



## **BOROUGH OF ALPHA**

1001 East Boulevard  
Alpha, New Jersey 08865

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### **REGULAR MEETING AGENDA**

Borough of Alpha Municipal Building  
Tuesday, August 28, 2018 – 7:00 PM

1. Call to Order: Open Public Meetings Notice- Mayor Craig S. Dunwell
2. Prayer & Salute to the Flag
3. Roll Call:  
Mr. Cartabona Mrs. Grossman, Mr. Pettinelli, Mr. Schwar, Mr. Seiss, and Mr. Singleton
4. Presentations:
  - Energy Aggregation Program Presentation by Tim McDonough
  - Cultivation Facility in Alpha Presentation by Srikant Akula
5. Public Comment:
6. Ordinances – 2nd Reading:
  - **ORDINANCE 2018-06**  
**AFFORDABLE HOUSING ORDINANCE BOROUGH OF ALPHA, WARREN COUNTY**
7. Resolutions:
  - **RESOLUTION 2018-112**  
**RESOLUTION CONDITIONALLY WAIVING INTEREST ON TAX BILL DUE TO THE BOROUGH FOR KENNETH K. KUTZMAN BLOCK 32.03, LOT 11**
  - **RESOLUTION 2018-118 RESOLUTION OF THE MAYOR AND GOVERNING BODY OF THE BOROUGH OF ALPHA, AUTHORIZING THE AWARD OF A COMPETITIVE CONTRACT CC 3R-2018 TO ES2 ENVIRONMENTAL SYSTEMS AND EQUIPMENT SERVICE INC., FOR ALPHA SANITARY LIFT STATION SCADA CONTROLS FOR A PERIOD OF FIVE (5) YEARS**
8. Approval of Minutes:
  - Regular Meeting: 8/14/18
  - Executive Session:

9. Department Reports:

Administration – Councilman Alan Singleton  
Finance – Councilman Michael Schwar  
Health & Welfare – Councilman Peter Pettinelli  
Public Property – Councilwoman Tracy Grossman  
Public Safety – Councilman Thomas Seiss  
Public Works – Councilman Louis Cartabona

10. Public Comment:

11. Payment of Bills and Claims:

12. Old Business:

13. New Business:

- Pavilion Permit, Robert Shackelford, 9/22/18
- Flu Clinic by Visiting Nurse Association of Northern NJ

14. Executive Session

15. Adjournment

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***Executive Session may be called any time prior to adjournment.***

The public may be excluded for the following reasons as stated in the Open Public Meetings Act, NJSA 10:4-12:

- (1) Any matter which, by express provision of Federal Law or State statute or rule of court, shall be rendered confidential or excluded from the provisions of the Open Public Meetings Act.
- (2) Any matter in which the release of information would impair a right to receive funds from the Government of the United States.
- (3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, date, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.
- (4) Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.
- (5) Any matter involving the purchase, lease, or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.
- (6) Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection including any investigation of violations or possible violations of the law.
- (7) Any pending or anticipated litigation or contract negotiation other than in section 4 herein in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.
- (8) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or

employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

(9) Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the party bears responsibility.

## Unreleased Approved Executive Session Minutes List

### Litigation:

06/13/95 (#1) Sewer  
 04/13/99 (#2) Sewer (Pohatcong)  
 05/11/99 (#2) Sewer (Pohatcong)  
 05/25/99 (#1) Sewer (Pohatcong)  
 05/25/99 (#3) Sewer (Pohatcong)  
 09/09/99 (#2) Resnick  
 09/28/99 (#1) Sewer (Phillipsburg)  
 09/28/99 (#8) Resnick  
 10/12/99 (#1) Sewer (Pohatcong)  
 10/26/99 (#1) Sewer (Pohatcong)  
 11/09/99 (#3) Sewer (Pohatcong)  
 12/14/99 (#1) Resnick  
 12/28/99 (#2) Resnick  
 01/11/00 (#1) Sewer (Pohatcong)  
 01/11/00 (#2) Resnick  
 02/22/00 (#4) Resnick  
 03/06/00 (#1) Resnick  
 04/24/00 (#6) Resnick  
 05/23/00 (-) Resnick  
 06/08/00 (-) Resnick  
 07/25/00 (#2) Resnick  
 08/08/00 (#1) Resnick  
 08/22/00 (#2) Sewer  
 09/07/00 (#3) Sewer  
 10/10/00 (-) Sewer  
 11/28/00 (#2) Resnick  
 12/12/00 (#5) Resnick  
 01/09/01 (#5) Sewer (Hubbard)  
 04/24/01 (#3) Pohatcong  
 04/24/01 (#5) Litigation Updates  
 05/08/01 (#1) Alpha 519  
 06/26/01 (#3) Resnick  
 02/26/02 (#2) EAI  
 03/26/02 (#1) EAI  
 06/25/02 (#2) Alpha 519  
 07/23/02 (#3) Resnick  
 08/13/02 (#2) Sewer  
 10/22/02 (#4) Resnick  
 11/12/02 (#1) Resnick  
 11/26/02 (#7) Resnick  
 12/10/02 (#3) Resnick  
 01/14/03 (#4) Sewer Contract  
 03/25/03 (#6) Alpha 519  
 04/22/03 (#4) Alpha 519  
 09/09/03 (#6) COAH  
 09/23/03 (#1) Sewer Litigation  
 09/23/03 (#3) Alpha 519  
 10/14/03 (#2) Alpha 519  
 10/28/03 (#1) Sewer Agreement  
 11/10/03 (#1) Alpha 519  
 11/10/03 (#4) Sewer  
 12/09/03 (#2) Alpha 519  
 12/09/03 (#3) DEP-Sewer  
 12/16/03 (#1) Don Souders  
 01/13/04 (#1) Lyn Aaroe-Sewer  
 01/13/04 (#3) Souders-Sewer  
 02/10/04 (#1) Perelman  
 02/10/04 (#3) Alpha 519  
 02/24/04 (#4) Alpha 519  
 03/09/04 (#1) Alpha 519  
 08/24/04 (#5) Alpha 519  
 09/28/04 (#2) Alpha 519  
 10/12/04 (#5) Odor-Alpha 519  
 10/12/04 (#7) Resnick-Toll Brothers  
 10/26/04 (#4) Landfill  
 10/26/04 (#5) Resnick Update  
 11/09/04 (#3) P'Burg Sewer  
 11/09/04 (#4) Resnick-Prop. Transf.  
 11/30/04 (#3) Resnick  
 12/14/04 (#6) Alpha 519

### Litigation (continued):

01/11/05 (#3) Alpha 519  
 01/25/05 (#1) Alpha 519  
 02/08/05 (#7) Alpha 519  
 03/08/05 (#1) Pohat-Water/Sewer  
 05/10/05 (#4) Alpha 519  
 06/14/05 (#1) P'Burg Sewer  
 08/09/05 (#3) Litigation Updates  
 08/23/05 (#2) Alpha 519  
 09/27/05 (#2) Aqua  
 09/27/05 (#3) EAI Letter  
 10/11/05 (#5) EAI Letter  
 01/24/06 (#2) Brian Prop  
 02/28/06 (#1) Alpha 519  
 02/28/06 (#2) COAH  
 03/14/06 (#10) EAI Update  
 03/29/06 (#5) COAH  
 04/11/06 (#1) COAH  
 04/11/06 (#6) Toll Brothers  
 04/25/06 (#3) Ezekian-Crincoli-Landfill  
 05/09/06 (#1) Toll Brothers  
 08/08/06 (#5) Pohat School-Sewer  
 10/10/06 (#1) CFO  
 10/10/06 (#3) COAH  
 10/10/06 (#5) Pohat & Alpha Sewer  
 11/28/06 (#1) Rocco  
 12/05/06 (#7) Homa Farm-Rocco  
 12/19/06 (#3) Brian Properties  
 03/13/07 (#3) Pohatcong-Sewer Lines  
 03/13/07 (#2) Alpha 519  
 03/27/07 (#1) Alpha 519  
 03/27/07 (#2) Brian Properties  
 04/10/07 (#2) Alpha 519  
 05/08/07 (#2) Alpha 519  
 05/08/07 (#3) Almond Tree Liquor Lic.  
 06/12/07 (#1) Planning Board  
 12/08/09 (#2) DEP-Home Water Dmg  
 04/27/10 (#3) Woodhill  
 07/13/10 (#5) Resolution for Quarry  
 03/26/13 (#6) New Fire Truck  
 04/23/13 (#2) DR Horton  
 04/23/13 (#3) Sewer Blockag  
 04/23/13 (#4) AYAA  
 04/23/13 (#5) AYAA Missing Funds  
 04/23/13 (#6) Library  
 05/28/13 (#2) D.R. Horton  
 05/28/13 (#5) DEP  
 06/11/13 (#12) Pedestrian Injury  
 06/11/13 (#13) DR Horton  
 06/11/13 (#2) Sinkhole Third Ave  
 6/11/13 (#10) Water Meters Malfunction  
 07/09/13 (#1) DR Horton  
 07/09/13 (#2) Lear-Fence  
 07/09/13 (#3) Alpha V. John Does  
 07/09/13 (#4) Fred Cook  
 07/09/13 (#5) Sink Hole-Oberly Property  
 07/09/13 (#6) AYAA  
 08/13/13 (#5) Homa Farm Drainage  
 08/13/13 (#6) Cahill Rambo Farm  
 08/13/13 (#9) Fire Hydrant Damage  
 08/13/13 (#10) Fred Cook  
 08/13/13 (11) John Doe Lawsuit  
 09/10/13 (#1) Damage at AYAA Field House  
 09/10/13 (#5) Water Main Break-Penn Bower  
 09/10/13 (#6) Backwash permit  
 10/22/13 (#1) Vault on W Vulcanite  
 10/22/13 (#9) Cook Litigation  
 11/12/13 (#1) Mold  
 11/26/13 (#1) Wayne St Water Main Break  
 11/26/13 (#3) MOLD-Peosh

### Contractual:

10/11/94 (-) Sewer Agreement  
 01/28/97 (#8) Sewer Contract  
 05/26/98 (#1) Sewer Negotiations  
 06/09/98 (#2) Sewer Negotiations  
 07/14/98 (#3) Sewer Contract  
 07/14/98 (#4) Sewer Capacity  
 11/24/98 (#2) Sewer Agreement  
 12/08/98 (#1) Sewer Contract  
 07/27/99 (#1) Sewer Contract  
 10/08/02 (#3) Quarry  
 10/22/02 (#3) Quarry  
 11/12/02 (#3) Quarry  
 12/10/02 (#1) Quarry  
 12/10/02 (#4) Sewer  
 09/09/03 (#2) Quarry  
 09/23/03 (#2) Quarry  
 10/28/03 (#2) Quarry  
 09/28/04 (#6) Pohat Sewage Request  
 10/12/04 (#1) P'Burg Sewer Agrmnt.  
 10/26/04 (#7) Sewer Agreement  
 11/30/04 (#1) Quarry  
 11/30/04 (#2) Alpha 519  
 02/22/05 (#5) Water-Alpha 519  
 04/26/05 (#3) Water Allocation  
 06/28/05 (#8) Sewer  
 07/12/05 (#1) Sewer Update  
 08/23/05 (#1) Sewage  
 09/13/05 (#3) Aqua  
 10/25/05 (#3) Aqua  
 05/23/06 (#1) Sewer w/P'Burg  
 05/23/06 (#5) Quarry  
 08/08/06 (#9) P'Burg Sewer Agrmnt  
 11/28/06 (#3) CFO-Salaries  
 12/05/06 (#8) DPW-CFO Contracts  
 12/19/06 (#2) CFO  
 06/23/09 (#2) Water System  
 12/08/09 (#1) Clerk Transition  
 01/26/10 (#2) Appraisal  
 04/27/10 (#5) Quarry  
 07/27/10 (#1) DPW Contract-Pension  
 04/23/13 (#7) Fire Truck  
 05/28/13 (#3) Firetruck  
 05/28/13 (#4) Industrial Drive  
 05/28/13 (#6) Sewer Highlands  
 06/11/13 (#1) Indus Dr Realignment  
 06/11/13 (#3) Valves & Pipe Upgrade  
 06/11/13 (#4) Court-Shared Services  
 06/11/13 (#8) Insurance  
 07/09/13 (#8) Fire Truck Bill  
 07/09/13 (#11) Admin Clerk  
 07/09/13 (#12) Homa Farm  
 08/13/13 (#1) Court  
 08/13/13 (#7) Fire Truck  
 09/10/13 (#3) Lease of Pub Property-Cell Tower  
 09/10/13 (#4) Truck Purchase  
 09/10/13 (#7) Penn Bower  
 09/10/13 (#11) Fire Truck  
 09/19/13 (#1) Mold Remediation  
 09/24/13 (#1) LUB Rep  
 09/24/13 (#3) Mold  
 10/22/13 (#2) Water Main Easement  
 10/22/13 (#4) Fire Truck Repairs  
 11/12/13 (#2) DEP Alpha St Well  
 11/12/13 (#4) Easement-Rooks  
 11/12/13 (#5) Court Shared Services  
 11/12/13 (#6) FireTruck Purchase  
 11/26/13 (#4) PEG Bandwidth  
 11/26/13 (#8) Savary-Work done for Borough -Concrete  
 12/10/13 (#3) Alpha Fire Co-Meet & Greet

### Personnel:

03/14/06 (#4) DPW-Ins. Liability  
 03/14/06 (#8) Pohat Sewer Billing  
 05/23/06 (#4) Plan. Attny-Master Plan  
 10/24/06 (#5) Labor Attny-DPW  
 01/23/07 (#1) Open Space  
 02/13/07 (#1) Construction Official  
 02/13/07 (#4) Attorney Souders  
 02/27/07 (#2) Auditors  
 02/27/07 (#4) CFO-Weekend Work  
 03/13/07 (#4) Don Souders  
 11/27/07 (#2) Health Benefits-Assessor  
 11/10/09 (#2) Dep Clerk-Salary  
 12/15/09 (#1) Pension for Sewer Emp.  
 12/15/09 (#3) Sewer-Reports & AD  
 01/05/10 (#1) CFO-Greenwich  
 01/05/10 (#4) Savary-DPW Employees  
 01/26/10 (#4) CFO-Greenwich  
 01/26/10 (#5) Mayor-Letter Re'cd  
 01/26/10 (#6) Licensed Operator  
 02/09/10 (#1) Savary-Recycle Coord.  
 02/23/10 (#1) Court Administrator  
 03/09/10 (#2) Water Pump Operator  
 03/23/10 (#3) Court Administrator  
 03/23/10 (#5) Court Administrator  
 03/23/10 (#6) CFO-Rice Notice  
 04/27/10 (#1) Rice Notice CFO  
 04/27/10 (#6) DPW Harassment Complaint  
 05/11/10 (#6) Art Groves  
 05/11/10 (#7) Clarence Deemer  
 05/25/10 (#3) Art Groves  
 05/25/10 (#4) Librarian  
 07/13/10 (#8) Clerk-Personnel Records  
 07/27/10 (#2) Scrap Metal  
 07/27/10 (#6) Scrap Metal: Clean Up  
 08/10/10 (#2) Clerk-Trenton  
 08/10/10 (#4) Attny Conflict-J Caleca  
 08/10/10 (#5) Security Cameras  
 12/27/10 (#1) CFO-Shared Serv.  
 01/19/2012 Construction Official  
 03/26/13 (#2) DPW  
 03/26/13 (#3) Code Book  
 03/26/13 (#5) Clerk  
 04/23/13 (#7) Easter Egg Hunt  
 05/28/13 (#7) Dep Clerk Personal Days  
 06/11/13 (#5) Clerk  
 06/11/13 (#9) Library  
 06/11/13 (311) NJLM Conf Hotel Limit  
 06/11/13 (#14) Savary-Charges  
 07/09/13 (#9) Clerks Office  
 07/09/13 (#10) AYAA  
 08/13/13 (#2) Tax Collector  
 08/13/13 (#3) Library  
 08/13/13 (#4) Clean Communities  
 08/13/13 (#12) Hops N Barley Name Change  
 09/10/13 (#2) DPW Overtime  
 09/10/13 (#9) Library  
 09/10/13 (#10) Savary  
 09/10/13 (#12) Mold in Municipal Building  
 09/24/13 (#2) Library Board President  
 10/22/13 (#3) Library Titles  
 10/22/13 (#5) Fire Co Applications  
 10/22/13 (#6) Savary  
 10/22/13 (#7) DPW Employees-Cell Phones  
 10/22/13 DPW -Laptop

## Unreleased Approved Executive Session Minutes List (*continued*)

### Litigation:

11/26/13 (#5) VanVeldhusien-Sewer Hook Ups  
 11/26/13 (#6) Judy Korp Property  
 11/26/13 (#9) Damage to Dog Fence  
 12/10/13 (#4) Invoices for Mold  
 12/10/13 (#8) Stormwater  
 12/30/13 (#4) Water Break-Response from DPW  
 01/14/14 (#1) Savary-Unauthorized Access  
 01/14/14 (#4) Penn Bower  
 02/11/14 (#) Sewer Back Up  
 02/11/14 (#4) Sewer Authority  
 02/25/14 (#1) Fred Cook  
 02/25/14 (#4) John Doe Lawsuits  
 02/25/14 (#5) Mrs. Lear Sewer Bill  
 04/08/14 (#3) Lee Ave Sewer Back Up  
 04/08/14 (#8) Lear Tort Claim  
 05/13/14 (#3) Firm Capacity  
 05/13/14 (#4) Fred Cook  
 05/13/14 (#7) HVAC System  
 06/10/14 (#1) DR Horton  
 06/10/14 (#2) Water Repairs 519  
 6/10/14 (#3) Lee Ave  
 6/10/14 (#6) Inspection Fees-Pohat  
 6/10/14 (#7) CFO-Greenwhich  
 6/24/14 (#1) Drainage-Homa  
 6/24/14 (#4) Pohat Eng Billing  
 6/24/14 (#5) Library  
 7/8/14 #1 DPW  
 7/8/14 #2 Library  
 7/8/14 #4 Computer Switch  
 7/8/14 #6 Penn Bower  
 9/9/14 #1 D.R. Horton  
 9/9/14 #3 Trane  
 9/9/14 #4 D.R. Horton  
 9/23/14 #3 Library  
 01/12/15 #1 Savary Litigation  
 02/09/15 #5 Pohatcong  
 02/23/15#1 Route 519-Lateral  
 02/23/15 #2 Penn Bower  
 02/23/15 #4 Fire Hydrant  
 02/23/15 #7 Christy Rose  
 3/10/15 #9 Pool Demolition Contract  
 07/14/15 #1 DEP Violation  
 07/14/15 #3 COAH  
 07/14/15 #4 Rt. 519  
 08/11/15 #3 Fire Hydrant  
 08/11/15 #4 Water Tower

### Litigation (*continued*):

9/08/15 #2 Alpha Family Rest.  
 09/08/15 #3 Wayne St Sinkhole-Pohat  
 09/08/15 #5 Savary  
 09/08/15 #6 water Sewer Bill Estimation  
 9/21/15 #4 Mike Savary  
 9/21/15 #5 Christy Rose  
 9/21/15 #8 Sewer Rates/Problems  
 10/13/15 #2 Water/Sewer Rates  
 10/13/15 #3 Phillipsburg Colts  
 10/13/15 #4 D.R. Horton  
 10/27/15 #2 Wayne St  
 10/27/15 #4 Library  
 11/10/15 #1 Water/Sewer Bills  
 11/10/15 #2 Water/Sewer  
 11/10/15 #3 Christy Rose  
 11/10/15 #9 Manholes  
 11/10/15 #10 Engineer  
 11/10/15 #11 Rooks  
 11/24/15 #4 Water/Sewer  
 12/8/15 #1 Jerry Kern-Pohatcong W/S  
 12/29/15 #1 Jerry Kern  
 02/08/16 #1 Fence Agreement  
 02/08/16 #3 Rose-Unemployment  
 02/22/16 #1 Car Dealer License

### Contractual:

12/10/13 (#5) DEP Firm Capacity  
 12/10/13 (#6) Water Softener  
 12/10/13 (#7) Sewer  
 12/30/13 (#1) Road Improvement Program-Engineer  
 01/14/14 (#2) Shared Services-Pohatcong -Police  
 01/14/14 (#3) Shared Services-Court  
 01/14/14 (#5) HVAC System  
 02/11/14 (#3) Shared Services-Court  
 02/14/14 (#5) Shared Services Court  
 02/25/14 (#2) PEG Bandwidth  
 03/11/14 (#1) Shared Services  
 03/11/14 (#2) Court  
 04/08/14 (#1) Garbage  
 04/08/14 (#2) Courts Shared Serv  
 04/8/14 (#4) Water Frace St Bids  
 04/8/14 (#5) Lease of Boro Property  
 04/08/14 (#6) DR Horton  
 04/08/14 (#7) Open Space  
 05/13/14 (#2) Debt Limit  
 05/21/14 (#1) Library  
 6/10/14 (#4) DPW  
 6/10/14 (9) Shared Services Court  
 6/10/14 (#10) DPW-Fence Repairs  
 6/24/14 (#3) Sprint Metro PC  
 7/8/14 #5 Alpha St Pump House  
 7/8/14 # 7 Redundancy  
 7/8/14 #8 T-Mobile  
 7/8/14 #10 Solar Panels  
 7/22/14 #1 Penn Bower  
 7/22/14 #2 Penn Bower-Emergency Call Out  
 7/22/14 #3 Open Space  
 7/22/14 #4 Solar Panels  
 7/22/14 #6 Fire Truck Purchase  
 8/12/14 #1 Shared Service-Pohatcong  
 8/12/14 #2 Penn Bower  
 8/12/14 #3 Metro PCS  
 8/12/14 #4 DPW  
 8/12/14 #5 River Edge  
 8/12/14 #6 Trane  
 9/9/914 # 2 Fire truck Purchase  
 9/23/14#1 Root Control Bid  
 9/23/14 # 5 Professionals  
 9/23/14 #6 Engineer Inspector  
 9/23/14 #4 Shared Services Greenwch  
 01/12/15 #3 Contract EMS-Post Office  
 01/12/15 #4 Contractual-DPW  
 01/12/15 #5 Contractual-Police  
 01/12/15 #6 Contractual-Shared Service-CFO  
 01/26/15 #2 DPW Contract  
 02/09/15 #1 DPW  
 02/09/15 #2 Emergency Squad  
 02/09/15 #4 CFO  
 02/23/15 #3 Police Contract  
 02/23/15#5 DPW  
 03/10/15 #1 CFO Shared Services  
 03/10/15#3 Redundancy  
 03/10/15 #4 Police Shared Services  
 03/10/15 #35 Norfolk  
 03/10/15 #6 Postage Machine  
 03/10/15 #8 DPW  
 03/24/15 #1 Emergency Squad  
 03/24/15 #2 Porta-John Contract  
 03/24/15 #3 Shared Services Police/Court  
 07/28/15 #1 Phase II Water Project  
 07/28/15 #2 Old Fire Truck  
 07/28/15 #3 Fieldhouse/Football Field

### Personnel:

11/12/13 (#3) Library Titles  
 11/26/13 (#2) N2 Discharge Operator  
 11/26/13 (#7) DPW Laptop  
 12/10/13 (#1) Deputy Clerk  
 12/10/13 (#2) Civil Service-Library  
 12/30/13 (#2) William Packer  
 12/30/13 (#3) Adminsitratve Clerk Request  
 12/30/13 (#5) Library Employees-Funds  
 12/30/13 (#6) Password Policy  
 01/14/14 (#6) ACO Budget for Rabies Clinic  
 01/14/14 (#7) Library Resolution Appointments  
 02/11/14 (#2) Monitor Position  
 02/25/14 (#3) Library Pensions  
 02/25/14 (#6) Clerks Office  
 03/11/14 (#3) ACO  
 03/11/14 (#4) Library Personnel  
 05/13/14 (#1) Chief Faulborn Power Cat Purchase  
 05/21/14 (#2) Shared Services-Pohatcong-Clerk  
 6/10/14 (#5) Dunwell  
 6/24/14 (#2) Sidewalk Project Appointment  
 7/8/14 #3 CFP as LPA  
 7/8/14 #9 ACO  
 7/22/14 # 5 DPW Employee-Fire Calls  
 9/9/14 # 5 Field House  
 9/23/14 # 2 Deputy Clerk  
 01/12/15 #2 Temporary CFO-Personnel  
 01/26/15 #1 Deputy OEM  
 01/26/15 #3 Snow Plowing Employee  
 02/09/15 #3 Finance  
 02/23/15 #6 Water/Sewer Collector  
 02/23/15 #8 CFO Position  
 03/10/15 #2 Finance Clerk  
 03/10/15 #7 Temp CFO Appointment  
 04/14/15 #1 Payroll  
 04/14/15 #2 Mercantile Fees  
 08/11/15 #1 Code Enforcement Officer  
 09/21/15 #2 Tax Assessor  
 9/21/15 #3 Former CFO  
 10/13/15 #1 Tax Assessor  
 10/27/15 #5 Tax Assessor  
 12/8/15 #2 CFO  
 12/8/15 #3 Dunwell-Appointments  
 01/25/16 #3 Rose  
 01/25/16 #5 Code Enforcement  
 01/25/16 #7 Library  
 02/08/16 #6 Conflict Attorney  
 02/08/16 #7 Clerk

## Contractual:

07/28/15 #4 County Project-Pipe-Back-Wash  
8/11/15 #2 Emergency Squad  
09/8/15 31 5<sup>th</sup> Ave  
09/8/15 #4 Bob Canace  
09/21/15 Shared Services Police  
09/21/15 #6 Engineer R&V  
09/21/15 #7 Engineer R&V  
09/21/15 #9 DPW-Third Hire  
10/27/15 #1 LMR  
10/27/15 Engineer  
11/10/15 #4 Troxell  
11/10/15 #5 D.R. Horton  
11/10/15 #8 LMR Disposal  
11/24/15 #1 Shared Service-Police  
11/24/15 #2 Engineer  
11/24/15 #3 Cohen-Highlands  
11/24/15 #5 Open Space  
12/29/15 #2 Personnel  
01/25/16 #1 Emergency Force Main Break  
01/25/16 #2 LMR Contract  
01/25/16 #4 ACO Shared Services  
01/25/16 #6 Rocco  
02/08/16 #2 Highlands Grant  
02/08/16 #4 Dumpsters  
02/08/16#5 Rocco  
02/22/16 #2LMR  
02/22/16 #3 DR Horton  
02/22/16 #4 Rocco

**ORDINANCE 2018-06**  
**AFFORDABLE HOUSING ORDINANCE**  
**BOROUGH OF ALPHA, WARREN COUNTY**

AN ORDINANCE AMENDING THE LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF ALPHA TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) AND THE TERMS OF THE BOROUGH'S SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER (FSHC) IN IN THE MATTER OF THE BOROUGH OF ALPHA, COUNTY OF WARREN, DOCKET NO.: WRN-L-233-15, REGARDING COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the Borough Council of the Borough of Alpha, Warren County, New Jersey, that the Code of the Borough of Alpha, Chapter 410, Article XI is hereby repealed and replaced entirely to include new provisions addressing Alpha's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended, and the terms of the Borough's Settlement Agreement with Fair Share Housing Center (FSHC) in In the Matter of the Borough Of Alpha, County of Warren, Docket No.: WRN-L-233-15. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Alpha Borough Land Use Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Council. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan as well as the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985, as amended, and the terms of the Borough's Settlement Agreement with Fair Share Housing Center (FSHC) in In the Matter of the Borough Of Alpha, County of Warren, Docket No.: WRN-L-233-15.

**§ 410-67 Monitoring and Reporting Requirements**

A. The Borough of Alpha 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:

- (1) Beginning on February 1, 2019, and on every anniversary of that date through February 1, 2025, the Borough 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.
- (2) Beginning on July 1, 2019, and on every anniversary of that date through July 1, 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within

the municipality through posting on the municipal website with 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.

- (3) By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough 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.
- (4) By July 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough 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.

#### **§ 410-68 Definitions**

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

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

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

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

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

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

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

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



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

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

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

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

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

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

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

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

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

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

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

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use

of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

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

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

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

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

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

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

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

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

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

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

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

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

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by

DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

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

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

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

#### **§ 410-69 Applicability**

A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Alpha pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

B. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units and any developments of affordable units financed in whole or in part by low income housing tax credits or other federal, state, county or local affordable housing funding programs.

C. Any property in the Borough of Alpha that is currently zoned for nonresidential uses and subsequently receives a zoning change or use variance or approval of a redevelopment plan to permit residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment plan to permit higher density residential development, provided such density is at least twice the density previously permitted, shall provide an affordable housing set-aside of 15% if the affordable units will be for rent and 20% if the affordable units will be for sale. No property shall be subdivided so as to avoid compliance with this requirement. Moreover, this provision governs municipal actions and shall not entitle any property owner or developer to such action by the Borough. All affordable units created pursuant to this paragraph shall be governed by the provisions of this Ordinance.

#### **§ 410-70 Alternative Living Arrangements**

A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

(1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;

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

B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**§ 410-71 Phasing Schedule for Inclusionary Zoning**

A. In inclusionary developments the following schedule shall be followed:

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

**§ 410-72 New Construction**

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

(1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 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 percent of the restricted units within each bedroom distribution shall be very low or low-income units.

(3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

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

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

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

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

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

B. Accessibility Requirements:

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

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

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

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

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

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

(e) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

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

(i) 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.

(ii) To this end, the builder of restricted units shall deposit funds within the Borough of Alpha's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

(iii) The funds deposited under paragraph 6)b) above shall be used by the Borough of Alpha for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

(iv) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Alpha for the conversion of adaptable to accessible entrances.

(v) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

C. Design:

(1) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

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

D. Maximum Rents and Sales Prices:

(1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and using calculation procedures approved by the Court. Income limits for all units that are part of the Borough's Housing Element and Fair Share Plan and for which income limits are not already established through a federal program exempted from UHAC pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Borough annually within 30 days of the publication of new determinations of median income by the Department of Housing and Urban Development ("HUD") as follows:

a) Regional income limits shall be established for the region within which the Borough is located based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

b) The income limits are the result of applying the percentages set forth in paragraph a) above to HUD's determination of median income for the fiscal year 2017, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3) shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

In establishing sale prices and rents of affordable housing units, the Borough's administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established pursuant to the process defined above:

(i) The resale prices 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 determined pursuant to the above methodology. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

(ii) The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

(2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

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

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

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

- (a) A studio shall be affordable to a one-person household;
- (b) A one-bedroom unit shall be affordable to a one and one-half person household;
- (c) A two-bedroom unit shall be affordable to a three-person household;

(d) A three-bedroom unit shall be affordable to a four and one-half person household; and

(e) A four-bedroom unit shall be affordable to a six-person household.

(6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

(a) A studio shall be affordable to a one-person household;

(b) A one-bedroom unit shall be affordable to a one and one-half person household; and

(c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

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

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

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

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

#### **§ 410-73 Utilities**

A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.



B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

#### **§ 410-74 Occupancy Standards**

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

- (1) Provide an occupant for each bedroom;
- (2) Provide children of different sexes with separate bedrooms;
- (3) Provide separate bedrooms for parents and children; and
- (4) Prevent more than two persons from occupying a single bedroom.

#### **§ 410-75 Control Periods for Restricted Ownership Units and Enforcement Mechanisms**

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Alpha takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

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

C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**§ 410-76 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices**

A. 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:

- (1) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (3) 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.
- (4) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

**§ 410-77 Buyer Income Eligibility**

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

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

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

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

**§ 410-78 Limitations on Indebtedness Secured by Ownership Unit; Subordination**

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

#### **§ 410-79 Capital Improvements To Ownership Units**

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

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 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.

#### **§ 410-80 Control Periods for Restricted Rental Units**

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Alpha takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of 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 Ordinance despite the occurrence of any of the following events:

- (1) Sublease or assignment of the lease of the unit;
- (2) Sale or other voluntary transfer of the ownership of the unit; or
- (3) The entry and enforcement of any judgment of foreclosure on the property

**§ 410-81 Rent Restrictions for Rental Units; Leases**

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

**§ 410-82 Tenant Income Eligibility**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
- (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (1) The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

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

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

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

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

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

### **§ 410-83 Municipal Housing Liaison**

A. The Borough of Alpha shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Borough's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Borough's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Alpha shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Alpha, including the following responsibilities which may not be contracted out to the Administrative Agent:

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

(2) Monitoring the status of all restricted units in Alpha's Fair Share Plan;

(3) Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;

(4) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

(5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

C. Subject to the approval of the Court, the Borough of Alpha shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. An Operating Manual for each affordable

housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

**§ 410-84 Administrative Agent**

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

(1) Affirmative Marketing:

(a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Alpha 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.

(2) 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 Borough of Alpha when referring households for certification to affordable units; and

(g) Directly notifying (including copies of application forms with the notifications) the following entities of the availability of affordable housing units in the Borough of Alpha: 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.

B. Affordability Controls:

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

C. Resales and Rerentals:

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

D. Processing Requests from Unit Owners:

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

E. Enforcement:

- (1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that

no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

(3) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

(4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

(5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

(6) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

F. Additional Responsibilities:

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

(2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

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

**§ 410-85 Affirmative Marketing Requirements**

A. The Borough of Alpha shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction.

C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Warren, Essex, Union and Warren 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 the Borough of Alpha shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.



E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

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

H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library 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. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Alpha, and copies of the application forms, to the following entities: 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.

J. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

#### **§ 410-86 Enforcement of Affordable Housing Regulations**

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

B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

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

(a) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

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

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

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

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

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

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

(d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- or 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- or moderate-income unit could have been sold under the terms

of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

(e) Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

(f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

**§ 410-87 Appeals**

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

**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 take effect upon passage and publication as provided by law.

**ATTEST:**

**BOROUGH OF ALPHA**

\_\_\_\_\_  
Acting Borough Clerk

\_\_\_\_\_  
The Honorable Craig Dunwell, Mayor

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Mayor and Council at a meeting held on July 24, 2018.

\_\_\_\_\_  
Acting Borough Clerk

## **NOTICE**

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the Regular Business Meeting of the Governing Body of the Borough of Alpha held in the Municipal Building on the 24th day of July 2018, and the same shall come up for public hearing at the Regular Business Meeting of the Governing Body to be held on the 28th day of August, 2018, at 7:00P.M., at which times any persons interested shall be given the opportunity to be heard concerning said Ordinance. Following the public hearing, said Ordinance shall be considered for final adoption.

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Acting Borough Clerk

**RESOLUTION 2018-112  
RESOLUTION CONDITIONALLY WAIVING  
INTEREST ON TAX BILL DUE TO THE BOROUGH  
FOR KENNETH K. KUTZMAN  
BLOCK 32.03, LOT 11**

**WHEREAS**, the property owner of Block 32.03, Lot 11, Kenneth K. Kutzman, filed bankruptcy under Chapter 13 in the U.S. Bankruptcy Court in 2012; and

**WHEREAS**, a proof of claim and amended proof of claim were filed by the Borough; and

**WHEREAS**, the Borough's amended proof of claim did not account for a portion of that due under the original proof of claim as acknowledged by the office of Albert Russo, Esq., Standing Chapter 13 Trustee in the U.S. Bankruptcy Court; and

**WHEREAS**, the taxes due and interest due at the time of said bankruptcy filing were \$5,897.55 and \$474.73, respectively, totaling \$6,372.28.

**NOW THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Alpha, County of Warren, State of New Jersey that interest assessed on property taxes on Block 32.03, Lot 11 owed by Kenneth K. Kutzman from the time of his bankruptcy filing on taxes due at that time is hereby waived, and the balance of \$6,372.28 (as above stated) is due to the Borough of Alpha representing taxes owed and interest to the date of filing and shall be paid in full to the Borough by December 31, 2018.

**BE IT FURTHER RESOLVED**, that the Mayor, Acting Clerk, and Tax Collector are authorized to execute any and all necessary documents related to such waiver of interest for said time period.

**CERTIFICATION**

*I, Donna L. Messina, Acting Borough Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Common Council at a meeting of said Common Council on August 28, 2018 and that said Resolution was adopted by not less than the legal vote needed of the members of the Council.*

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Donna L. Messina, Acting Borough Clerk

*Witness my hand and seal of the Borough of Alpha  
this 28<sup>th</sup> day of August, 2018.*

**RESOLUTION 2018-118**  
**RESOLUTION OF THE MAYOR AND GOVERNING BODY OF THE BOROUGH OF ALPHA,**  
**AUTHORIZING THE AWARD OF A COMPETITIVE CONTRACT**  
**CC 3R-2018 TO ES2 ENVIRONMENTAL SYSTEMS AND EQUIPMENT SERVICE INC., FOR**  
**ALPHA SANITARY LIFT STATION SCADA CONTROLS FOR A PERIOD OF FIVE (5)**  
**YEARS**

**WHEREAS**, the Borough has a desire to provide for Sanitary Lift Station SCADA Controls at the Borough of Alpha Sanitary Lift Station; and

**WHEREAS**, such services are currently available to be provided through the competitive contracting process under the New Jersey Local Publics Contract Law, N.J.S.A. 40A:11-4.1 et Seq., and has passed an authorizing resolution in accord with N.J.S.A.40A:11-4.1.; and

**WHEREAS**, the Borough desires to evaluate such offerings from Vendors within the procedures as set forth in the New Jersey Local Publics Contract Law (N.J.S.A.40A:11-4.1 et. seq. and N.J.A.C. 5:34-4 et. Seq.); and

**WHEREAS**, the Borough desires to enter into a contract for up to a five (5) year contract that will satisfy the needs of the Borough; and

**WHEREAS**, the process was administered by the Boroughs Qualified Purchasing Agent as required for in statute; and

**WHEREAS**, the Competitive Contract submittal was received as on August 14, 2018 at 1:30pm here the proposals were publicly opened and read aloud; and

**WHEREAS**, the review committee as per statute conducted the required scoring and ranking as contained within N.J.A.C. 5:34-4 et. Seq., and said report has been made public, ranking ES2 Environmental Systems and Equipment Service, Inc. 6151 Keller's Church Road Pipersville, PA 18947 as the highest scoring recipient by the committee.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Council of the Borough of Alpha, County of Warren, State of New Jersey, as follows:

The Mayor is authorized to enter into a contract with ES2 Environmental Systems and Equipment Service, Inc. 6151 Keller's Church Road Pipersville, PA 18947 for a contract fulfilling the tenets as set forth in CC 3R-2018 for a period of five (5) years.

BOROUGH OF ALPHA  
\_\_\_\_\_, Mayor

**CERTIFICATION**

*I, Donna L. Messina, Acting Clerk of the Borough of Alpha, County of Warren, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Common Council at a meeting of said Common Council on August 28, 2018 and that said Resolution was adopted by not less than the legal vote needed of the members of the Council.*

\_\_\_\_\_  
Donna L. Messina, Acting Municipal Clerk