaging in shared services. Attorney Woodward explained that the Township could decide at any point to engage in a shared court. Committeeman Brower asked if any of the resolutions required anyone to recuse from voting. Committeeman Gallop asked that Resolution 2009-062 be removed from the Consent Agenda for a separate vote.

Committeeman Brower moved to approve the Consent Agenda. Deputy Mayor Hagner seconded the motion.

**Roll call:** Committeeman Gallop, Aye; Committeeman O'Connor, Absent; Committeeman Brower, Aye; Deputy Mayor Hagner, Aye; Mayor Tubbs, Aye.

**RESOLUTION 2009-062**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF**  
**CHATHAM APPROVING RAFFLES FOR CORPUS CHRISTI CHURCH**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that off-premise raffles to be conducted by Corpus Christi Church on June 13, 2009, on-premise hourly raffles to be conducted on June 11, June 12, and June 13, 2009, and non-draw raffles (wheels of chance) to be conducted on June 11, June 12, and June 13, 2009 are hereby approved.

Mayor Tubbs moved to adopt Resolution 2009-062. Committeeman Brower seconded the motion.

**Roll call:** Committeeman Gallop, Abstain; Committeeman O'Connor, Absent; Committeeman Brower, Aye; Deputy Mayor Hagner, Aye; Mayor Tubbs, Aye.

**Discussion**

Proposals for COAH Program Administrative Agent

Discussion on this topic was tabled, since Ordinance 2009-04 was not introduced. Administrator Ciccarone added that if the topic is discussed at a future meeting, it would need to be discussed in Executive Session since it deals with contract negotiations.

**Hearing of Citizens/Petitions**

Mayor Tubbs opened the Hearing of Citizens.  
Hearing none, Mayor Tubbs closed the Hearing of Citizens.

**Discussion**

Police Department Promotion Procedures

Mayor Tubbs described the promotion procedures in the Police Department. The Public Safety Committee would conduct the first round of interviews for the Lieutenants and Chief's positions

in the Police Department. The Public Safety Committee would make recommendations to the Township Committee and then the entire Township Committee would interview the recommended candidates. Committeeman Brower asked about the time frame for the process. Mayor Tubbs said that the interviews would be conducted in the week following this meeting, and Administrator Ciccarone said that he anticipates that action would be taken at the Township Committee meeting on March 12, 2009. Administrator Ciccarone also said that he and the Acting Chief would be interviewing the patrolmen who are interested in being promoted to the rank of Sergeant. It is also possible that a special meeting could be held on March 18, 2009 for the purpose of holding a swearing-in ceremony for those officers to be promoted. Committeeman Gallop asked if the case should be made that the hiring of a new patrolman is necessary, considering budget concerns. Administrator Ciccarone pointed out that Lieutenant Katsakos was not replaced upon his retirement, and with the retirement of Chief Goeckel, the Police Department was reduced by a total of two people, and the current plan is only to hire one new officer. Committeeman Brower warned that there has been an increase in the number of bank robberies in the past few months, and he is concerned that burglaries will increase as the economy continues to suffer. Deputy Mayor Hagner asked if only current Township police officers would be considered for the positions of Chief, Lieutenant and Sergeant. Administrator Ciccarone said that according to state law, the position must be filled by promotion from within, and the only way that the position could be filled by an outsider would be if there were not any qualified candidates among those officers already employed by the Township. For the position of patrolman, it is hoped to hire an experienced officer, or at least someone who is trained and ready to work.

Committeeman Gallop moved to adjourn at 9:23 P.M. Committeeman Brower seconded the motion and it carried unanimously.

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Joy M. Wiley  
Municipal Clerk