

**MINUTES OF KNOWLTON TOWNSHIP  
WARREN COUNTY, NEW JERSEY  
PUBLIC MEETING MINUTES  
October 25, 2018**

The monthly meeting of the Knowlton Township Committee was held on this date at the Municipal Building, 628 Route 94, Columbia, New Jersey. This meeting was called to order at 7:01 p.m. by Mayor Starrs.

Mayor Starrs led the public in the Pledge of Allegiance.

Mayor Starrs read the following statement: "This meeting of the Knowlton Township Committee is being held in compliance with the Open Public Meetings Act: P: 1975, Chapter 231, noting that notice of all regularly scheduled meetings has been published in the Star Gazette and/or the Express Times as well as providing said schedule in the Municipal Clerk's office."

**Roll Call**

Present: Deputy Mayor Cuntala, Committeeman McNinch, Committeewoman Shippis (left at 7:15), Committeeman Van Horn and Mayor Starrs

Also present were Township Engineer Ted Rodman, Recreation Director Dennis Lembeck, Knowlton Fire & Rescue Captain Dave Neal and Township Attorney Richard Cushing (via conference call for Ordinance)

**PRESENTATION**

**NJ State Police/ Recent Burglaries**

Trooper Livingston provided an update regarding two recent burglaries in the area. Trooper Livingston that the NJ State Police are currently following leads but have nothing definite.

**PUBLIC COMMENT**

Resident Jeff Milesky commented that he had called 911 regarding a fuel leak on Route 46. Mr. Milesky also commented that the stuff that is being dumped because of the Columbia Dam is causing animals in his areas to get sick.

Resident Vincent Gaeta asked about campaign signs placed at Tunnel Field. Attorney Cushing said that if they are placed within the Route 94 right of way, they are the responsibility of the state.

**DEPARTMENT REPORTS**

**Recreation Director Dennis Lembeck**

Mr. Lembeck provided the committee with an update on the E-Coli that was found during water testing at the Knowlton Tunnel Field Concession stand. Mr. Lembeck explained that the ultraviolet light was not working and he needed to get a licensed plumber to take care of the situation. Mr. Lembeck also stated that Clean Community day went well and that the viaduct was painted.

**Township Engineer Ted Rodman**

Mr. Rodman explained that Polkville Road milling and paving is complete. It just needs line stripping done.

Kill/Station road repaving will not be completed this fall. The 2019 state aid application has been submitted for Stark Road. Storm water program has almost all the points for 2018. Knowlton Elementary School will have their annual Stormwater ambassador visit on November 1st.

### **Knowlton Fire & Rescue**

Director of Operations from St. Luke's, Rodney Wolf, and Mark Lohman, executive director of transportation at St Luke's, were in attendance.

Mr. Lohman commended Knowlton Township for bringing St. Luke's into their township. St. Luke's has a new ambulance that is being used in Knowlton.

Mr. Wolf provided the committee with a worksheet with the statistics since St. Luke's started, which had the amount of transports and responses.

EMS Captain David Neal also provided a worksheet with statistics of responses for the Township's ambulance.

### **ORDINANCE**

#### **Introduction**

2018-10 An Ordinance Amending Chapter 11, Article 35.1 the Code of the Township of Knowlton to Prohibit the Cultivation, Processing, or Dispensing of Marijuana within the Township

**WHEREAS**, the Municipal Land Use Law (N.J.S.A. 40:55D-1 *et seq.*) delegates to municipalities the power to zone and regulate development and that statute is amended from time to time by the state legislature; and

**WHEREAS**, various bills have been introduced by the New Jersey Legislature regarding the legalization of recreational marijuana and / or revisions to the State's medical marijuana program, and

**WHEREAS**, the Federal Controlled Substances Act (21 U.S.C. § 801 *et seq.*) prohibits, except for certain research purposes, the possession, distribution, and manufacture of marijuana and classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States; and

**WHEREAS**, the Township of Knowlton has determined that the legalization of recreational marijuana may have a long- term impact on the residents of Knowlton Township as well as concerns for the safety, security, and general nuisances that arise as a result of the use of drugs and substances that affect the citizens of Knowlton Township, and

**WHEREAS**, the Township of Knowlton has determined that it is in the best interest of its residents to prohibit recreational marijuana cultivation, production, and testing facilities, as well as recreational marijuana retail stores within the Townships borders, until such time as the New Jersey Legislature adopts legislation addressing recreational marijuana cultivation, process, and sale.

**NOW THEREFORE BE IT RESOLVED THAT** Chapter 11 "Land Development" of the Code of the Township of Knowlton shall be amended and supplemented to add Article 35.1 entitled "Prohibited Uses":

## **SECTION 1.**

### **11-283.1. PROHIBITION of RECREATIONAL MARIJUANA FACILITIES**

#### **A. Definitions**

“Cannabis” or “Marijuana” shall refer to all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

“CUMMA” shall mean the Compassionate Use of Medical Marijuana Act (N.J.S.A. 24:6I-1 et seq.)

“Medical Marijuana Facility” means any facility that cultivates, possesses, manufactures, distributes, processes, stores, tests, labels, packages, transports, delivers, sells or otherwise provides cannabis or cannabis products in any manner to patients or primary care-givers in accordance with CUMMA and licensed by the State or other government entity that regulates the licensing of a cannabis business.

“Recreational Marijuana Facility” means any facility that cultivates, possesses, manufactures, distributes, processes, stores, tests, labels, packages, transports, delivers or sells cannabis and cannabis products for non-medical or recreational purposes, including any ancillary or related paraphernalia that is not permitted pursuant to CUMMA.

#### **B. Medical Marijuana Facilities.**

- a. **General Use Permission and Restrictions.** The operation of Medical Marijuana Facilities, which include retail medical marijuana stores, retail medical marijuana cultivation facilities, retail medical marijuana products manufacturing facilities, and retail medical marijuana testing facilities are permitted within the C-2 Zone of the Township of Knowlton, subject to all applicable land use regulations set forth in Chapter 11 of the Code of the Township of Knowlton and all restrictions set forth in CUMMA or other applicable state legislation affecting the operation of Medical Marijuana Facilities. The operation of Medical Marijuana Facilities shall be prohibited in all other zones of the Township of Knowlton.
- b. **Security.** All Medical Marijuana Facilities shall comply with the security requirements set forth in N.J.A.C. 8:64-9.7 at seq. and any amendments thereto. At a minimum, each Medical Marijuana Facility shall:
  - i. Install, maintain in good working order and operate a safety and security alarm system that will provide suitable protection 24 hours a day, seven days a week against theft and diversion and that provides, at a minimum: (1) Immediate automatic or electronic notification to alert State or local police agencies to an unauthorized breach of security at the alternative treatment center; and (2) A backup system that activates immediately and automatically

- upon a loss of electrical support and that immediately issues either automatically or electronic notification to State or local police agencies of the loss of electrical support;
- ii. Implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and marijuana products;
  - iii. Implement security measures that protect the premises, registered qualifying patients, registered primary caregivers and principal officers, directors, board members and employees of Medical Marijuana Facility;
  - iv. Establish a protocol for testing and maintenance of the security alarm system;
  - v. Conduct maintenance inspections and tests of the security alarm system at the Medical Marijuana Facility at intervals not to exceed 30 days from the previous inspection and test and promptly implement all necessary repairs to ensure the proper operation of the alarm system;
  - vi. In the event of a failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours: (1) Notify the New Jersey Department of Health pursuant to N.J.A.C. 8:64-9.8; and (2) Provide alternative security measures approved by the New Jersey Department of Health or close the Medical Marijuana Facility impacted by the failure or malfunction until the security alarm system is restored to full operation;
  - vii. Keep access from outside the premises to a minimum and ensure that access is well controlled;
  - viii. Keep the outside areas of the premises and its perimeter well lighted. Exterior lighting must be sufficient to deter nuisance and criminal activity and facilitate surveillance; but must not disturb surrounding businesses or neighbors;
  - ix. Provide law enforcement and neighbors within 100 feet of the Medical Marijuana Facility with the name and phone number of a staff person to notify during and after operating hours to whom they can report problems with the establishment;
  - x. Equip interior and exterior premises with electronic monitoring, video cameras and panic buttons. A video surveillance system shall be installed and operated to clearly monitor all critical control activities of the Medical Marijuana Facility and shall be in working order and operating at all times. The Medical Marijuana Facility shall provide two monitors for remote viewing via telephone lines in State offices. This system shall be approved by the New Jersey Medical Marijuana Program prior to permit issuance. The original tapes or digital pictures produced by this system shall be stored in a safe place with a 30-day archive;
  - xi. Limit entry into areas where marijuana and marijuana products are held to authorized personnel;
  - xii. Consistently and systematically prevent loitering, that is, the presence of persons who are not on-duty personnel of the Medical Marijuana Facility and

who are not Medical Marijuana Facility registrants engaging in authorized dispensary activity; and

xiii. Provide onsite parking.

- c. **Transportation.** All transportation of marijuana and marijuana products shall be done securely and in compliance with N.J.A.C. 8:64-10.11. Specifically:
- i. Transportation of medical marijuana and medical marijuana products shall be done only in accordance with a delivery plan submitted to and approved by the New Jersey Department of Health.
  - ii. A Medical Marijuana Facility shall staff each transport vehicle with a delivery team consisting of at least two registered employees. At least one delivery team member shall remain with the vehicle at all times that the vehicle contains medicinal marijuana or medical marijuana products. Each delivery team member shall have access to a secure form of communication with the Medical Marijuana Facility, such as a cellular telephone, at all times that the vehicle contains medicinal marijuana and /or medical marijuana products. Each delivery team member shall possess his or her employee identification card at all times and shall produce it to Department of Health staff or law enforcement officials upon demand.
  - iii. Each transport vehicle shall be equipped with a secure lockbox or locking cargo area, which shall be used for the sanitary and secure transport of medicinal marijuana and medical marijuana products.
  - iv. Each Medical Marijuana Facility shall maintain current commercial automobile liability insurance on each vehicle used for transport of medicinal marijuana in the amount of one million dollars per incident.
  - v. Each Medical Marijuana Facility shall ensure that vehicles used to transport medicinal marijuana and / or medical marijuana products bear no markings that would either identify or indicate that the vehicle is used to transport medicinal marijuana.
  - vi. Each Medical Marijuana Facility shall ensure that transports are completed in a timely and efficient manner. A transport vehicle shall proceed from the departure point where the medicinal marijuana is loaded directly to the destination point where the medicinal marijuana is unloaded without intervening stops or delays.
  - vii. Each Medical Marijuana Facility shall maintain a record of each transport of medicinal marijuana in a transport logbook. For each transport, the logbook shall record: (1) The date and time that the transport began and ended; (2) The names of the employees comprising the delivery team; (3) The weight of the medicinal marijuana transported; (4) The lot number of the medicinal marijuana, the name of the strain and whether it is high, medium or low potency; and (5) The signatures of the employees comprising the delivery team.

- d. **Signage and Exterior Displays.** Signage and exterior displays on a Medical Marijuana Facility shall comply with all regulations and restrictions set forth in Chapter 11 of the Code of the Township of Knowlton (as applicable to the C-2 Zone) and N.J.A.C. 8:64-12.1 et seq. Specifically:
- i. Exterior signage shall be restricted to black text on a white
  - ii. Exterior signage shall not be illuminated at any time.
  - iii. Medical Marijuana Facilities shall not display on the exterior of the facility advertisements for medicinal marijuana or a brand name except for purposes of identifying the building by the permitted name.
  - iv. Marijuana and paraphernalia shall not be displayed or clearly visible to a person from the exterior of a Medical Marijuana Facility.

C. **Recreational Marijuana General Use Restrictions:** The operation of Recreational Marijuana Facilities, which include retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities; and the operation of retail marijuana social clubs are prohibited within the Township of Knowlton and, therefore, all activities related to the abovementioned retail uses such as, but not limited to cultivation, possession, extraction, manufacturing, processing, storing, laboratory testing, labeling, transporting, delivering, dispensing, transferring and distributing are expressly prohibited within the Township of Knowlton.

D. **Medical Use of Marijuana:** This Ordinance shall not be construed to limit any privileges or rights of any properly licensed Medical Marijuana Facility, qualifying patient, primary caregiver, registered or otherwise, pursuant to CUMMA.

C. **Enforcement:** Violations of this ordinance shall constitute a public nuisance and may be enforced by the Township Zoning Officer in accordance with the provisions of Chapter 127 of the Township Code or any other applicable law. However, any person who violates or neglects to comply with any provision of this ordinance or notice issued pursuant thereto shall, upon conviction thereof, be liable to a penalty of not less than \$1,000 for each day of the violation. Notwithstanding the above, this ordinance does not authorize a criminal prosecution, arrest, or penalty inconsistent with or prohibited by state law.

**SECTION 2.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 3.** 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 4.** A copy of this Ordinance shall be forwarded, after introduction, to the Knowlton Township Planning Board for a Master Plan consistency review in accordance with N.J.S.A. 40:55D-64.

**SECTION 5.** The within ordinance shall take effect in the time and manner provided by law and, in particular, the procedure delineated in the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.* and upon filing with the Warren County Planning Board.

Mayor Starrs commented that the requirements regarding security and signage in this ordinance are already state law. The language was taken from the NJ State Statute regulating medical marijuana.

**Motion was made by Mayor Starrs, second by Deputy Mayor Cuntala and approved by a roll call vote: Cuntala—yes, McNinch—yes, Shipp—yes, Van Horn—no, Starrs—yes to Ordinance 2018-10.**

#### **Public Hearing/Adoption**

**2018-08 An Ordinance of the Township of Knowlton Amending Chapter 11 Article 53 of the Code of the Township of Knowlton Pursuant to A Settlement Agreement Between the Fair Share Housing Center and the Township of Knowlton Dated December 5, 2016 as approved by the Superior Court of New Jersey, Warren County Law Division on May 19, 2017**

**WHEREAS**, the Township of Knowlton (the “Township”) filed a Declaratory Judgment Action in the Superior Court of New Jersey, Warren County, captioned IMO Township of Knowlton, Docket No. WRN-L-215-15 (the “Declaratory Judgment Action”), in furtherance of the Supreme Court’s March 10, 2015, decision In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

**WHEREAS**, the Township entered into a Settlement Agreement with the Fair Share Housing Center dated December 5, 2016 and authorized by Township Committee Resolution No. 2016-107, arising out of a Declaratory Judgment action that determines the Township’s affordable housing obligation and the mechanisms for how the obligation will be addressed filed by the Township seeking a delineation of the Township’s compliance with the Mt. Laurel doctrine and Fair Share Housing Act of 1985 (“Settlement Agreement”); and

**WHEREAS**, the Settlement Agreement was approved by the Superior Court of New Jersey, Somerset County Law Division at a duly noticed Fairness Hearing on May 19, 2017; and

**WHEREAS**, the Township Planning Board has adopted a Housing Element and Fair Share Plan in compliance with the Settlement Agreement and pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*; and

**WHEREAS**, the Settlement Agreement and the Court’s approval require certain changes to the Township’s ordinances to address compliance issues; and

**WHEREAS**, the Township Committee of the Township of Knowlton wishes to amend the Township’s ordinances to comply with the requirements of the Settlement Agreement and Court’s approval thereof;

**BE IT ORDAINED**, by the Mayor and Committee of the Township of Knowlton in the County of Warren, and State of New Jersey as follows (deletions are shown as ~~thus~~ and additions are shown as *thus*):

**SECTION 1.** Chapter 11, Article 53 entitled, “Affordable Housing Regulations” is hereby amended as follows:

§ 11-375 Affordable housing obligation.

A. This section is intended to assure that **very low-**, low-, and moderate-income units (“affordable units”) are created with controls on affordability over time and that **very low-**, low-, and moderate-income households shall occupy these units. This section shall apply except where inconsistent with applicable law **or an order from a court of competent jurisdiction.**

B. The Knowlton Township Planning Board has adopted a Housing Element and Fair Share Plan **(the “Fair Share Plan”)** pursuant to the **Fair Housing Act and** 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 Knowlton Township 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.~~

***Said Fair Share Plan provides the framework for this Article. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways the Township of Knowlton shall address its fair share for very low-, low-, and moderate-income housing as documented in the Fair Share Plan and outlined in the terms of the settlement agreement between the Township and Fair Share Housing Center (“FSHC”) in the Matter of the Application of the Township of Knowlton, County of Warren, Docket No. WRN-215-15 (the “Settlement Agreement”). The Superior Court of the State of New Jersey, Warren County approved a settlement agreement between the Township and FSHC via a fairness hearing on May 19, 2017 in the case captioned In the Matter of the Application of the Township of Knowlton, Docket No. WRN-L-215-15. Pursuant to the Settlement Agreement, the Township must seek approval from the Court of its Fair Share Plan referenced above via a Compliance Hearing, to be held after adoption of this Fair Housing Ordinance.***

~~C. This section 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. Knowlton Township 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 Knowlton Township Municipal Building, Municipal Clerk's Office, 150 Kennedy Road, Tranquility, 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).~~

***C. This Ordinance shall not become effective until the Court approves the Township’s Fair Share Plan and issues a Judgement of Repose.***

[§ 11-376 Definitions.](#)

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

**A. All definitions contained in N.J.A.C. 5:96-1.1 et seq., as may be amended by the decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Mount Laurel IV”) or a court of competent jurisdiction, Procedural Rules of the New Jersey Council on Affordable Housing, and N.J.A.C. 5:97-1.1. et seq., as may be amended by the decision in Mount Laurel IV or a court of competent jurisdiction, Substantive Rules of the New Jersey Council on Affordable Housing, are hereby incorporated and adopted as if set forth in full herein. For convenience, the following definitions are provided for reference purposes. In the event of any conflict or amendment to the New Jersey Administrative Code (N.J.A.C.), the definitions and rules duly promulgated pursuant to the Administrative Procedures Act shall govern this chapter.**

**B. As used in this chapter, the following terms shall have the meanings indicated:**

#### ACCESSORY APARTMENT

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

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

#### ADAPTABLE

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

#### ADMINISTRATIVE AGENT

The entity responsible for the administration of affordable units in accordance with this section, 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

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

#### AFFORDABILITY AVERAGE

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

#### AFFORDABLE

A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; 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

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

#### AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

#### AFFORDABLE HOUSING PROGRAM(S)

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

#### AFFORDABLE UNIT

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

#### AGENCY

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

#### AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

- A. All the residents of the development where the unit is situated are 62 years or older; or
- B. At least 80% of the units are occupied by one person that is 55 years or older; or
- C. 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

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

## CERTIFIED HOUSEHOLD

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

## COAH

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

## DCA

The State of New Jersey Department of Community Affairs.

## DEFICIENT HOUSING UNIT

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

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

## DEVELOPMENT

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

## **HOUSEHOLD**

***A person or persons occupying a housing unit, whether the owner or tenant of the unit.***

## INCLUSIONARY DEVELOPMENT

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

## LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50% or less of the median **gross** household income *for households of the same size within the housing region in which the household is located*.

#### LOW-INCOME UNIT

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

#### MAJOR SYSTEM

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

#### MARKET-RATE UNITS

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

#### MEDIAN INCOME

The median income by household size for the applicable county, as adopted annually by COAH.

#### MODERATE-INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50% but less than 80% of the median **gross** household income *for households of the same size within the housing region in which the household is located*.

#### MODERATE-INCOME UNIT

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

#### NON-EXEMPT SALE

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

#### **PROGRAM**

***The administration and assistance provided under this chapter to rehabilitate housing units that are substandard, create accessory apartments, and to fund the conversion of market units to affordable units.***

#### RANDOM SELECTION PROCESS

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

#### REGIONAL ASSET LIMIT

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

#### REHABILITATION

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

#### RENT

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

#### RESTRICTED UNIT

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

#### **SETTLEMENT AGREEMENT**

***A settlement agreement between the Township and Fair Share Housing Center ("FSHC") in the Matter of the Application of the Township of Knowlton, County of Warren, Docket No. WRN-215-15.***

#### **SUBSTANDARD HOUSING UNIT**

***A housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes a roof, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems) and/or a load bearing structural system.***

#### **SURROGATE**

***A census indicator of deficient housing.***

#### UHAC

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

## VERY LOW-INCOME HOUSEHOLD

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

## VERY LOW-INCOME UNIT

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

## WEATHERIZATION

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

## § 11-377 *Municipal Fair Share Obligation; Affordable housing programs.*

***As set forth in the Settlement Agreement, the fair share obligation of the Township consists of a ten (10) unit rehabilitation obligation, a fourteen (14) unit prior round obligation, and a thirty-two (32) unit prospective need obligation. The Township shall comply with the terms of the Settlement Agreement. The Township has determined that it will use the following mechanisms to satisfy its affordable housing obligations: rehabilitation, gut-rehabilitation, accessory apartments, market-to-affordable buy down, and special needs housing.***

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

A. A rehabilitation program.

(1) Knowlton Township'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) ***Household Eligibility.***

***(a) Only owners of houses or structures within the Township are eligible for the rehabilitation assistance provided under this chapter. Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds. For owner-occupied units, the owner shall be determined to be income eligible as a low- or moderate-income household as herein defined, in accordance with this chapter. For renter-occupied units, the tenant household shall be determined to be income eligible as low- or moderate-income, in accordance with this chapter.***

***(b) Owners of vacant units which are found to be eligible for assistance under this chapter shall enter into an agreement or deed restriction, that the unit will either be rented or sold to a very low -, low-, or moderate-income eligible household as provided in this chapter and the rent or sales price of the unit shall be restricted for a term of years as outlined herein.***

(3) ***Unit Eligibility.***

**(a) A dwelling unit which is proposed to be rehabilitated under this chapter must be found to be a substandard housing unit in accordance with N.J.A.C. 5:97-1.1 et seq., as may be amended by the decision in Mount Laurel IV or a court of competent jurisdiction. A "substandard housing unit" is defined as a unit that was built prior to 1950 and is overcrowded or one with health and safety code violations that require the repair or replacement of a major system. A major system shall include a roof, plumbing (including wells), heating, electricity, weatherization, sanitary plumbing (including septic systems) and/or a load bearing structural system. Upon rehabilitation, housing deficiencies shall be corrected and the house shall be brought up to code standard. The standard for evaluating rehabilitation activity shall be the local property maintenance code or, if none is available, the BOCA National Existing Structures Code. The rehabilitation activity shall not include luxury improvements, the purchase of appliances (with the exception of stoves) or improvements that are strictly cosmetic.**

~~(3) —~~ **(b) All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). Owners of units rehabilitated under this chapter shall be bound by a recorded deed or declaration of covenants and restrictions applied to the property upon which the rehabilitated unit is located running with the land and limiting its subsequent rental or sale of the unit. The form of which shall be prepared by the Township Attorney in conformance with the Act.**

~~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) Terms of Rehabilitation Program**

**(a) The assistance provided under this chapter shall be available until 10 units of deficient housing (including those completed between 200 and the adoption of this ordinance) have been satisfactorily rehabilitated within the Township's period of substantive certification or Judgment of Repose.**

~~(b) (4) Knowlton~~ **The Township 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) — Knowlton Township shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for Knowlton Township.~~

~~(6) — Knowlton Township shall designate, subject to the approval of COAH, 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 COAH. 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).~~

~~(7c)~~ **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:**

**(a) 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.

(b) 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.

(c) Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.

(d) 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.

***(5) The Township shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for Knowlton Township.***

***(6) The Township shall designate, subject to the approval of COAH, 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 COAH. 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).***

B. An accessory apartment program.

(1) All accessory apartments shall meet the following conditions:

(a) Accessory apartments are permitted ***in existing principal of accessory buildings in*** ~~by the Zoning Ordinance for all zoning districts, provided the units~~ ***comply with all conditions set forth herein.*** ~~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).

(b) Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.

(c) At the time of initial occupancy of the unit and for at least 10 years thereafter, the accessory apartment shall be rented only to a household which is either a low- or moderate-income household.

(d) Rents of accessory apartments, ***including an allowance for utilities,*** shall be affordable to low- or moderate-income households as per COAH and UHAC regulations.

(e) 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.

(f) 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.

(g) The Knowlton Township accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.

(h) 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.

**(i) The owner of the principal dwelling shall reside in the principal dwelling or the apartment at all times.**

**(j) The accessory apartment shall have living and sleeping space, cooking facilities, a kitchen sink, and complete sanitary facilities for the exclusive use of its occupants.**

**(k) The accessory apartment shall consist of not less than two rooms, one of which shall be a bathroom containing a flush toilet, wash basin and bathroom tub or shower.**

**(l) All rooms shall be accessible from within the apartment.**

**(m) The accessory apartment shall be separate from the primary residence and private and secure from all attached units.**

**(n) The apartment shall have direct access to the outdoors or directly to a hall from which there is direct access to the outdoors without passing through any other unit, and the accessory apartment shall comply with all requirements of the applicable building codes.**

**(o) If the apartment is located on the second or third floor, there shall be at least two means of access to the outdoors, available at all times, as approved by the Construction Official. Exterior stairways for the accessory apartment shall be located at the rear or side of the structure.**

(2) The maximum number of creditable accessory apartments shall be equal to no more than 10 or an amount equal to 10% of the ~~Knowlton~~-Township's fair share obligation, whichever is greater. (Additional units may be approved by COAH **or a court of competent jurisdiction** if the ~~municipality~~ **Township** has demonstrated successful completion of its accessory apartment program.)

(3) ~~Knowlton~~-The Township shall designate an ~~administrative entity~~ **Administrative Agent** to administer the accessory apartment program that shall have the following responsibilities:

(a) 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.

(b) The ~~administrative entity~~ **Administrative Agent** 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.

(c) In accordance with COAH requirements, ~~known to~~ **the Township** 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:

(a) 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;

(b) Rough elevations showing the modifications of any exterior building facade to which changes are proposed; and

(c) 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 Subsection C(2)(c) below, the market-to-affordable programs may produce both low- and moderate-income units **and will produce at least two very-low 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:

(a) At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.

(b) The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.

(c) The ~~municipality~~ **Township** 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.

(d) 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% of the fair share obligation, whichever is greater. (Additional units may be approved by COAH **or a court of competent jurisdiction** if the ~~municipality~~ **Township** 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:

- (a) Bedroom distribution [N.J.A.C. 5:80-26.3(b) and (c)];
- (b) Low/moderate income split [N.J.A.C. 5:80-26.3(a)]; and
- (c) Affordability average [N.J.A.C. 5:80-26.3(d) and (e)]; however:

[1] The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60% of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44% of median income; and

[2] The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70% of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40% of median income.

**D. A Gut-Rehabilitation Program.**

**E. Supportive and Special Needs Housing Unit Program**

**(1) All supportive and special needs housing units shall meet the following conditions:**

**(a) Supportive and special needs housing units shall be permitted in all zones.**

**Supportive and special needs housing includes, but is not limited to: residential health care facilities as licensed and/or regulated by DCA or the New Jersey Department of Health and Senior Services if the facility is located with, and operated by, a licensed health care facility; group homes for people with developmental disabilities and mental illness as licensed and/or regulated by the New Jersey Department of Health and Human Services; permanent supportive housing; and supportive share living housing. Long term health care facilities including nursing homes, and Class A, B, C, D, and E boarding homes do not qualify as special needs housing.**

**(b) Supportive and special needs housing shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.**

**(c) The following provisions shall apply to permanent supportive housing, group homes, residential health care facilities and supportive shared living housing.**

**(i) The unit of credit shall be the unit for permanent and supportive housing, but shall be the bedroom for group homes, residential health care facilities, and supportive shared living housing.**

(ii) *Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to N.J.A.C. 5:7-3.8.*

(iii) *Units/occupancy shall not be restricted to youth under 18 years of age.*

(iv) *All sites shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13.*

(v) *The Township or developer/sponsor shall have site control or the ability to control the site(s).*

(d) *The bedroom and/or units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:*

(i) *Affirmative marketing (N.J.A.C. 5:80-26.15); however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to individuals with special needs in accordance with a plan approved by the Council's Executive Director or a court of competent jurisdiction.*

(ii) *Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3);*  
*and*

(iii) *With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with N.J.A.C. 5:97-9.*

(2) *The following documentation shall be submitted prior to marketing the completed units or facility:*

(a) *An affirmative marketing plan in accordance with Subsection (d)(i) above;*  
*and*

(b) *If applicable, proof that the supportive and/or special-needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another state agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.*

(3) *Municipal building permit fees shall be waived in all cases involving permanent supportive housing, group homes, residential health care facilities and supportive shared living housing development under this section.*

(4) *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.*

**§ 11-378 Monitoring and Reporting Requirements**

***The Township 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 November 5, 2018, and on every anniversary of that date through November 5, 2025, the Township agrees to provide annual reporting of its 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 (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). 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 November 5, 2018, and on every anniversary of that date through November 5, 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 Fair Share Housing Center, 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 invite any interested party to submit comments to the municipality, with a copy to FSHC, 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. Any interested party may by motion request a hearing before the Court regarding these issues.***

***D. By November 5, 2020, and every third year thereafter, 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 invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low-income and family very low-income housing obligations.***

[§ 11-3789 through § 11-3801. \(Reserved\)](#)

§ 11-381      New construction.

The following general guidelines apply to all newly constructed developments that contain **very low-**, **low-**, and moderate-income housing units, including any currently unanticipated future developments that will provide **very low-**, **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. ***At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 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 50% 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:

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

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

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

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

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

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:

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

(b) An adaptable kitchen on the first floor;

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

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

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

(f) An accessible entranceway as set forth 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 Knowlton Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

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

[2] To this end, the builder of restricted units shall deposit funds within the Knowlton Township's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

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

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

[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 N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to Knowlton Township's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

[6] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

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.

**DC.** 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 Consent Order entered on December 16, 2016, by the Honorable Douglas K. Wolfson, JSC, in In the Matter of the Township of East Brunswick for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan, Docket No.: MID-L-004013-15. 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% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.

(3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, ***provided that at least 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.***

~~\_\_\_\_\_ (a) At least 10% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.~~

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

(5) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:

- (a) A studio shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a 1 1/2 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 4 1/2 person household; and
- (e) A four-bedroom unit shall be affordable to a six-person household.

(6) In determining the initial rents for compliance with the affordability average

requirements for restricted units in assisted living facilities, the following standards shall be used:

- (a) A studio shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a 1 1/2 person household; and
- (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

(7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate-size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

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

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

(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~~ **Northeast Urban Area**. This increase shall not exceed 9% 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. ***Affordable units shall utilize the same type of heating source as market units within an inclusionary development.***

§ 11-382 Applicability.

~~The following general guidelines 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.~~

1. ***The provisions of this Ordinance shall apply:***

*a. To all affordable housing developments and affordable housing units that currently exist within the Township;*

*b. To all affordable housing developments and affordable housing units that are proposed to be created pursuant to the Township's Housing Plan Element and Fair Share Plan;*

*c. To all unanticipated future developments that will provide affordable housing for low- and moderate-income households; and*

*d. To any property in the Township that is currently zoned for nonresidential uses and that is subsequently rezoned for multifamily residential purposes, and to all approvals for multifamily residential development granted by the Township Planning Board or Zoning Board of Adjustment, including approvals of use or density variances, site plans, or subdivisions, and redevelopment projects subject to a redevelopment plan adopted by the Township governing body governing the development and redevelopment of designated areas in need of rehabilitation or areas in need of redevelopment in the township, including substantial revisions to previously approved developments, where such rezoning, approval or revision results in or increases the number of residential units by five (5) or more units.*

§ 11-383 Affirmative marketing requirements.

A. Knowlton Township 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 2 and covers the period of deed restriction.

C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 2 comprised of Warren, Essex, Morris and Union 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 rerentals.*** The Administrative Agent designated by Knowlton Township shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.

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 process for available affordable units shall begin at least four months **(120 days)** prior to the expected date of occupancy.

G. 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 Knowlton Township.

**H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; and the municipal administration building in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.**

**I. The affirmative marketing plan shall specifically notify the following community and regional organizations in advertisement for affordable housing:**

- a. Fair Share Housing Center, Cherry Hill.**
- b. NJ State Conference of the NAACP, Trenton.**
- c. Latino Action Network, Freehold.**
- d. Supportive Housing Association, Cranford.**
- e. Central Hersey Housing Resource Center, Raritan.**
- f. NORWESCAP, Phillipsburg.**
- f. East Orange NAACP,**
- g. Newark NAACP,**
- h. Morris County NAACP**
- i. Elizabeth NAACP**

§ 11-384 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; **and**
- (4) Provide separate bedrooms for parents and children.**

B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§ 11-385 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 section until Knowlton Township 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 section, 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 section 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.

§ 11-386 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.~~ ***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 capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ 11-387 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% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.

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

***C. 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.***

***D. 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.***

§ 11-388 Indebtedness secured by ownership unit; subordination; **Capital Improvements to Ownership Units.**

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

**C.** *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.*

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

#### § 11-389 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 section until Knowlton Township 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 Warren. 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 section, 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.

§ 11-390 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 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this section.

***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 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.***

§ 11-391 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% of median income.

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

(3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

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

(2) The household has consistently paid more than 35% (40% for households eligible for

age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

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

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

(5) The household documents 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 Subsection B(1) through (5) above with the Administrative Agent, who shall counsel the household on budgeting.

#### § 11-392 Administration.

A. The position of Municipal Housing Liaison (MHL) for Knowlton Township is established by this section. The Knowlton Township Committee 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 Knowlton Township.

(2) The person appointed as the MHL must be reported to COAH **or a Court of competent jurisdiction** 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 Knowlton Township, including the following responsibilities which may not be contracted out to the Administrative Agent:

(a) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;

(b) The implementation of the Affirmative Marketing Plan and affordability controls.

(c) When applicable, supervising any contracting Administrative Agent.

(d) Monitoring the status of all restricted units in Knowlton Township's Fair Share Plan;

(e) Compiling, verifying and submitting annual reports as required by COAH **pursuant to N.J.A.C. 5:97 and the Settlement Agreement;**

(f) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and

(g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

B. Knowlton Township shall designate by resolution of the Knowlton Township Committee, subject to the approval of COAH **or a Court of competent jurisdiction**, 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. ***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.***

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;

***(a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township and the provisions of N.J.A.C. 5:80-26.15; and***

***(b) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.***

(3) Household certification;

***a. Soliciting, scheduling, conducting and following up on interviews with interested households;***

***b. 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;***

***c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;***

***d. 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.;***

**e. 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;**

**f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township when referring households for certification to affordable units; and**

**g. Notifying the following entities of the availability of affordable housing units in the Township: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.**

**(4)** Affordability controls;

**a. 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;**

**b. 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;**

**c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Warren County Register of Deeds or Warren County Clerk's office after the termination of the affordability controls for each restricted unit;**

**d. Communicating with lenders regarding foreclosures; and**

**e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.**

**(5)** Records retention;

**(6)** Resale and re-rental;

**a. 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**

**b. 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.**

**(7)** Processing requests from unit owners; and

**a. 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;*

- b. 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;*
- c. Notifying the municipality of an owner's intent to sell a restricted unit; and*
- d. Making determinations on requests by owners of restricted units for hardship waivers.*

(8) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.

- a. 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;*
- b. 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;*
- c. 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;*
- d. 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;*
- e. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and*
- f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Township Committee and the Court, setting forth procedures for administering the affordability controls.*

*(9) Preparation of 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 and the Settlement Agreement.*

(910) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ 11-393 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 **very low**, low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

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

(a) A fine of not more than \$1,000 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;

(b) In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Knowlton Township Affordable Housing Trust Fund of the gross amount of rent illegally collected;

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

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

C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

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

be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

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

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

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

#### § 11-394 Appeals.

Appeals from all decisions of an Administrative Agent designated pursuant to this section shall be

filed in writing with the Executive Director of COAH *or a court of competent jurisdiction*.

**NUMBERING.**

This ordinance may be renumbered for codification purposes.

**REPEALER**

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

**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.

**EFFECTIVE DATE**

This Ordinance shall not become effective until the Court approves the Township’s Housing Plan Element and issues a Judgement of Repeal.

**Motion was made by Mayor Starrs, second by Deputy Mayor Cuntala and approved by an all-in-favor to go into public comment.**

**No public comment**

**Motion was made by Mayor Starrs, second by Deputy Mayor Cuntala and approved by an all-in-favor to come out of public comment.**

**Motion was made by Mayor Starrs, second by Deputy Mayor Cuntala and approved by roll call vote: Cuntala--yes, McNinch--yes, Shipps--absent, Van Horn--yes, Starrs--yes Ordinance 2018-08**

**RESOLUTIONS**

**2018-134- Resolution of the Knowlton Township Committee Endorsing the Knowlton Township Housing Plan Element and Fair Share Plan**

**WHEREAS**, the Planning Board of Knowlton Township, Warren County, New Jersey, adopted its original Third Round Housing Plan Element and Fair Share Plan of the Master Plan pursuant to N.J.S.A. 40:55D-28.b.(3) in November 2008 and received Third Round Substantive Certification from the

Council on Affordable Housing (“COAH”) on October 14, 2009; and

**WHEREAS**, the Township of Knowlton filed a Declaratory Judgment Action in the Superior Court of New Jersey, Warren County, in furtherance of the Supreme Court’s March 10, 2015, decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”), which was assigned to the Honorable Thomas C. Miller P.J. Cv.; and

**WHEREAS**, the Township engaged in good faith settlement discussions with interested party, Fair Share Housing Center (“FSHC”); and

**WHEREAS**, said negotiations resulted in a comprehensive Settlement Agreement between the Township and FSHC dated December 5, 2016 (the “Settlement Agreement”); and

**WHEREAS**, a Fairness hearing was held on May 9, 2017, at which the Settlement Agreement was approved, and said approval was memorialized by an Order of the same date; and

**WHEREAS**, as per the terms of the Settlement Agreement and the Court’s May 9, 2017 Order, the Township’s planner prepared a Housing Element and Fair Share Plan, which was reviewed by the Planning Board and is attached hereto as **Exhibit A**; and

**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Housing Element and Fair Share Plan on \_\_\_\_\_ 2018 and adopted the Housing Element and Fair Share on that same day by Resolution, which is attached hereto as **Exhibit B**; and

**NOW THEREFORE BE IT RESOLVED** by the Governing Body of Knowlton Township, Warren County, State of New Jersey:

1. That it hereby endorses the Housing Element and Fair Share Plan as adopted by the Knowlton Township Planning Board; and

2. That notice of this endorsement and a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Knowlton Township municipal clerk’s office located at 628 Route 94, Columbia, NJ 07832, during the hours of 8:00AM – 4:00PM on Monday through Friday (except for the second and fourth Wednesday of each month) for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

3. That it authorizes and directs its professionals to file with the Court (i) the Housing Element and Fair Share Plan, (ii) the resolutions of the Planning Board adopting and the Township Committee endorsing the Housing Element and Fair Share Plan, and (iii) any additional documents the professionals deem necessary or desirable.

4. That it authorizes its professionals to seek Court approval of the Housing Element and Fair Share Plan at a properly noticed Compliance Hearing.

5. That it reserves the right to amend the Housing Element and Fair Share Plan, should that be necessary.

### **CERTIFICATION**

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Knowlton Township Committee at a meeting held on October 25, 2018.

**Motion was made by Mayor Starrs, second by Deputy Mayor Cuntala and approved by a roll call vote: Cuntala--yes, McNinch--yes, Shipp--absent, Van Horn--yes, Starrs--yes, Resolution 2018-134.**

**2018-135- Resolution of the Township of Knowlton Adopting Affirmative Marketing Plan Pursuant to New Jersey Uniform Housing Affordability Controls (U.H.A.C) and Knowlton Township's Commitment to Affirmative Marketing of Affordable Housing**

**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 Knowlton is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created within the Township of Knowlton, are affirmatively marketed to very low-, low- and moderate-income households, particularly those living and/or working within Housing Region 2, the COAH Housing Region encompassing the Township of Knowlton, all of Essex, Morris, Union and Warren Counties.**

**NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Knowlton, County of Warren, in meeting assembled as follows:**

#### **Affirmative Marketing Plan**

- A. All affordable housing units in the Township of Knowlton shall be marketed in accordance with the provisions herein.**
- B. The Township of Knowlton 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 very low-, 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 Knowlton. 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 Knowlton, 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. Broadcasting of an advertisement by a radio or television station broadcasting throughout the housing region.**
- 3. 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 COAH Region 3 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 Knowlton is located in COAH Housing Region 2, consisting of Essex, Morris, Union and Warren 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 *Phillipsburg Free Press*.**
- 2. The primary marketing shall take the form of at least one press release and a paid display advertisement in the above newspapers once a week for four consecutive weeks. 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. Location of the units;

b. Directions to the units;

c. Range of prices for the units;

d. Size, as measured in bedrooms, of units;

e. Maximum income permitted to qualify for the units;

f. Location of applications;

g. Business hours when interested households may obtain an application; and

h. 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. Knowlton Township Municipal Building

2. Knowlton Township Web Site
  
3. Developer’s Sales/Rental Offices
  
4. Warren County Library Headquarters Branch, Belvidere, NJ

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.

H. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in *Essex, Morris, Union and Warren* Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers identified in Attachment A, Part III, Marketing, Section 3e of COAH’s ***Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 2*** (attached to and hereby made part of this Resolution) as well as the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, the New Jersey Housing Resource Center and the Central Jersey Housing Resource Center.

1. Quarterly informational circulars and applications shall be sent to the administrators of each of the following agencies within the counties of *Essex, Morris, Union and Warren*:

Welfare or Social Service Board (via the Director)

Rental Assistance Office (local office of DCA)

County Office on Aging

2. Quarterly informational circulars and applications shall be sent to the chief personnel administrators of all of the major employers within the region, as listed on Attachment A, Part III, Marketing, Section 3e (attached to and hereby made part of this Resolution).

3. In addition, specific notification of the availability of affordable housing units in Independence shall be provided to the following entities: Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP, the Latino Action Network (P.O. Box 943, Freehold, NJ 07728, East Orange NAACP (P.O. Box 1127, East Orange, NJ 07019), Newark NAACP (P.O. Box 1262, Newark, NJ 07101, Morris County NAACP (P.O. Box 2256, Morristown, NJ 07962), and Elizabeth NAACP (P.O. Box 6732, Elizabeth, NJ 07206).
- I. The following is a listing of community contact person(s) and/or organizations in *Essex, Morris, Union and Warren* Counties that will aid in the affirmative marketing program and provide guidance and counseling services to prospective occupants of very low-, low- and moderate-income units:
    1. Central Jersey Housing Resource Center, 600 First Avenue, Suite 3, Raritan, NJ 08869
    2. Northwest New Jersey Community Action Program, Inc. (NORWESCAP), 350 Marshall Street, Phillipsburg, NJ 08865
  - 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 (I). 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 2, comprised of *Essex, Morris, Union and Warren* Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the Township prior to the affirmative marketing of the units.
  - 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.*

3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies)		
Essex County		
<input type="checkbox"/>	Newark Liberty International Airport	Newark Airport, Newark, NJ
<input type="checkbox"/>	Verizon Communications	540 Broad St Newark, NJ 07102
<input type="checkbox"/>	Prudential Financial, Inc.	751 Broad St Newark, NJ 07102
<input type="checkbox"/>	Continental Airlines	1 Newark Airport, Newark, NJ

<input type="checkbox"/>	University of Medicine/Dentistry	Office of Marketing & Media Relations 150 Bergen Street Room D347 Newark, NJ 07103
<input type="checkbox"/>	Public Service Enterprise Group	80 Park Plz Newark, NJ 07102
<input type="checkbox"/>	Prudential Insurance	751 Broad Street, Newark, NJ 07102-3777
<input type="checkbox"/>	Horizon Blue Cross & Blue Shield of NJ	3 Raymond Plz W Newark, NJ 07102
<input type="checkbox"/>	Newark Liberty International Airport	Newark Airport, Newark, NJ
<input type="checkbox"/>	Horizon Blue Cross & Blue Shield of NJ	540 Broad St Newark, NJ 07102
<b>Morris County</b>		
<input type="checkbox"/>	Atlantic Health System- Morristown Memorial Hospital	100 Madison Avenue Morristown, NJ 07962
<input type="checkbox"/>	AT&T	295 N Maple Ave, Basking Ridge, NJ and 180 Park Ave, Florham Park, NJ
<input type="checkbox"/>	US Army Armament R&D	21 Picatinny Arsenal, Picatinny Arsnl, NJ
<input type="checkbox"/>	Lucent Technologies	67 Whippany Rd, Whippany, NJ and 475 South St, Morristown, NJ and 5 Wood Hollow Rd, Parsippany, NJ and 24 Mountain Ave, Mendham, NJ
<input type="checkbox"/>	Pfizer	Morris Plains/Parsippany
<input type="checkbox"/>	Novartis Pharmaceutical	59 State Route 10, East Hanover, NJ
<input type="checkbox"/>	Kraft foods	200 Deforest Ave, East Hanover, NJ and 7 Campus Dr, Parsippany, NJ
<input type="checkbox"/>	Mennen Sports Arena	161 E Hanover Ave, Morristown, NJ
<input type="checkbox"/>	Honeywell	101 Columbia Rd Morristown, NJ 07960

<input type="checkbox"/>	Pfizer	5 Woodhollow Rd, Parsippany and 175 Tabor Rd, Morris Plains
<input type="checkbox"/>	St. Clare's Hospital	130 Powerville Road Boonton Township, NJ 07005 and 25 Pocono Road Denville, NJ 07834 and 400 West Blackwell Street Dover, NJ 07801 and 3219 Route 46 East, Suite 110 Parsippany, NJ 07054
Union County		
<input type="checkbox"/>	A&M Industrial Supply Co	1414 Campbell St Rahway
<input type="checkbox"/>	A.J. Seabra inc,	574 Ferry St Newark
<input type="checkbox"/>	Bristol-myers Products Research & Dev	1350 Liberty Ave Hillside
<input type="checkbox"/>	Cede Candy Inc	1091 Lousons Road PO Box 271 Union, NJ
<input type="checkbox"/>	Comcast Network	800 Rahway Ave Union, NJ
<input type="checkbox"/>	HoneyWell Inc.	1515 West Blancke Street Bldgs 1501 and 1525 Linden, NJ
<input type="checkbox"/>	IBM Corporation	27 Commerce Drive Cranford, NJ
<input type="checkbox"/>	Howard Press	450 West First Ave Roselle, NJ
<input type="checkbox"/>	Lucent Technologies	600 Mountain Ave Murray Hill, NJ
<input type="checkbox"/>	Merck & Co. Inc	1 Merck Drive PO Box 2000 (RY60-200E) Rahway, NJ
<input type="checkbox"/>	Rahway Hospital	865 Stone Street Rahway, NJ
<input type="checkbox"/>	Rotuba Extruders, Inc	1401 Park Ave South Linden
<input type="checkbox"/>	Union County College	1033 Springfield Ave Cranford, NJ
Warren County		
<input type="checkbox"/>	Masterfoods USA	800 High Street Hackettstown, NJ

<input type="checkbox"/>	Warren Hospital	185 Roseberry St Phillipsburg, NJ
<input type="checkbox"/>	Roche Vitamins	206 Roche Drive Belvidere, NJ
<input type="checkbox"/>	Hackettstown Hospital	651 Willow Grove St. Hackettstown, NJ
<input type="checkbox"/>	Pechiney	191 Route 31 North Washington, NJ
<input type="checkbox"/>	Lopatcong Care Center	390 Red School Lane Phillipsburg, NJ
<input type="checkbox"/>	Mallinckrodt/Baker, Inc	222 Red School Lane Phillipsburg, NJ

### CERTIFICATION

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Knowlton Township Committee at a meeting held on October 25, 2018.

**Motion was made by Mayor Starrs, second by Deputy Mayor Cuntala and approved by a roll call vote: Cuntala—yes, McNinch—yes, Shipps—absent, Van Horn—yes, Starrs—yes to Resolution 2018-135**

**2018-71-Resolution Authorizing the Mayor to Sign A Professional Services Contract with Keith Bonchi, ESQ., of GMS Law for In Rem Foreclosure Services**

**WHEREAS**, N.J.S.A. 54: 5-104.29 *et seq*, the *In Rem* Tax Foreclosure Act, allows the governing body of a municipality to foreclose on any of the tax sale certificates held by it; and

**WHEREAS**, municipalities may desire to foreclose *In Rem* for reasons including:

- To compel payment of taxes,
- To remove non-performing properties from tax rolls,
- To increase collection rates to lower reserve for uncollected taxes,
- To control abandoned properties,
- To stabilize the tax base; and

**WHEREAS**, the Knowlton Township Committee expressed a desire to foreclose on such properties at the April 9, 2018, Township Committee meeting; and

**WHEREAS**, this action has been recommended by the Township auditor; and

**WHEREAS**, prior to instituting foreclosure a municipality should pass a resolution appointing counsel to do the *In Rem* foreclosures; and

**WHEREAS**, the Township approached three attorneys regarding providing these services; and

**WHEREAS**, Keith Bonchi, Esquire, of GMS Law has presented the Township with the lowest offer to provide legal services at a cost of \$1,400 to \$1,600 for a minimum of 10 tax sale certificates for properties that do not involve federal liens; and

**WHEREAS**, GMS Law requests the use of their own title company; and

**WHEREAS**, the Township Committee wishes to accept this offer.

**NOW, THEREFORE, BE IT RESOLVED:**

The Mayor of the Township of Knowlton is hereby authorized to execute the attached Professional Services Contract between Knowlton Township and Keith Bonchi, Esquire, of GMS Law.

**Motion was made by Deputy Mayor Cuntala, second by Mayor Starrs and approved by a roll call vote: Cuntala--yes, McNinch--abstain, Shipps--absent, Van Horn--yes, Starrs--yes resolution 2018-71.**

**2018-104-Resolution Authorizing Solicitor to Foreclose Certain Properties for Delinquent Taxes in the Township**

**WHEREAS**, the Tax Assessor and Tax Collector of the Township of Knowlton have prepared an In Rem Foreclosure List containing a schedule of 10 properties; and

**WHEREAS**, N.J.S.A. 54: 5-104.35 provides in pertinent that the Governing Body may, by resolution, foreclose any of the tax sale certificates held by it, by the summary proceedings In Rem as provided in the In Rem Foreclosure Act [L.1948, c, 96]; and

**WHEREAS**, municipal foreclosure on these properties will result in benefits to Knowlton Township that may include:

- Compelling the payment of taxes,
- Removing non-performing properties from tax rolls,
- Increasing the collection rate to lower the reserve for uncollected taxes,
- Controlling abandoned properties,
- Stabilizing the tax base.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of Knowlton that Keith Bonchi, Esquire, is hereby authorized to foreclose the property schedule as noted below on the In Rem Foreclosure List, a copy of which is attached hereto and made a part thereof:

<b>Block</b>	<b>Lot</b>	<b>Property Address</b>	<b>Property Name</b>
4	3	154 Mount Pleasant Road	Weinbrecht, George and Janet

<u>27</u>	<u>11</u>	<u>30 Route 46</u>	<u>Nolan, Cainan</u>
<u>28</u>	<u>13</u>	<u>17 Route 46</u>	<u>Smith, Roger and Alyce</u>
<u>46</u>	<u>3.03</u>	<u>36 Knowlton Road</u>	<u>Hillyerd Estates</u>
<u>48</u>	<u>30.01</u>	<u>17 Delaware Road</u>	<u>Frasca, Anthony and Barbara</u>
<u>55</u>	<u>12</u>	<u>10 Clinton Street</u>	<u>Arianna Holdings Comp LLC</u>
<u>66</u>	<u>2.06</u>	<u>83 Knowlton Road</u>	<u>Morro, Richard Jr. and Briana</u>
<u>68</u>	<u>23</u>	<u>163 Knowlton Road</u>	<u>Empire TF4 Jersey Holdings</u>
<u>71</u>	<u>14</u>	<u>4 Ramsaysburg Road</u>	<u>Cunningham, Peter and Janet</u>
<u>76</u>	<u>2</u>	<u>184 Route 94</u>	<u>Joella Betty (deceased)</u>

**Motion was made by Deputy Mayor Cuntala, second by Mayor Starrs and approved by a roll call vote: Cuntala—yes, McNinch—yes, Shipps—absent, Van Horn—yes, Starrs—yes to Resolution 2018-104.**

**2018-136- Approval to Submit Grant Application and Execute a Grant Contract with the New Jersey Department of Transportation for the Overlay of Stark Road Project**

NOW, THEREFORE BE IT RESOLVED that Council of Knowlton formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2019-Overlay of Stark Road-00670 to the New Jersey Department of Transportation on behalf of Knowlton Township.

BE IT FURTHER RESOLVED that Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Knowlton township and their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

**Motion was made by Deputy Mayor Cuntala, second by Mayor Starrs and approved by a roll call vote: Cuntala—yes, McNinch—yes, Shipps—absent, Van Horn—yes, Starrs—yes to Resolution 2018-136**

**2018-137 Cancellation of Unexpended 2018 Budget Appropriations**

WHEREAS, Certified Public Works Manager has requested cancellation of \$20,000 of the Road Maintenance Other Expenses currently located within the 2018 Budget Appropriation Balance to Fund Balance; and

WHEREAS, the Certified Public Works Manager has also requested that said amount cancelled be included in the 2019 Budget – Improvements to Municipal Roads

WHEREAS, the Chief Financial Officer has determined that said balance is available and

eligible to be cancelled; and

NOW, THEREFORE, BE IT RESOLVED that \$20,000 of the 2018 Budget Road Maintenance – Other Expense is cancelled to Fund Balance to be included in the 2019 Budget – Improvements to municipal Roads.

**Motion was made by Deputy Mayor Cuntala, second by Mayor Starrs and approved by a roll call vote Cuntala—yes, McNinch—yes, Shipps—absent, Van Horn—yes, Starrs—yes to Resolution 2018-137**

**2018-138- Award Contract-Paving within the DPW Township Garage Complex**

**WHEREAS**, the Township of Knowlton wishes to pave a 64x60 area within the DPW Township Garage Complex; and

**WHEREAS**, four (4) quotes were solicited, lowest from Hallett Contractors Bangor, PA in the amount of \$8,192; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available within the 2018 Current Fund Budget – Road Maintenance – Other Expenses;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Committee of the Township of Knowlton, County of Warren, and State of New Jersey paving of a 64x60 area within the Township DPW Garage Complex is awarded to Hallett Contractors 221 East Shore Drive Bangor, PA 18013 not to exceed \$8,200.00

**Motion was made by Deputy Mayor Cuntala, second by Committeeman McNinch and approved by a roll call vote: Cuntala—yes, McNinch—yes, Shipps—absent, Van Horn—yes, Starrs—yes to Resolution 2018-138**

**2018-139- Resolution Appointing Fund Commissioner**

**WHEREAS**, Knowlton Township (hereinafter “Local Unit”) is a member of the Statewide Insurance Fund (hereinafter “Fund”), a joint insurance fund as defined in N.J.S.A. 40A:10-36 *et seq.*; and

**WHEREAS**, the Fund’s Bylaws require participating members to appoint a Fund Commissioner;

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Township of Knowlton that Adele Starrs is hereby appointed as the Fund Commissioner for the Local Unit for the year 2019; and

**BE IT FURTHER RESOLVED** that Kristin Shipps is hereby appointed as the Alternate Fund Commissioner

for the Local Unit for the year 2019; and

**BE IT FURTHER RESOLVED** that the Local Unit’s Fund Commissioner is authorized and directed to execute all such documents as required by the Fund.

**Motion was made by Deputy Mayor Cuntala, second by Committeeman McNinch and approved by an all-in-favor to Resolution 2018-139.**

**2018-140-Resolution Appointing Risk Management Consultant**

**WHEREAS**, Knowlton Township (hereinafter “Local Unit”) has joined the Statewide Insurance Fund (hereinafter “Fund”), a joint insurance fund as defined in N.J.S.A. 40A:10-36 *et seq.*; and

**WHEREAS**, the Bylaws require participating members to appoint a Risk Management Consultant, as those positions are defined in the Bylaws, if requested to do so by the “Fund”; and

**WHEREAS**, the Local Unit has complied with relevant law with regard to the appointment of a Risk management Consultant; and

**WHEREAS**, the “Fund” has requested its members to appoint individuals or entities to that position; and

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of “Local Unit”, in the County of Warren and State of New Jersey, as follows:

1. Knowlton Township hereby appoints Sharon Cooper its local Risk Management Consultant.
2. The Acting Clerk (*authorized representative of the public entity*) and Risk Management Consultant are hereby authorized to execute the Risk Management Consultant’s Agreement for the year 2019 in the form attached hereto.

Name of Entity: Knowlton Township

**Motion was made by Deputy Mayor Cuntala, second by Committeeman McNinch and approved by an all-in-favor Resolution 2018-140.**

**2018-141- Resolution by the Knowlton Township Committee Expressing Their Opposition to the Legalization of Recreational Marijuana by the State of New Jersey**

**WHEREAS**, the Knowlton Township Committee is strongly committed to the health, well-being, and safety of its citizens and youth; and

**WHEREAS**, it has been purported that legalization of marijuana may provide substantial revenue to the State of New Jersey through taxes that would be established within the legislation, however the revenue does not take into consideration the social costs of widespread marijuana use including increased emergency room visits, hospitalization and treatment for addiction, loss of productivity in the workplace, lower educational achievement, increased unemployment rates, increased accidental injuries and higher crime rates; and

**WHEREAS**, the United States of America outlaws recreational marijuana pursuant to the Controlled Substances Act, 21 USC Section 811; and

**WHEREAS**, medical marijuana is generally carefully controlled for the amount of delta 9 tetrahydrocannabinol, generally referred to as “THC”, while recreational marijuana is specifically designed to have as much “THC” as possible; and

**WHEREAS**, “THC” is known to impair physical function in the user including reaction time while operating a vehicle and the user’s ability to perceive danger; and

**WHEREAS**, New Jersey utilizes drug recognition experts (“DRE”) to determine whether someone is under the influence of a drug, including marijuana, when operating a motor vehicle and there is no current objective standard for operating under the influence of drugs like marijuana as compared to standards established for driving while intoxicated (.08%); and

**WHEREAS**, marijuana has been genetically modified to increase the potency of the principal psychoactive substance, tetrahydrocannabinol (THC), bringing the THC level from below 10 percent (which the marijuana of the 60’s, 70’s and 80’s contained), to 25 percent and higher, with some derivatives containing up to 98 percent THC (according to Rocky Mountain HIDTA); and

**WHEREAS**, production and marketing of marijuana concentrates, in places where recreational use has been legalized, commonly have THC levels above 90 percent and are sold in waxes, oils, and edible products in the form of cookies, brownies, candy, gummy bears, and lollipops that are indistinguishable from products that do not contain THC; and

**WHEREAS**, based on the evidence-based studies, research has established a causal link to significant societal costs associated with marijuana use.

**NOW, THEREFORE, BE IT RESOLVED** that the Knowlton Township Committee opposes legislation by the New Jersey Legislature that would permit the recreational use of marijuana in the State of New Jersey.

**BE IT FURTHER RESOLVED** that the Knowlton Township Clerk shall forward a certified true copy of this resolution to the Governor of the State of New Jersey, Lieutenant Governor of the State of New Jersey, the members of the Warren County Board of Chosen Freeholders, and the Mayor and Council of all municipalities within the County of Warren

**Motion was made by Committeeman McNinch, second by Deputy Mayor Cuntala and approved by an all-in-favor Resolution 2018-141**

### **2018-142-Resolution Approving Non-Compensated Appointments**

**WHEREAS**, it is necessary to appoint various persons to fill various positions on boards, committees and commissions and officers of the Township of Knowlton, as required by the various ordinances adopted in connection therewith:

**WHEREAS**, the Knowlton Township Committee approved a motion at the September 10, 2018 public meeting to accept the resignation of Board of Adjustment member Kate McGuiness, appointing Nancy O’Neill to her spot, appointing Karen Lund to Nancy O’Neill’s spot and adding Joe Werner as Alternate 2; and

**WHEREAS**, this resolution memorializes that discussion.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Committee of the Township of Knowlton, Warren County, New Jersey, on the twenty fifth day of October, 2018 that the following persons are appointed for terms as set forth:

**Knowlton Township Board of Adjustment**

Nancy O’Neill to the unexpired term of Kate McGuiness expiring 12/31/2021

Karen Lund as Alt. #1 with the unexpired term of Nancy O’Neill expiring 12/31/2018

Joe Werner as Alt. #2 with the unexpired term of Karen Lund expiring 12/31/2019

**Motion was made by Deputy Mayor Cuntala, second by Mayor Starrs and approved by an all-in-favor to Resolution 2018-142. Committeeman McNinch abstained.**

**2018-143- Resolution Approving Payment of Vouchers**

BE IT RESOLVED, by the Mayor and Committee of the Township of Knowlton, Warren County, New Jersey, that all claims attached are hereby approved as reasonable and proper claims against the Township of Knowlton.

THEREFORE, BE IT RESOLVED that approval for payment is hereby given to the Chief Financial Officer to pay said claims, subject to the availability of funds.

**Motion was made by Deputy Mayor Cuntala, second by Committeeman McNinch and approved by roll call vote: Cuntala—yes, McNinch—yes, Shipps—absent, Van Horn—yes, Starrs—yes to Resolution 2018-143**

**2018-145 Resolution of the Township of Knowlton, County of Warren, State of New Jersey Amending and Updating the Personnel Policies and Procedures Manual to Incorporate a New Sick Leave Policy, Effective October 29, 2018**

**WHEREAS**, the State of New Jersey has recently passed legislation, effective October 29, 2018, which provides for mandatory sick leave for full and part-time employees in the State of New Jersey, as set forth in N.J.S.A. 34:11D-1; and

**WHEREAS**, the Township of Knowlton is desirous to update its Employee Manual to conform with the laws of the State of New Jersey.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Committee of the Township of Knowlton, in the County of Warren, that the Township of Knowlton’s Employee Manual, is hereby amended as follows, in order to incorporate N.J.S.A. 34:11D-1:

1. The Section entitled “Sick Days” shall be amended as follows (Additions indicated in boldface and italics ***thus***; deletions indicated with strike-through ~~thus~~):

***For the purposes of this section and the following section entitled “Part-Time Employee Sick Time,” the term “Sick leave” shall mean paid leave that may be granted to an employee for any of the reasons set forth in N.J.S.A. 34:11D-1:***

*(1) time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury or other adverse health condition, or for preventive medical care for the employee;*

*(2) time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness, injury or other adverse health condition, or during preventive medical care for the family member;*

*(3) absence necessary due to circumstances resulting from the employee, or a family member of the employee, being a victim of domestic or sexual violence, if the leave is to allow the employee to obtain for the employee or the family member: medical attention needed to recover from physical or psychological injury or disability caused by domestic or sexual violence; services from a designated domestic violence agency or other victim services organization; psychological or other counseling; relocation; or legal services, including obtaining a restraining order or preparing for, or participating in, any civil or criminal legal proceeding related to the domestic or sexual violence;*

*(4) time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, by order of a public official due to an epidemic or other public health emergency, or because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others; or*

*(5) time needed by the employee in connection with a child of the employee to attend a school-related conference, meeting, function or other event requested or required by a school administrator, teacher, or other professional staff member responsible for the child's education, or to attend a meeting regarding care provided to the child in connection with the child's health conditions or disability*

**All other definitions set forth in N.J.S.A. 34:11D-1 are incorporated herein by reference.**

All full-time employees shall be entitled to accumulate one (1) day of sick leave with pay for each month of services up to ten (10) sick days per year. Sick days not used shall be accrued from one year to the next.

~~Sick leave may be used only for illness and shall include time to care for a spouse or child who resides with the employee during the period of illness of said spouse or child.~~

**Sick leave may be used for any of the reasons set forth in N.J.S.A. 34:11D-1.**

When an employee is out for sickness they are to contact the Township Clerk. A permanent record of sick days accumulated and used each year will be kept on file in the Municipal Clerk's office. Employees shall record all sick days used on their time sheet in half or whole

day increments only.

~~When an absence on account of illness or disability exceeds two (2) days, the Township may request a supporting statement from the employee's physician.~~

***An employee who shall be absent on sick leave for three (3) or more consecutive working days shall be required to submit reasonable documentation that the leave was taken for a permitted purpose.***

In the case of frequent or prolonged absence ***due to illness***, the Township may have an employee examined by a designated physician in order to determine the severity of illness of the employee. The Personnel Administrator or Personnel Sub-Committee has the right to waive such a requirement or may require an employee be examined by a physician designated by the township for the purpose of certifying the employee fit for duty before that employee returns to work.

An employee with at least 15 years of full-time service, who was hired prior to February 2015, who retires, is permanently separated or who voluntarily leaves the service of the Township shall be entitled to one-half (112) day's pay at his/her regular straight time rate for each day of unused sick leave, except that in no case shall such payment exceed ten thousand dollars (\$10,000).

An employee with at least 15 years of full-time service, who was hired after February 2015, who retires, is permanently separated or who voluntarily leaves the service of the Township shall be entitled to one-half (112) day's pay at his/her regular straight time rate for each day of unused sick leave, except that in no case shall such payment exceed five thousand dollars (\$5,000).

3. The Section of the Employee Manual entitled "Part-Time Employee Sick Time" shall be deleted in its entirety and replaced with the following:

***For the purposes of this Section, the following definitions shall apply:***

***"Part-time Employee" shall mean a permanent employee that typically works less than 30 hours per week.***

***"Seasonal Employee" shall mean an employee that is employed for 120 calendar days or less during the calendar year.***

***All other definitions set forth in N.J.S.A. 34:11D-1 are incorporated herein by reference.***

*Part-time employees shall receive one hour of sick leave for every 30 hours worked. Part-time employees not covered by a collective bargaining agreement, are eligible for sick leave as set forth herein and to the extent required by N.J.S.A. 34:11D-1 et seq. Seasonal Employees (i.e. those hired for less than 120 consecutive calendar days in one calendar year) are not eligible for sick leave.*

*Existing part-time employees shall begin accruing sick leave time on October 29, 2018 and shall be able to use earned sick time as soon as it is accrued in at least half (1/2) day increments. New part-time employees shall be eligible to use earned sick leave beginning on the 120<sup>th</sup> calendar day after the employee commences employment. Part-time employees shall be permitted to carry forward sick leave hours from one benefit year to the next. However, each part-time employee shall not be permitted to accrue, use in one benefit year, or carry forward from one benefit year to the next, more than 40 hours of earned sick leave.*

*Part-time employees shall not be entitled to compensation for unused sick time upon retirement, termination, or voluntary severance of their employment with the Township.*

**BE IT FURTHER RESOLVED** that the amended sick leave policy will be effective as of October 29, 2018; and

**BE IT FURTHER RESOLVED** that a copy of the updated Employee Manual is on file with the Clerk's office; and

**BE IT FURTHER RESOLVED** that a copy of this Resolution shall be forwarded to all Township employees.

**Motion was made by Deputy Mayor Cuntala, second by Committeeman McNinch and approved by an all-in-favor resolution 2018-145.**

### **OLD BUSINESS**

**Repairs to Municipal Building**— Tabled for a later meeting  
(At this time Attorney Cushing ended is Conference call)

### **NEW BUSINESS**

**Water Testing at Tunnel Field**—Discussed during Department Reports

**Rabies Clinic** —Acting Clerk Shipps advised the Committee that the rabies clinic will be held on December 1st from 10-12 pm and the Knowlton DPW building.

**Dog License Reminders** —Acting Clerk Shipps asked the committee if Dog License reminders could be sent out again this year. Committee agreed.

### **Truck Accidents**

Mayor Starrs spoke to the committee regarding 3 recent accidents that happened with trucks in the township that resulted in hazardous spills. One of the spills reached the Delaware River. The township was not notified on some of these accidents. Mayor Starrs explained that the township will only be notified with a DEP Notification Report if the accident is more than 20 gallons.

**Discussion of Best Practice Worksheet**—Committee reviewed the Best Practice Worksheet and made a few changes.

#### **CORRESPONDENCE**— No Correspondence

#### **PUBLIC COMMENT**

Resident Pam Rusweiler asked about Trick or Treating. Mayor Starrs explained it was on October 31st from 4-8.

A resident asked about the housing plan and if the township is being forced to develop new houses? Mayor Starrs explained that there are different categories of low-income housing, and the state has given all towns an obligation they are legally required to meet.

Resident Vincent Gaeta asked if there was an update on the Verizon Node boxes. Mayor Starrs explained that Verizon never continued with the project.

#### **APPROVAL OF MINUTES**

September 27, 2018 Executive Session Minutes

**Motion was made by Deputy Mayor Cuntala, second by Committeeman McNinch and approved by an all-in-favor for the September 27, 2018 Executive Session Minutes.**

September 27, 2018 Public Session Meeting Minutes

**Motion was made by Deputy Mayor Cuntala, second by Committeeman McNinch and approved by an all-in-favor for the September 27, 2018 Public Meeting Minutes.**

#### **EXECUTIVE SESSION**

**Motion was made by Mayor Starrs, second by Deputy Mayor Cuntala and approved by an all-in-favor to go into Executive Session at 9:00p.m.**

Resolution 2018-144 Authorizing an Executive Session for the Purpose of:  
public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

**WHEREAS**, the Open Public Meetings Act also recognized exceptions to the right of the public to attend portions of such meetings; and

**WHEREAS**, the Mayor and Township Committee find it necessary to conduct an executive session closed to the public as permitted by the N.J.S.A. 40:4-12; and

**WHEREAS**, the Mayor and Township Committee will reconvene in public session at the conclusion of the executive session;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Committee of the Knowlton

Township, County of Warren, State of New Jersey that they will conduct an executive session to discuss the following topic (s) as permitted by N.J.S.A. 40:4-12:

A. Personnel

**BE IT FURTHER RESOLVED** that the Mayor and Township Committee hereby declare that their discussion of the subject (s) identified above may be made public at a time when the Township Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Township or any other entity with respect to said discussion.

**BE IT FURTHER RESOLVED** that the Mayor and Township Committee, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

**Motion was made by Mayor Starrs, second by Deputy Mayor Cuntala and approved by an all-in-favor to go back to public Session at 9:20.**

**Adjournment**

**Motion was made by Mayor Starrs, seconded by Deputy Mayor Cuntala, and carried to adjourn tonight's Township meeting at 9:21 p.m.**

Respectfully submitted,  
Kristin Shipps  
Acting Municipal Clerk