

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MADISON

September 14, 2020 - 7 p.m.

CALL TO ORDER

The Regular Meeting of the Mayor and Council of the Borough of Madison was held on the 14th day of September, 2020. Mayor Conley called the meeting to order at 7:00 p.m. via Teleconference in the Council Chamber of the Hartley Dodge Memorial, Kings Road, in the Borough of Madison.

STATEMENT IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

The Borough Clerk read the statement pursuant to the Open Public Meetings Act:

“In compliance with the Open Public Meetings Act, adequate notice of this meeting of the Council was provided by transmitting a copy of the meeting notice to the Madison Eagle and Morris County Daily Record, posting a copy on the bulletin board at the main entrance of the Hartley Dodge Memorial, and filing a copy in the office of the Clerk, all on January 10, 2020. This Notice was made available to members of the general public.”

ROLL CALL

The Borough Clerk called the roll and the following acknowledged their presence:

Mayor Robert H. Conley

Council Members:

Carmela Vitale

Astri J. Baillie

Maureen Byrne

John F. Hoover

Debra J. Coen

Rachael Ehrlich

Also Present:

Raymond M. Codey, Borough Administrator

James E. Burnet, Assistant Borough Administrator

Elizabeth Osborne, Borough Clerk

Matthew J. Giacobbe, Esq. Borough Attorney

AGENDA REVIEW

There was approval of the Regular and Executive Agenda.

READING OF CLOSED SESSION RESOLUTION

Ms. Baillie moved:

RESOLVED, that the meeting be adjourned to an Executive Session to consider the following matters:

MINUTES FOR APPROVAL (1)

August 10, 2020

Date of public disclosure 60 days after conclusion, if disclosure required.

LITIGATION MATTERS (1)

AFFORDABLE HOUSING UPDATE

Date of public disclosure 60 days after conclusion, if disclosure required.

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CONTRACT MATTERS (3)

HDM ENVIRONMENTAL REMEDIATION

HQM ACQUISITION

LAND USE CONSULTING

Date of public disclosure 60 days after conclusion, if disclosure required.

PERSONNEL MATTERS (4)

POLICE DEPARTMENT PROMOTIONAL WAIVERS

POLICE SERGEANT INTERVIEW

BUILDING DEPARTMENT

DEPARTMENT OF PUBLIC WORKS

Date of public disclosure 90 days after conclusion, if disclosure required.

Seconded: Mrs. Vitale

Vote: Approved by voice vote

RECONVENE VIA TELECONFERENCE

Mayor Conley reconvened the Regular Meeting at 7 p.m. via teleconference with all members present. The Pledge of Allegiance was recited by all.

A moment of silence was observed in honor of the following longtime residents of Madison:

Former Council member Sebastian (Sam) Cerciello

Carl Weisgerber

Carl Osborne

Joan Sodano

John Forte, Sr.

Annie Baitman

Willie Alfred Sallie

APPROVAL OF MINUTES

Mrs. Vitale moved approval of the **Executive Minutes of August 10, 2020**. Ms.

Baillie seconded the motion, which passed with a unanimous voice call vote recorded.

Mrs. Vitale moved approval of the **Regular Meeting Minutes of August 10, 2020**.

Ms. Baillie seconded the motion, which passed with a unanimous voice call vote recorded.

GREETINGS TO PUBLIC

Mayor Conley made the following comments:

EMPLOYEES OF THE MONTH

Carmela Cooke and Helene Corlett for accepting new positions to greet visitors to Hartley Dodge at the front lobby to insure the safety of residents and staff by monitoring temperatures, the wearing of masks and social distancing. Their cheerful attitude and warm personalities go a long way to make guests feel at home returning to Borough Hall. Many thanks for their flexibility and dedication.

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Mayor Conley presented the following Proclamation to Karion Szorak:

*Proclamation
of the
Borough of Madison
Proclaiming
National Suicide Prevention Awareness Month*

September 2020

WHEREAS, September is known around the United States as National Suicide Prevention Awareness Month and is intended to help promote awareness surrounding each of the Suicide Prevention resources available to us and our community. The simple goal is to learn how to help those around us and how to talk about suicide without increasing the risk of harm; and

WHEREAS, the Borough of Madison is committed to increasing awareness of suicide prevention and wishes to recognize the importance of suicide awareness in our community; and

WHEREAS, suicidal thoughts can affect anyone regardless of age, gender, race, orientation, income level, religion, or background; and

WHEREAS, according to the CDC, each year more than 41,000 people die by suicide; and

WHEREAS, suicide is the 10th leading cause of death among adults in the US, and the 2nd leading cause of death among people aged 10-24; and

WHEREAS, the Borough of Madison is no different than any other community in the country, but chooses to publicly state and place our full support behind local educators, mental health professionals, athletic coaches, pack leaders, police officers, and parents, as partners in supporting our community in simply being available to one another; and

WHEREAS, local organizations like the American Foundation for Suicide Prevention and the National Alliance on Mental Illness (NAMI) are on the front lines of a battle that many still refuse to discuss in public, as suicide and mental illness remain too taboo a topic to speak on; and

WHEREAS, every member of our community should understand that throughout life's struggles we all need the occasional reminder that we are all silently fighting our own battles; and

WHEREAS, we encourage all residents to take the time to check in with their family, friends, and neighbors and to genuinely convey their appreciation for their existence by any gesture they deem appropriate. A simple phone call, message or hug can go a long way toward helping someone realize that suicide is not the answer.

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NOW, THEREFORE, I, Robert H. Conley, Mayor of the Borough of Madison, on behalf of the governing body, do hereby proclaim September 2020 as **National Suicide Prevention Awareness Month** in the Borough of Madison.

Robert H. Conley, Mayor, September 14, 2020

*Proclamation
of the
Borough of Madison
Proclaiming
National Childhood Cancer Awareness Month
September 2020*

WHEREAS, childhood cancer is the leading cause of death and disease in children; and

WHEREAS, 43 children per day and 15,780 children are diagnosed with cancer annually in the U.S.; and

WHEREAS, there are approximately 40,000 children on active treatment at any given time, and

WHEREAS, *two-thirds* of childhood cancer patients will have chronic health conditions as a result of their treatment toxicity, with one quarter being classified as severe to life-threatening, and;

WHEREAS, approximately one half of childhood cancer families rate the associated financial toxicity due to out-of-pocket expenses as considerable to severe, and;

WHEREAS, in the last 20 years only four new drugs have been approved by the FDA to specifically treat childhood cancer, and;

WHEREAS, researchers and healthcare professionals work diligently dedicating their expertise to treat and cure children with cancer; and

WHEREAS, recognition should be made to the families, friends, healthcare professionals, volunteers and communities who lend their support to children battling pediatric cancer;

NOW, THEREFORE, I, Robert H. Conley, Mayor of the Borough of Madison, on behalf of the governing body, do hereby proclaim September as **National Childhood Cancer Awareness Month** to raise awareness of childhood cancer and extend our admiration to the courageous youngsters who struggle with this disease.

Robert H. Conley, Mayor

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REPORTS OF COMMITTEES

Finance and Borough Clerk

Mrs. Vitale, Chair of the Committee, made the following comments:

Mrs. Vitale noted that the 2021 Municipal Budget process is underway with Department Heads providing Administration with capital needs and preliminary budget requests. As of August 27th, 98.8% of the 2nd quarter tax payments have been received. The Borough Clerk's Office reminds residents that in anticipation of the November 3rd General Election, Late Night Voter Registration will be held October 13th. Forms are available in the Borough Clerk's office or on line at morriselections.org. By Executive Order 177, Election Day, November 3rd will be primarily by vote-by-mail. All registered voters will be mailed Vote by Mail ballots before October 5th. All ballots are postage paid, can be dropped in any mail box, can be dropped off in a drop box behind the Public Safety Complex at 62 Kings Road, can be dropped at a polling location on Election Day (Madison's polling locations will again be the Court Room at the HDM), or can be delivered directly to the Morris County Clerk's Office, Morristown. Please call the Clerk's office with questions.

Public Safety

Ms. Baillie, Chair of the Committee, made the following comments:

The Office of Emergency Management (OEM) has undergone communications improvements to the phone system and work stations for remote work during storms. During the month of August, the Fire Department responded to 20 General Alarms, 25 Still Alarms, 28 Investigations, 28 Medical calls for a total of 101 responses for the month. The Fire Department's annual aerial testing and recertification was done in August. All fire service aerial trucks are required to be tested by a 3rd party company once a year. The Police Department reports that during the past several months Morris County and Madison have seen an increase in motor vehicle thefts along with motor vehicle burglaries. One surrounding community has reported that these motor vehicle burglaries have led to residential burglaries when their citizens left keys and garage door openers inside their vehicles. Madison Officers have encountered these criminals during proactive residential patrol and have thwarted numerous car burglaries and other crimes of opportunity in the past several weeks. Residents are reminded to lock your vehicles and removing all valuables from your car.

Public Works and Engineering

Ms. Byrne, Chair of the Committee, made the following comments:

Summer 2020 saw many interns in the Public Works, Engineering Department and Environmental and Sustainable Jersey Commissions. These students supplemented day to day operations as well as specific programs such as the Carbon Footprint project done by Max Drucker of Drew and Christian Wong of University of Michigan. Under the supervision of Peter Fried. Brett Cheadle and Becca Safi of Drew worked under the supervision of Drew Professor and Sustainable Madison commissioner Lisa Jordan on a Build Out Analysis of the Borough. Dylan MacDonald of Vassar created a master plan for green infrastructure projects on Borough Property, with

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assistance from Kathleen Caccavale of Sustainable Madison. Lea O’Gorman, a graduate of MHS and Temple University worked with Gene Cracovia and the Shade Tree Commission assembling data for a tree inventory. MHS students also worked with the Environmental and Sustainable Madison commissions. Jacob Jordan worked on a bicycle and pedestrian audit, Henry McCann maintained the Rain Garden at Gibbons Place and Meredith Weiner worked on the Tree Inventory. At DPW, Anna Cerutti, John Cerutti, and Rory Deluca worked with the DPW crews to maintain the town’s infrastructure and ongoing maintenance. In the Engineering Department, Jessica Vogel and Josephine Russo completed a 3000-point inventory, location, and condition assessment for poles and transformers for the Electric Utility and Produced a Madison residential rooftop solar inventory for use in assessing the impact of installations over the past five years on overall electric utility use. On October 3, Madison is throwing a Town wide Garage Sale! To list your yard sale location for \$10, Visit tapintomadison.net, then choose Create and Account or Sign In. Follow the directions to submit content, choosing Event listing and the Nonprofit rate of \$10. Madison Yard sale is the event, and your address is the information for the listing. The Environmental Commission is once again selling Composters (\$60, normally \$100) and Rain Barrels (\$70). To order, write to mec@rosenet.org Deadline for ordering is September 29, with pickup on Sunday October 4th.

Community Affairs

Mr. Hoover, Chair of the Committee, made the following comments:
The Seniors Citizen Advisory Committee and TriTown 55+ have discontinued food delivery services. The Madison Farmers Market continues every Thursday through November 19th. The Market is located at Dodge Field. The hours are 2:00-7:00 pm. New vendors have been added as the season has progressed. Customer health and safety guidelines are posted at the entrances. Taste of Madison 2021 is scheduled for Monday, March 22, 2021 at the Brooklake Country Club. The Recreation Advisory Committee met on August 3rd. Thirty-one groups have participated in fall sports this season. Volunteers continue to receive child safety training.

Health

Ms. Coen, Chair of the Committee, made the following comments:
The Health Department reports that Stage II continues, of the Road Back with gym and restaurants opening with 25% capacity. Madison has reported a total of 171 cases to date, with younger demographics seeing more cases. Twenty-five states are now on the self-quarantine list if visited. Residents are stay at home but get out and exercise, continue social distancing, use face coverings, wash hands frequently, and if you don’t feel well, contact your doctor. Stay connected, check in on elderly friends and neighbors and parents need to set good examples.

Utilities

Ms. Ehrlich, Chair of the Committee, made the following comments:
The Electric Crews are working on finishing storm work repairs and upgrades from Hurricane Isaias. The department set three permanent poles to replace the temporary poles on Madison Avenue and Westerly Avenue. The crews repaired the Glenwild Road streetlight feed, which was damaged in the storm. The Department is still removing large branches from the lines due to storm damage. Downtown, the Electric Department has been working on the Dodge Fieldhouse upgrade project. Crews installed the underground pipe work for the new electrical service. The

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Department also dug, set two new poles, and ran secondary cable for the new electric vehicle charging stations. The Electric Department has replaced the following equipment as part of ongoing upgrades and improvements: added an upgraded back feed at Madison Avenue and Shadylawn Drive for emergency use and to minimize customer outages in that area, completed the pole upgrade and transfers at Greenwood Avenue and 171 Main Street, installed a new transformer and secondary wire to remedy a low voltage issue at Hillside Avenue and Prospect Street, upgraded the transformer at 9 Bardon Street to accommodate the increased power demand. The Electric Department continues to perform mark-outs, street light repairs, maintain the yard at the James Park Substation, and install new service wires from contractor upgrades, repairs, and new construction. From the Water Department, on August 3rd a 6-inch water main broke on Hamilton Street at 9:00 in the morning. After receiving notification from the Madison Police Department, the water was shut down between 9:30 – 10:00 am and the excavation and repair were started. Following repairs to the ruptured main, water service was reinstated by 1:00 pm. Installation of the water meter AMR system (for Automatic Meter Reading) is an ongoing process. Anyone who is interested in having their water meter changed, so it may be read via Radio-Read, please contact the Department and we will do so with the necessary safety precautions.

COMMUNICATIONS AND PETITIONS - None

INVITATION FOR DISCUSSION (1 of 2)

Mayor Conley opened the meeting to the public for their opportunity to ask questions and make comments on those items listed on the Agenda only. Mayor asked that, upon recognition by the Meeting Moderator, each person give his/her name and address in an audible tone of voice, for the record. **He/she shall limit his/her statement to three (3) minutes or less.**

Since no member of the public wished to be heard, the invitation for discussion was closed.

AGENDA DISCUSSIONS

09/14/2020-1 MEDAL OF HONOR SIGNAGE PRESENTATION

Former Mayor Gary Ruckleshaus and resident Herbert Huber presented history of resident Lt Samuel Coursen, who gave his life for our country during the Korean War and provided images of street signs for the gate ways to honor Lt Coursen's Medal of Honor. Following discussion, Mayor Conley noted the sign installation will move forward with internal review of the final sign, ready for November 11th, Veterans Day.

ADVERTISED HEARINGS

The Clerk made the following statement:

Ordinances scheduled for hearing tonight were submitted in writing at a Regular meeting of the Mayor and Council held on August 10, 2020, were introduced by title and passed on first reading, were published in the Madison Eagle and made available to members of the general public requesting same.

Mayor Conley called up Ordinances for second reading and asked the Clerk to read said ordinances by title:

**ORDINANCE 26-2020
ORDINANCE OF THE BOROUGH OF MADISON AMENDING AND
SUPPLEMENTING CERTAIN PROVISIONS OF CHAPTER 195 SECTION
32 OF THE MADISON BOROUGH CODE ENTITLED “LAND
DEVELOPMENT ORDINANCE”**

WHEREAS, the Borough of Madison has a long-standing commitment to the provision of affordable housing, and in furtherance of that objective, and in line with regulatory changes and judicial decisions, the Borough believes its commitment to affordable housing is best advanced by amending and supplementing Section 195-32 of the Borough Code; and

WHEREAS, the Planning Board recommends to the Borough Council the adoption of these amendments and finds that they are substantially consistent with the Master Plan or designed to effectuate such plan elements, and/or if they are wholly or partially inconsistent, that an affirmative vote of the majority of the full authorized membership of the governing body has been received in recognition of the substantial public benefits as cited in the Statement of Purpose section of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: Section 195-32 of the Madison Borough Code shall be amended and supplement as follows:

(A) Section 195-32.1. E(2)(e) is amended to read as follows:

<u>Type of Unit</u>	<u>Minimum Floor Area</u>
Studio/efficiency =	500 square feet
One bedroom =	650 square feet
Two bedroom =	800 square feet
Three bedroom =	1,000 square feet

(B) Section 195-32.4. A is amended to read in its entirety as follows: The purpose of the CBD-1 Zones is to promote a vital, mixed-use, walkable downtown core designed to encourage street-level pedestrian activity through ground-level locally oriented retail uses and upper-floor offices and residential uses. The purpose of the CBD-2 zones is to similarly promote a walkable and inviting streetscape with both mixed-use development and multi-family inclusionary development proximate to Main Street and transit service, supporting and complementing the retail and

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service core. Preserving and maintaining a streetscape consistent with downtown design principles, encouraging the reuse and rehabilitation of historic structures, maintaining the character and scale of buildings, sites, and uses to promote pedestrian accessibility and safety, and encouraging locally oriented retail businesses and services are central to the identity, health and vitality of the CBD Zones.

(C) Section 195-32.4. B. is supplemented to add the following:

(13) Inclusionary multi-family residential in compliance with 195-47 and 195-48 (only in CBD-2 Zone).

(D) Section 195-32.4. G(2) the minimum floor area requirements are amended to read as follows:

- (a) Studio/efficiency = 500 square feet
- (b) One bedroom = 650 square feet
- (c) Two bedroom = 800 square feet
- (d) Three bedroom = 1,000 square feet

(E) Section 195-32.4.G. is supplemented to add the following:

(3) The standards of 195-24.2E shall apply.

(F) Section 195-32.4.H. Inclusionary Overlay Zones shall be added to provide for residential development under CBD-2 standards as follows:

(1) Block 1501, Lot 1: This lot shall have an Overlay option for inclusionary multi-family development under the CBD-2 standards for inclusionary multi-family development, except that the maximum permitted impervious coverage and maximum permitted height may be increased by 10% and 5 feet, respectively, to allow for preservation of the existing barn/barns at the corner of Ridgedale and Cook Avenues.

(2) Block 2001, Lots 14 and 15: These lots shall have an Overlay option for multi-family development under the CBD-2 standards.

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- (G)** Section 195-32.5.B. is amended to eliminate B(8) and to renumber the remaining subsections accordingly.
- (H)** The lead in paragraph of Section 195-32.5.E. is amended as follows:
Supplemental requirements; design standards. All uses in the CC Zone shall meet the following design standards and those applicable provisions of Article IV.
- (I)** Section 195-32.5.E(4)(a) is amended to read as follows: An eight-foot landscaped buffer shall be required along each side yard, and a fifteen-foot landscaped buffer shall be required along the rear property line. The pervious areas in the required front yard and/or between the front building façade and the street right-of-way shall be fully planted and maintained in lawn area or ground cover or landscaped with a mix of deciduous and evergreen shrubbery and trees. The landscape plan shall be prepared by a licensed landscape architect.
- (J)** Section 195-32.5.E.(9) is amended to read as follows: Residential development, with the exception of 100 % affordable housing development, shall conform with the following minimum floor area requirements:
- (a) Studio/efficiency: 500 square feet.
 - (b) One bedroom: 650 square feet.
 - (c) Two bedrooms: 800 square feet.
 - (d) Three bedrooms: 1,000 square feet.
- (K)** Section 195-32.5.E.(8) shall be deleted and former Section 195-32.5.E.(9) as modified above shall be renumbered accordingly.
- (L)** Section 195-32.5.F.(3) is amended to read as follows:
(3) No more than twelve dwelling units shall be on any property/parcel outside of the CC Inclusionary Overlay Zone.
- (M)** a new section 195-32.5.G. shall be added to read as follows:
195-32.5.G. CC Inclusionary Overlay Zone Regulations

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- a) Purpose. To allow well-designed inclusionary multi-family residential development in key nodes along the Main Street corridor east of downtown.
- b) Principal permitted uses
 - i. Inclusionary multi-family residential development in accordance with 195-47 and 195-48.
- c) Bulk regulations
 - i. Height: 3 stories/38 feet
 - ii. Minimum front yard: Minimum 20 feet; Maximum 40 feet
 - iii. Minimum side yard: 15 feet
 - iv. Minimum rear yard: 25 feet
 - v. Minimum lot area: 10,000 square feet
 - vi. Maximum distance from ROW for minimum lot area to be calculated: 150 feet
 - vii. Minimum lot depth: 100 feet
 - viii. Minimum lot width: 125 feet
 - ix. Maximum impervious coverage: 70%
 - x. Minimum number of buildings per tract or lot:
 - i. For lots/tracts greater than 40,000 square feet: 2
 - ii. For lots/tracts greater than 80,000 square feet: 3
 - iii. For lots/tracts greater than 100,000 square feet: 4
 - b. Maximum inclusionary multi-family density: 18 units per acre for all lots under 100,000 square feet; 20 units per acre for lots over 100,000 square feet
- d) The standards in 195-32.5.E. and 195-32.13.H. shall apply.
- e) Block and Lots included in CC Overlay Zone:

BLOCK	LOT
1203	13
1105	28
1105	29.01
1106	1; 2
2001	17, 18, 19, 20 23, 24, 25
2502	1 to 6; 8 to 13

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2402	1 to 4; 22; 20
2208	27

(N) Section 195-32.9.A. is amended to read as follows: Purpose. The purpose of this zone is to permit 100% affordable senior citizen housing for eligible households, consistent with 195-47 and 195-48.

(O) Section 195-32.9.B.(1) is amended to read as follows: 100% Affordable senior citizen housing.

(P) Section 195-32.12.A is amended to read as follows: Purpose: The purpose of this zone is to permit scatter site 100% affordable housing for eligible households, consistent with 195-47 and 195-48.

(Q) Section 195-32.12.B(1) to read as follows: 100% Affordable housing development occupied by households meeting the eligibility criteria of 195-47 and 195-48.

(R) The following provisions of 195-32.13 related to the Gateway Zone shall be modified as follows:

- i. Section 195-32.13 A. is amended to read as follows: The purpose of this zone is to provide reasonable opportunities for inclusionary multifamily housing and commercial uses, through development standards for properties strategically located at the eastern gateway entrance to the Borough of Madison. The uses permitted are those that complement and are supportive of existing commercial uses in the remaining CC Community Commercial Zone and are compatible with abutting residential uses. The standards of this zone are intended to encourage superior building aesthetics and streetscape enhancement at a scale appropriate to this unique area and the Borough.
- ii. Section 195-32.13.B. is amended to read as follows:
 1. Multifamily inclusionary development
 2. Business, medical, professional, executive or administrative offices in existence at the time of adoption of this ordinance; and,
 3. Institutional and public uses
- iii. Section 195-32.13.D(4) shall be deleted.

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- iv. Section 195-32.13.D.(6) is amended to read as follows: Maximum impervious cover for multifamily dwellings: 65%.
- v. Section 195-32.13.D.(7) is added to delete (b) and (c), and to amend (a) to read as follows:
 - (a) 20 units per acre.
- vi. Section 195-32.13.D.(8) shall be deleted, with the remainder of this Section renumbered accordingly.
- vii. Section 195-32.13.E.(4) is amended to read as follows: Maximum impervious coverage for multifamily dwellings: 65%.
- viii. Section 195-32.13.E.(6) is amended to read as follows: Maximum impervious cover for multifamily dwellings: 65%.
- ix. Section 195.32.13.E.(7) is amended to delete (b), and to amend (a) to read as follows:
 - (b) 20 units per acre.
- x. Section 195-32.13.E.(8) shall be deleted and the rest of subsection shall be renumbered accordingly.
- xi. Section 195-32.13.H.(2)(a) is amended to read as follows:
 - (a) An eight-foot landscaped buffer shall be required along each side yard, and a fifteen-foot landscaped buffer shall be required along the rear property line. All pervious areas in the required front yard and/or between the front building façade and the street right-of-way shall be fully planted and maintained in lawn area or ground cover or landscaped with a mix of deciduous and evergreen shrubbery and trees. The landscape plan shall be prepared by a licensed landscape architect.
- xii. Section 195-32.13.H.(8) is amended to read as follows: All residential units, with the exception of 100% affordable housing developments, shall conform to the following minimum floor area requirements:
 - (a) Studio/efficiency: 500 square feet.
 - (b) One bedroom: 650 square feet.
 - (c) Two bedrooms: 800 square feet.
 - (d) Three bedrooms: 1,000 square feet.

(S) The following Section 195-32.16 is added:

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195-3.16 CC-AFH Zone for Block 2208, Lot 26.

- A. Purpose: Permit multifamily inclusionary residential development, including the construction of new units along Main Street/Route 124, to address part of the Borough's affordable housing obligation through the addition of affordable housing units in both new and existing residential buildings.
- B. Principal permitted uses: Multiple-family dwellings, garden apartments.
- C. Permitted accessory uses: Uses that are customarily incidental and accessory to the principal use as permitted herein
- D. Development Standards:
 - 1. Maximum units: A maximum of 40 additional units are permitted with a minimum inclusionary requirement equivalent to 25% of the total new units. This 25% requirement shall be met by the inclusion of affordable units in any new development, with at least two affordable, three-bedroom units included in any new residential building. The remainder of the required affordable units may be located in either new or existing buildings on the site/parcel. The affordable units shall comply with the requirements, including phasing requirements, in 195-47. If the developer chooses to deed restrict units in an existing building as affordable, it shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the affordable units meet all code standards.
 - 2. Maximum height (new buildings) = Any new building shall be no more than 3 stories/40 feet exposed façade height (from grade to top of parapet) along Main Street and no more than four stories/50 feet (from grade to top of parapet) in all other locations to allow for incorporation of structured parking afforded by the grade change on the site.
 - 3. Maximum height (buildings in place prior to adoption of this amendment): 2.5 stories/35 feet
 - 4. Minimum lot width = 200 feet
 - 5. Minimum lot depth = 500 feet
 - 6. Minimum lot area = 120,000 square feet
 - 7. Maximum impervious coverage = 80%

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8. Maximum total residential units = 104 units
9. Minimum setbacks = at least one foot for every two feet of building height along Main Street and minimum 35-foot setbacks from side property lines

E. Supplemental Standards for New Buildings:

1. At least half of all required parking shall be located within structures
2. No off-street parking shall be permitted between any building and any public street
3. Accessory structures shall be in architectural harmony with principal structures
4. There shall be minimum four foot building offsets every 40 linear feet of any principal structure
5. Landscaped buffers of at least 10 feet in width shall be planted along Main Street and along the sides of any new building, including a combination of native shade trees, shrubs and foundation plantings.

(T) The following Section 195-32.17 is added:

Section 196-32.17 Optional Inclusionary Residential Overlay Zone on Block 4501, Lot 3.

A. Permitted Uses: Inclusionary development in attached single-family homes, townhouses, two-family homes, garden apartments and patio homes:

B. Development Standards:

1. Maximum units per structure = 6
2. Maximum height = 2.5 stories/35 feet
3. Minimum lot width = 150 feet
4. Minimum lot depth = 300 feet
5. Minimum lot area = 80,000 square feet
6. Maximum principal building coverage = 40%
7. Maximum impervious coverage = 60%
8. Maximum density = 12 units/acre
9. Minimum setbacks = 30 feet from any public street and all property lines

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C. Supplemental Standards:

1. Minimum distance between buildings = 20 feet
2. No off-street parking shall be permitted in any front yard or between any building and any public street
3. Accessory structures shall be in architectural harmony with principal structures
4. No dwelling units shall be located in any basement or cellar
5. There shall be minimum four foot building offsets every 30 linear feet of any principal structure that abuts any public street

(U) Section 195-Attachment I, is amended as follows:

In CBD-2 Zone, a new row for inclusionary multi-family residential shall be added with the following requirements:

- Stories: Minimum =2; Maximum =3 stories, provided third story is setback an additional 5 feet from the front building line.
- Maximum Height: 40 feet (3-story buildings); 30 feet (2-story buildings)
- Minimum Yards:
 - Front yard: 18 feet
 - Side yard: 10 feet minimum; **except where abutting a side yard in a residential district, side yard shall be 1 foot for every 2 feet in height of the principal structure, but not less than 10 feet.** [NOTE to codifier: bold text to be added as note on Attachment I and lettered accordingly]
 - Rear yard: (d)
- Minimum Lot Area: 10,000 square feet
- Minimum Lot Width:
 - Interior: 75 feet
 - Corner: 100 feet
- Minimum Lot Depth: 150 feet
- Maximum Impervious Coverage: 80%

(V). Add the following as: 195-32.F. Optional R-4AH Overlay Zone for South Side Park Avenue from James Park to Elm Street (Block 1402, Lots 1-8 and Block 1302, Lots 7-11)

(1) Permitted Uses: Attached single-family homes, townhouses, two-family homes, garden apartments, multiple-family dwellings, and patio homes.

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(2) Development Standards:

- (a) Maximum units per structure = 6
- (b) Maximum height = 2.5 stories/38 feet
- (c) Minimum lot width = 100 feet
- (d) Minimum lot depth = 150 feet
- (e) Minimum lot area = 15,000 square feet
- (f) Maximum building coverage = 50%
- (g) Maximum impervious coverage = 65%
- (h) Maximum density = 14 units/acre
- (i) Minimum setbacks = 30 feet rear yard; 8 feet each side yard for lots that meet the minimum required width, which may be reduced by 1 foot for each five feet of lot width under the minimum required but not resulting in less than a five-foot minimum side yard setback on each side.

(3) Supplemental Standards:

- (a) There shall be no parking between any building and Park Avenue
- (b) The prevailing front yard setback shall be maintained along Park Avenue
- (c) There shall be a maximum of one driveway per lot or development parcel onto Park Avenue

SECTION 2: This ordinance supersedes any inconsistent provisions of the Land Development Ordinance of the Borough of Madison, whether or not stated expressly herein. All other provisions of the Land Development Ordinance not inconsistent herewith shall remain in effect.

SECTION 3: This Ordinance shall take effect as provided by law.

Mayor Conley opened up the public hearing on Ordinance 26-2020. Since no member of the public wished to be heard, the public hearing was closed.

Mrs. Vitale moved that Ordinance 26-2020, which was read by title, be finally adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

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Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne
Mr. Hoover, Ms. Coen, Ms. Ehrlich
Nays: None

Mayor Conley declared Ordinance 26-2020 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

**ORDINANCE 27-2020
ORDINANCE OF THE BOROUGH OF MADISON AMENDING THE
AFFORDABLE HOUSING PROVISIONS OF CHAPTER 195 SECTIONS 47
AND 48 OF THE MADISON BOROUGH CODE ENTITLED “LAND
DEVELOPMENT ORDINANCE”**

WHEREAS, the Borough of Madison has a long-standing commitment to the provision of affordable housing, and in furtherance of that objective, and in line with regulatory changes and judicial decisions, the Borough believes its commitment to affordable housing is best advanced by updating and replacing Sections 195-47 and 195-48 of the Borough Code; and

WHEREAS, the Planning Board recommends to the Borough Council the adoption of these amendments and finds that they are substantially consistent with the Master Plan or designed to effectuate such plan elements, and/or if they are wholly or partially inconsistent, that an affirmative vote of the majority of the full authorized membership of the governing body has been received in recognition of the substantial public benefits as cited in the Statement of Purpose section of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: Sections 195-47 and 195-48 of the Madison Borough Code entitled “Affordable Housing Growth Share Requirements” shall be deleted in their entirety and the following provisions shall be inserted in their place:

§ 195-47. Affordable housing policies, procedures and administration

- A. Intent. It is the intent of this article to regulate the development and management of low- and moderate-income housing units constructed in compliance with the Housing Element of the Master Plan of the Borough of Madison. This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing”, N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq. except where modified to address the statutory requirement to provide very-low income units equal to 13% of affordable units approved and constructed after July 1, 2008, to be affordable to households at 30% of the regional median income,

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overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at N.J.S.A. 52:27D-329.1).

B. This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing) except where inconsistent with applicable law.

C. Definitions. As used herein the following terms shall have the following meanings:

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

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

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:91, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

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

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

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

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

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

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

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93, and/or funded through an affordable housing trust fund.

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

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

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

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

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

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

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

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

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

"Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

"Housing Element" means the portion of the Borough's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b (3) and the Act, that includes the information required by N.J.A.C. 5:93-5.1 and establishes the Township's fair share obligation.

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

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

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

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

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

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“Median income” means the median income by household size for the applicable county, as adopted annually by COAH or approved by the NJ Superior Court.

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

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

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

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by adopted/approved Regional Income Limits.

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

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

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

“Special master” means an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

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

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

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

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

D. Affordable Housing Compliance/Administration

- (1) The Borough shall designate by resolution of the Governing Body, subject to the approval of the Superior Court, one or more Administrative Agents to administer the Borough’s compliance in meeting the affordable housing obligation.
- (2) The Mayor and Borough Council may appoint, constitute and designate the Madison Housing Authority (“MHA”) or any other entity to serve as the Borough’s Administrative Agent.
 - (a) The Borough may delegate the administration of all or part of the duties named in this section to the Department of Community Affairs, a nonprofit organization or another qualified entity.
 - (b) When appointed, the MHA or other qualified entity shall adopt all such rules, regulations and procedures as are necessary to effectuate the foregoing and to meet the intent of performing all the responsibilities, functions and duties of the Affordable Housing Policy set forth in Article VIII.
 - (c) Where approved by the Borough, sales and rental transactions of affordable housing units may be administered by the developer under the advisory review of the Borough’s Affordable Housing Administrator as per this section.
- (3) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes but is not limited to the following:
 - (a) Review regulations pertaining to the sale and rental of affordable housing units.
 - (b) Review requests from federal, state, county or local agencies regarding funding or applications for funding.
 - (c) Provide recommendations to the Borough Council regarding how Borough funds or funds collected from developer’s contributions for affordable housing should be spent and propose priorities for such expenditures.
 - (d) Review all affirmative marketing plans submitted by any developer, applicant or owner, or prepare such affirmative marketing plans in connection with affordable housing under the auspices of COAH or NJ Superior Court.

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- (e) Administer all resale and re-rental transactions of affordable units.
 - (f) Conduct household certification.
 - (g) Administer affordability controls.
 - (h) Conduct affirmative marketing.
 - (i) Record retention.
 - (j) Processing requests from unit owners; and
 - (k) Enforcement, although the ultimate responsibility for retaining controls on the units rests with the Borough.
- E. The Borough may charge a reasonable fee to program participants for the administration of its affordability controls program.
- F. Municipal Housing Liaison.
 - (1) The position of Municipal Housing Liaison for the Borough of Madison is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Borough Council and be subject to the approval by the Superior Court.
 - (2) The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Madison.
 - (3) The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in N.J.A.C. 5:93.
 - (4) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Madison, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (a) Serving as the Borough's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (b) When applicable, supervising any contracting the Administrative Agent.
 - (c) Monitoring the status of all restricted units in the Borough of Madison's Fair Share Plan;
 - (d) Compiling, verifying and submitting annual reports as required by the Superior Court;
 - (e) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.
- G. Compliance Monitoring. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection anticipated in a Borough agreement with Fair Share Housing

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Center (hereinafter “FSHC”) and/or a Judgment of Repose. The Borough agrees to comply with those provisions as follows:

- (1) The Borough must prepare within the required time a midpoint realistic opportunity review, as required pursuant to N.J.S.A. 52:27D-313, which 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. Such posting shall invite any interested party to submit comments to the Borough, 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. In the event the Court determines that a site or mechanism no longer presents a realistic opportunity and should be replaced or supplemented, then the Borough shall have the opportunity to supplement or revise its plan to correct any deficiency.
- (2) Within 30 days of the third anniversary of any settlement agreement with FSHC, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center and the service list previously used in this matter, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Borough and Fair Share Housing Center on the issue of whether the Borough has complied with its very low-income housing obligation under the terms of this settlement.
- (3) Trust fund activity. On the first anniversary of any settlement agreement with Fair Share Housing Center (FSHC) in the Borough’s declaratory judgment action (Docket No. MRS-L-1694-15) and every anniversary thereafter through the end of the repose period, the Borough shall provide annual reporting of its affordable housing trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Division of Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to FSHC and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Division of Local Government Services. 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.
- (4) Affordable housing activity. On the first anniversary of any settlement agreement with FSHC in the Borough’s declaratory judgment action (Docket No. MRS-L-1694-15) and every anniversary thereafter through the end of the repose period, the Borough shall provide annual reporting of the status of all affordable housing activity within the Borough through posting on the municipal website, with copies provided to FSHC, using forms previously developed for this purpose

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by the Council on Affordable Housing or any other forms endorsed by the court-appointed special master and FSHC.

- H. Submission of affordable housing plan. The developer of low- and moderate-income housing units shall submit the following items:
 - (1) A description of the mechanism to be used to ensure that the required low- and moderate-income units are sold or rented only to low- and moderate-income households for a period of not less than 30 years and until such time after the initial 30-year period as the Borough elects by ordinance to release the unit from such requirements
 - (2) Draft deed restriction
 - (3) Identification of each proposed affordable housing unit and the affordability (very-low, low, or moderate income) and number of bedrooms.
- I. Phasing. Final site plan or subdivision approval and issuance of certificates of occupancy shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

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

- J. Design. In inclusionary developments, to the extent possible, low- and moderate- income units shall be integrated with the market units.
- K. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- L. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - (1) The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
 - (2) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
 - (3) In each affordable development, of the total number of affordable rental units, at least 13% shall be affordable to very low income households. Where an affordable development produces three or more very low income units, the Borough shall require an equal number of very low income units within each bedroom distribution,

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and any extra very low income units shall be two or three bedrooms. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

- (a) Not more than 20% of all low- and moderate-income units shall be one bedroom units;
 - (b) At least 30% of all low- and moderate-income units shall be two bedroom units; and
 - (c) At least 20% of all low- and moderate-income units shall be three bedroom units.
- (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.

M. Accessibility Requirements:

- (1) The first floor of all new restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) other dwelling unit shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
- (2) All restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) 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, or evidence that the Borough has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
- (3) 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.
 - (a) To this end, the builder of restricted units shall deposit funds within the Borough of Madison's affordable housing trust fund sufficient to install accessible entrances in 10% of the

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affordable units that have been constructed with adaptable entrances.

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

- (4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Madison.
- (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Madison's Affordable Housing Trust Fund in care of the Municipal Chief Financial Officer 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.

N. Maximum Rents and Sales Prices.

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.
- (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.
 - (a) At least 13% 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.

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- O. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
- (1) A studio or efficiency unit shall be affordable to a one-person household;
 - (2) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (3) A two-bedroom unit shall be affordable to a three-person household;
 - (4) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (5) A four-bedroom unit shall be affordable to a six-person household.
 - (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 met:
 - (a) A studio or efficiency unit 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% 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) Income limits for all units for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be

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updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:

- (a) Regional income limits shall be established for the Region 2 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Region 2. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 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 calculated each year shall be the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the relevant fiscal year, 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.

- (11) 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.

P. Condominium and Homeowners Association Fees.

- (1) For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

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Q. Affirmative Marketing.

- (1) The Borough shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (2) 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.
- (3) 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, Union, and Morris Counties.
- (4) The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the Borough.
- (5) 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.
- (6) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (7) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough.
- (8) In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Madison, and copies of the applications forms, to the following entities: Fair Share Housing Center; the New Jersey State Conference of the NAACP; the Latino Action Network; the Morris County, Newark, and East Orange chapters of the NAACP; Housing Partnership for Morris County; Community Access Unlimited Inc.; NORWESCAP; Homeless Solutions of Morristown; and the Supportive Housing Association.

R. Occupancy Standards.

- (1) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - (a) Provide an occupant for each bedroom;
 - (b) Provide separate bedrooms for parents and children;

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- (c) Provide children of different sexes with separate bedrooms; and
 - (d) Prevent more than two persons from occupying a single bedroom.
 - (e) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

- S. Selection of Occupants of Affordable Housing Units.
 - (1) The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
 - (2) A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 et seq.

- T. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.
 - (1) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years, until the Borough takes action to release the controls on affordability.
 - (2) Rehabilitated owner-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
 - (3) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
 - (4) 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.
 - (5) 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.

- U. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.
 - (1) 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:
 - (2) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
 - (3) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

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- (4) 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.
 - (5) 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.
- V. § 27-15. Buyer Income Eligibility.
- (1) 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.
 - (2) 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.
- W. Limitations on indebtedness secured by ownership unit; subordination.
- (1) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
 - (2) 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).
- X. Control Periods for Restricted Rental Units.
- (1) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years, until the Borough takes action to release the controls on affordability.
 - (2) Restricted rental units created as part of developments receiving nine percent (9%) Low Income Housing Tax Credits must comply with a

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control period of not less than a 30-year compliance period plus a 15-year extended use period.

- (3) Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- (4) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Morris. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (5) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit; or
 - (c) The entry and enforcement of any judgment of foreclosure.

Y. Price Restrictions for Rental Units; Leases.

- (1) 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.
- (2) 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.
- (3) 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 Ordinance.

Z. Tenant Income Eligibility.

- (1) 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:
 - (a) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.

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- (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- (2) 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:
 - (a) 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;
 - (b) 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;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (e) 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.
- (3) The applicant shall file documentation sufficient to establish the existence of the circumstances in a through e above with the Administrative Agent, who shall counsel the household on budgeting.

AA. Alternative Living Arrangements.

- (1) 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:
 - (a) 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;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
 - (c) With the exception of units established with capital funding through a 20-year operating contract with the Department of

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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.

- (2) 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.

BB. Expiration of controls.

- (1) General provisions.

- (a) The restrictive covenant governing the deeds of the low- and moderate-income units may include an option permitting purchase of the affordable unit at the maximum allowable restricted sales price at the time of the first nonexempt sale after controls on affordability have been in effect on the unit for the period specified in this section. Where applicable, the option to buy shall be available to the Borough of Madison.
- (b) All restrictive covenants governing low- and moderate-income units shall require the owner to notify the Borough by certified mail of any intent to sell the unit 90 days prior to entering into an agreement for the first nonexempt sale after controls have been in effect on the housing units for the period specified in this section.
- (c) Upon receipt of such notice, the option to buy the unit at the maximum allowable restricted sales price shall be available for 90 days. If the Borough of Madison exercises this option, it may enter into a contract of sale. If the option to purchase the unit at the maximum allowable restricted sale price is not exercised by a written intent to sell, the owner may proceed to sell the housing unit. If the owner does not sell the unit within one year of the date of the delivery of notice of intent to sell, the option to buy the unit shall be restored and the owner shall be required to submit a new notice of intent to sell 90 days prior to any future proposed date of sale.
- (d) Any option to buy a housing unit at the maximum allowable restricted sales price shall be exercised by certified mail and shall be deemed exercised upon mailing.

CC. Enforcement of Affordable Housing Regulations.

- (1) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the Borough 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.

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- (2) 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 Borough 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:
 - (a) The Borough 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:
 - [1] A fine of not more than \$500.00 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;
 - [2] 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 Borough of Madison Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - [3] 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.
 - (b) The Borough 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.
- (3) Such judgment shall be enforceable, at the option of the Borough, 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 Borough, 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.
- (4) 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

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low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Borough 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 Borough 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 Borough 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 Borough 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 Borough 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 Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the Owner or forfeited to the Borough.

- (5) Foreclosure by the Borough 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.
- (6) 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 Borough 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.
- (7) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Borough shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Borough, 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.
- (8) 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.

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- B. Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Borough.

§ 195-48 Affordable housing inclusionary development requirements.

- A. Purpose. The purpose of this § 195-48 is to require new developments to include a minimum inclusionary set aside for affordable housing.
- B. Applicability. The provisions of this § 195-48 shall apply to all new two-family, attached housing, multi-family residential and/or mixed-use development and redevelopment activity in the Borough of Madison with gross densities of six (6) units per acre and higher that result in five (5) or more net new residential units regardless of whether the development requires approval by the Planning Board or Board of Adjustment. One-for-one replacement of residential units and residential renovation and additions shall be exempt.
- C. Residential development. All new applicable residential developments shall be subject to the following affordable housing requirements:
 - (1) At least 20% of all for-sale and for rent dwelling units shall be affordable. Any fractional affordable housing requirement of .50 units or higher shall be rounded up to the nearest whole number. Fractional units below .50 shall be addressed by either rounding up to the nearest whole unit or by a fractional payment in lieu. Construction of the affordable housing unit(s) shall be subject to the standards and requirements herein and the policies, procedures and administration provisions of § 195-47.
 - (2) In the case of residential development involving the creation of fewer than five dwelling units and/or single-family building lots, the developer shall be required to make a payment in lieu of providing affordable housing. The minimum payment amount shall be calculated based on \$250,000 multiplied by the fractional affordable housing requirement as calculated to two decimal points.
- D. Fractional unit payments.
 - (1) Fifty percent of the required payment shall be made at issuance of a building permit.
 - (2) The remaining balance of the required payment shall be paid at issuance of any certificate of occupancy.
 - (3) All payments in lieu shall be deposited in the Affordable Housing Trust Fund.

SECTION 2: This ordinance supersedes any inconsistent provisions of the Land Development Ordinance of the Borough of Madison, whether or not stated expressly herein. All other provisions of the Land Development Ordinance not inconsistent herewith shall remain in effect.

SECTION 3: This Ordinance shall take effect as provided by law.

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Mayor Conley opened up the public hearing on Ordinance 27-2020. Since no member of the public wished to be heard, the public hearing was closed.

Mrs. Vitale moved that Ordinance 27-2020, which was read by title, be finally adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne
Mr. Hoover, Ms. Coen, Ms. Ehrlich
Nays: None

Mayor Conley declared Ordinance 27-2020 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

ORDINANCE 28-2020
ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING
\$200,000.00 FROM THE ELECTRIC UTILITY CAPITAL IMPROVEMENT
FUND FOR THE PURCHASE OF UTILITY METERS AND ACCESSORIES

WHEREAS, the Chief Financial Officer has recommended that the Borough appropriate \$200,000.00 from the Electric Utility Capital Improvement Fund for Automated Meter Reading for the purchase of utility meter equipment, related services and accessories; and

WHEREAS, the Chief Financial Officer has attested to the availability of the funds in the Electric Utility Capital Improvement Fund in an amount not to exceed \$200,000.00 each for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$200,000.00 from the Electric Utility Capital Improvement Fund for the purchase of utility meter equipment, related services and accessories.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: The amount of \$200,000.00 from the Electric Utility Capital Improvement Fund for the purchase of utility meter equipment, related services and accessories.

SECTION 2: The budget of the Borough is hereby amended to conform with the provisions of this Ordinance.

SECTION 3: This Ordinance shall take effect as provided by law.

Mayor Conley opened up the public hearing on Ordinance 28-2020. Since no member of the public wished to be heard, the public hearing was closed.

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Ms. Ehrlich moved that Ordinance 28-2020, which was read by title, be finally adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne
Mr. Hoover, Ms. Coen, Ms. Ehrlich

Nays: None

Mayor Conley declared Ordinance 28-2020 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

**ORDINANCE 29-2020
ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING
\$80,000.00 FROM THE GENERAL CAPITAL IMPROVEMENT FUND FOR
CONTINUED REMEDIATION AT THE HARTLEY DODGE MEMORIAL.**

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to conduct additional remediation testing at the rear of the Hartley Dodge Memorial; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$80,000.00 from the General Capital Improvement Fund for this purpose; and

WHEREAS, the Chief Financial Officer has attested to the availability of funds in an amount not to exceed \$80,000.00 for this purpose.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: The amount of \$80,000.00 is hereby appropriated from the General Capital Improvement Fund for additional remediation testing at the rear of the Hartley Dodge Memorial.

SECTION 2: This Ordinance shall take effect as provided by law.

Mayor Conley opened up the public hearing on Ordinance 29-2020. Since no member of the public wished to be heard, the public hearing was closed.

Ms. Byrne moved that Ordinance 29-2020, which was read by title, be finally adopted. Mt. Hoover seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne
Mr. Hoover, Ms. Coen, Ms. Ehrlich

Nays: None

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Mayor Conley declared Ordinance 29-2020 adopted and finally passed and asked the Clerk to publish notice thereof in the newspaper and file the ordinance in accordance with the law.

INVITATION FOR DISCUSSION (2 of 2)

Mayor opened the meeting to the public for their opportunity to ask questions and make comments on any subject. Mayor asked that, upon recognition by the Meeting Moderator, each person give his/her name and address in an audible tone of voice, for the record. **He/she shall limit his/her statement to three (3) minutes or less.**

Since no member of the public wished to be heard, the invitation for discussion was closed.

INTRODUCTION OF ORDINANCES

The Clerk made the following statement:

Ordinances scheduled for introduction and first reading tonight will have a hearing during the meeting of September 30, 2020 in the 2nd Floor Council Chamber of the Hartley Dodge Memorial Building, Kings Road, in the Borough of Madison at 8 p.m., or as soon thereafter as practical, for further consideration and final adoption. Said ordinances will be published in the Madison Eagle, be posted at the main entrance to the Borough offices and be made available to members of the public requesting same, as required by law.

Mayor Conley called up Ordinances for first reading and asked the Clerk to read said ordinance by title:

ORDINANCE 30-2020 ORDINANCE OF THE BOROUGH OF MADISON
APPROPRIATING \$391,673.00 FROM THE GENERAL CAPITAL IMPROVEMENT
FUND FOR THE PURCHASE OF A NEW RESCUE/PUMPER AND FIREFIGHTING
EQUIPMENT

WHEREAS, the Fire Chief has recommended that the Borough appropriate \$391,673.00 from the General Capital Improvement Fund towards the purchase of a new Rescue/Pumper for the Fire Department; and

WHEREAS, funds are available in the General Capital Improvement Fund and the availability of funds has been certified by the Chief Financial Officer; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$391,673.00 from the General Capital Improvement Fund towards the purchase of a new Rescue/Pumper for the Fire Department.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: The amount of \$391,673.00 is hereby appropriated from the General Capital Improvement Fund for the purchase of a new Rescue/Pumper for the Fire Department.

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SECTION 2: The budget of the Borough is hereby amended to conform with the provisions of this Ordinance.

SECTION 3: This Ordinance shall take effect as provided by law.

Ms. Baillie moved that Ordinance 31-2020, which the Borough Clerk read by title, be adopted. Ms. Ehrlich seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne,
Mr. Hoover, Ms. Coen, Ms. Ehrlich
Nays: None

ORDINANCE 31-2020 ORDINANCE OF THE BOROUGH OF MADISON
APPROPRIATING \$300,000.00 FROM THE ELECTRIC CAPITAL IMPROVEMENT
FUND FOR THE PURCHASE OF UTILITY POLES, TRANSFORMERS AND
ADDITIONAL ELECTRIC MATERIALS

WHEREAS, the Electric Utility Superintendent has recommended that the Borough appropriate \$300,000.00 from the Electric Utility Capital Improvement Fund for the purchase of additional utility poles, transformers and materials; and

WHEREAS, the Chief Financial Officer has attested to the availability of the funds in the Electric Utility Capital Improvement Fund in an amount not to exceed \$300,000.00 for this purpose; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$300,000.00 from the Electric Utility Capital Improvement Fund for the purchase of additional utility poles, transformers and materials.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: The amount of \$300,000.00 from the Electric Utility Capital Improvement Fund for the purchase of additional utility poles, transformers and materials.

SECTION 2: The budget of the Borough is hereby amended to conform with the provisions of this Ordinance.

SECTION 3: This Ordinance shall take effect as provided by law.

Ms. Ehrlich moved that Ordinance 31-2020, which the Borough Clerk read by title, be adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne,
Mr. Hoover, Ms. Coen, Ms. Ehrlich

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Nays: None

ORDINANCE 32-2020 ORDINANCE OF THE BOROUGH OF MADISON APPROPRIATING \$15,228.00 FROM THE MUNICIPAL OPEN SPACE TRUST FUND FOR REIMBURSEMENT OF DRAINAGE AND REMEDIATION CAPITAL PROJECTS AT THE MUSEUM OF EARLY TRADES & CRAFTS

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to reimburse the Museum of Early Trades & Crafts for a drainage and remediation capital project at the James Building; and

WHEREAS, the James Building is owned by the Borough of Madison; and

WHEREAS, the lease between the Borough and the METC obligates the Borough to fund 50% of capital improvements in excess of \$10,000.00; and

WHEREAS, the Borough Council has determined that the Borough should appropriate \$15,228.00 from the Open Space Trust Fund for this purpose; and

WHEREAS, the Open Space Advisory Committee has unanimously recommended the full funding of this request; and

WHEREAS, the Chief Financial Officer has attested to the availability of funds in an amount not to exceed \$15,228.00 for this purpose in the Open Space Trust Fund.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

SECTION 1: The amount of \$15,228.00 is hereby appropriated from the Open Space Trust Fund for reimbursement for drainage and remediation capital project at the Museum of Early Trades & Crafts, James Building.

SECTION 2: This Ordinance shall take effect as provided by law.

Ms. Ehrlich moved that Ordinance 32-2020, which the Borough Clerk read by title, be adopted. Ms. Baillie seconded the motion. There was no Council discussion, and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne,
Mr. Hoover, Ms. Coen, Ms. Ehrlich

Nays: None

CONSENT AGENDA RESOLUTIONS

The Clerk made the following statement:

Consent Agenda Resolutions will be enacted with a single motion; any Resolution requiring expenditure is supported by a Certification of Availability of Funds; any

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Resolution requiring discussion will be removed from the Consent Agenda; all Resolutions will be reflected in full in the minutes.

Mrs. Vitale moved adoption of the Resolutions listed on the Consent Agenda. Ms. Baillie seconded the motion. There was no Council discussion and the motion passed with the following roll call vote recorded:

Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne,
Mr. Hoover, Ms. Coen, Ms. Ehrlich
Nays: None

R 215-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING ACCEPTANCE OF A WAIVER AND RELEASE

WHEREAS, certain matters have arisen pertaining to promotions within the Borough of Madison Police Department (“Borough”); and

WHEREAS, each of the patrol officers currently eligible for the promotional examination and process for the title of Sergeant and who were not included on the August 31, 2017 expired promotion list have agreed to a Waiver and Release and executed same; and

WHEREAS, the Borough Council has reviewed all of the Waivers and Releases and seeks to accept and agree to the terms of same.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Madison, County of Morris, State of New Jersey, as follows:

1). The Borough hereby accepts and ratifies the terms and conditions of the Waivers and Releases executed by the following:

Kenneth Shannon
Joseph DiRocco
Sean L. McCarthy
Vincent Dellavalle
Barthlomiej Glab
Christopher Burans
Stephanie Covrao Aquino
Julian Morales
Madison PBA Local #92; and

2). The Borough hereby authorizes the Mayor to execute the Waivers and Releases; and

3). That this resolution shall take effect immediately.

R 216-2020 RESOLUTION OF THE BOROUGH OF MADISON AWARDING PROFESSIONAL SERVICES CONTRACT TO MOTT MACDONALD AS A LICENSED SITE REMEDIATION PROFESSIONAL AT THE HARTLEY DODGE MEMORIAL IN THE AMOUNT OF \$70,300.00

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WHEREAS, the Borough Administrator has recommended that a site remediation investigation at Borough owned property known as Hartley Dodge Memorial be conducted (hereinafter the “Contract”); and

WHEREAS, said services would constitute professional services for which a contract may be awarded without the need of competitive bidding pursuant to N.J.S.A. 40A:11-5; and

WHEREAS, the Qualified Purchasing Agent has determined and certified in writing that the cost of those services will exceed \$17,500.00; and

WHEREAS, the Borough Administrator has recommended that the Borough Council award the Contract to Mott MacDonald in an amount not to exceed \$70,300.00, as a Licensed Site Remediation Professional for remediation issues at Hartley Dodge Memorial; and

WHEREAS, Mott MacDonald, has submitted to the Borough Purchasing Agent the required documents to satisfy the requirements of N.J.S.A. 19:44A-20.5, since this matter may be awarded without competitive bidding; and

WHEREAS, Mott MacDonald has completed and submitted a Business Entity Disclosure Certification which certifies that Mott MacDonald has not made any reportable contributions to a political or candidate committee in the Borough of Madison in the previous one year, and that the contract will prohibit Mott MacDonald from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer has attested that funds will be available in an amount not to exceed \$70,300.00 for this purpose, which funds will be available upon final adoption of Ordinance 29-2020.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

1. The Mayor and Borough Clerk are hereby authorized to execute, on behalf of the Borough, a professional service contract for professional services with Mott MacDonald as a Licensed Site Remediation Professional at Hartley Dodge Memorial in an amount not to exceed \$70,300.00, such contract to be in a form approved by the Borough Attorney.

2. Upon final adoption of Ordinance 29-2020 the Business Disclosure Entity Certification, Political Contribution Disclosure Form and the Determination of Value shall be placed on file with this resolution.

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3. Upon final adoption of Ordinance 29-2020 the Borough Clerk is hereby directed to publish notice of the adoption of this resolution in the official newspaper of the Borough of Madison within ten (10) days of its adoption pursuant to N.J.S.A. 40A:11-5.

R 217-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING RELEASE OF RESTORATION BOND TO 4 GIRALDA FARMS (ATLANTIC HEALTH), ON BLOCK 3202, LOT 1

WHEREAS, the Borough Engineer has recommended that the Restoration Bond for 4 Giralda Farms (Atlantic Health) and guarantees held in Trust Account 2400 and any accrued interest, in connection with site improvements completed at 4 Giralda Farms, Block 3202, Lot 1 be released; and

WHEREAS, the Borough Engineer advises that compliance with approved site plans has been completed.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Restoration Bond and guarantees held in Trust Account 2400 described herein be released to 4 Giralda Farms (Atlantic Health).

R 218-2020 RESOLUTION OF THE BOROUGH OF MADISON RENEWING LIQUOR LICENSES IN THE BOROUGH OF MADISON FOR THE 2020-2021 LICENSE TERM

BE IT RESOLVED by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the following applications for renewal of Liquor Licenses for the 2020 - 2021 license term be, and hereby are, approved:

CLUB LICENSES - FEE: \$180.00; July 1, 2020 through June 30, 2021

License #1417-31-020-001
Madison Lodge BPO Elks #1465
192 Main Street
Madison, NJ 07940

DISTRIBUTION LICENSE – FEE \$1,798.00; July 1, 2020 through June 30, 2021

License #1417-44-006-005
ANV Madison, LLC
Main Street Wine Cellar
300 Main Street, Unit 7A
Madison, NJ 07940

License #1417-44-013-010
Jelma Inc.
Gary's Wine & Marketplace
121 Main Street

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Madison, NJ 07940

License # 1417-44-004-010
Trid Corp
Madison Wine Cellars
29 Main Street
Madison, NJ 07940

CONSUMPTION LICENSES – FEE \$2,386.00; July 1, 2020 through June 30, 2021

License #1417-33-015-004
Prospect Tavern Beef & Ale, LLC
Prospect Tavern
14 Prospect Street
Madison, NJ 07940

License # 1417-33-011-009
Tavern at Main Corp
t/a 54 Main Bar & Grill
54 Main Street
Madison, NJ 07940

License Number 1417-33-017-007
Salgino Pub Inc.
Rocco's Restaurant
30 Cook Plaza
Madison, NJ 07940

R 219-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING RELEASE OF SURETY AND CASH BOND TO 34 WALNUT STREET, LLC FOR CONSTRUCTION OF 34 WALNUT STREET, BLOCK 1602, LOT 41

WHEREAS, the Borough Engineer has recommended that the surety bond (\$293,956.56) and cash bond (\$32,661.84) guarantees held within Trust Account 2411 for 34 Walnut Street be released in connection with site improvements completed on 34 Walnut Street; and

WHEREAS, the Assistant Borough Engineer advises that compliance with approved site plans has been completed.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that release of the surety bond (\$293,956.56) and cash bond (\$32,661.84) guarantees held within Trust Account 2411, including accrued interest, is hereby approved.

R 220-2020 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING SCHOOL CROSSING GUARDS FOR THE 2020-2021 SCHOOL YEAR

WHEREAS, N.J.S.A. 40A:9-154.1 provides that municipalities may appoint school crossing guards for terms not exceeding one year.

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NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, County of Morris, State of New Jersey, that the following school crossing guards are hereby appointed for the 2020/2021 school year commencing September 8, 2020 and ending June 18, 2021, unless the school year is extended due to winter weather closings for those days when in person instruction is conducted:

PAMELA ALLOCCO
MICHAEL E. ANTONIELLO
JOHN BENESKY
JANET BRUNS
FRANCES CARUSO
VIRGINIA CERCIELLO
PATRICIA M. COHEN
EDWARD W. COOKE
DEIDRE COVINGTON
NANCY CURTO
LORENZO D'AMATO
GIUSEPPE D'AVINO
EDWARD DIEMER
WILLIAM DIMARTINO
CATHERINE ECKES
JOAN C. FINELLI
GERARDO FRISOLI
KEITH M. GATTI
JOHN GIANCAMILLO
PATRICIA A. GIBBONS
MIROSLAV HADVAB
DIANE HINDS
KEVIN T. HUMES

JESSICA L. KNIK
RONALD LEONARDIS
JAMIE LIMONE
NICHOLAS LOSAVIO
MARY MARANO
DAVID J. McSHERRY
ROBERT M. PETOIA
KENNETH SPENCER
MARIE VAN DEUSEN
JUANITA VAN RYZIN
MARIO R. VASQUES
AGNES YULIANO

R 221-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING A SPECIAL EVENT PERMIT TO ALLOW THE USE OF THE PUBLIC PARKING LOT NUMBER ONE BY THE ROTARY CLUB OF MADISON ON SEPTEMBER 26, 2020

WHEREAS, the Rotary Club of Madison has requested permission to use the public parking lot Number One on Saturday, September 26, 2020, between the hours of 9:00 a.m. and 3:00 p.m. for an 'EndHunger' event; and

WHEREAS, the Borough Administrator has recommended that such permission be granted; and

WHEREAS, the Rotary Club has submitted a Special Event Permit Application to the Borough as well as a Certificate of Liability Insurance naming the Borough of Madison as an additional insured; and

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WHEREAS, the Borough Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Rotary Club of Madison is hereby given permission to hold an 'EndHunger' event at Madison public parking lot Number One, on September 26, 2020, between the hours of 9:00 a.m. and 3:00 p.m. subject to such safety requirements as may be directed by the Madison Police Department and/or Fire Department.

R 222-2020 RESOLUTION OF THE BOROUGH OF MADISON APPROVING THE PERSON-TO-PERSON, PLACE TO PLACE TRANSFER OF PLENARY RETAIL DISTRIBUTION LICENSE NUMBER 1417-44-001-010

WHEREAS, an application has been filed for a Person-to-Person, Place to Place Transfer of Plenary Retail Distribution License Number 1417-44-001-010 heretofore issued to CROSS ATLANTIC VINES, LLC, to MADISON MARKET, LLC, located at 17 Greenwood Avenue, Madison, N.J. 07940; and

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

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

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

NOW, THEREFORE BE IT RESOLVED that the Borough of Madison Governing Body does hereby approve, effective September 15, 2020 the Person-to-Person, Place to Place transfer of the aforesaid Plenary Retail Distribution license from CROSS ATLANTIC VINES, LLC, a pocket license, to MADISON MARKET, LLC, located at 17 Greenwood Avenue Madison, NJ 07940 and does hereby direct the Borough Clerk to endorse the license certificate as follows: "This license, subject to all of its terms and conditions, is hereby transferred to MADISON MARKET, LLC, effective September 15, 2020.

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R 223-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING COMPETITIVE CONTRACTING REQUESTS FOR PROPOSALS (RFP) FOR THE PARKS MASTER PLAN

WHEREAS, the Borough of Madison wishes to solicit proposals for the development of a master plan for the Borough parks system; and,

WHEREAS, Local Public Contracts Law allows a procedure called Competitive Contracting to be used to procure certain services that warrant a qualitative evaluation of specialized goods or service providers to determine the provider that is most advantageous, price and other factors considered; and,

WHEREAS, N.J.S.A. 40A:11-4.3(a) requires that in order to use competitive contracting for the first time for a specified purpose, the governing body shall pass a resolution authorizing the use of competitive contracting for such purpose; and,

WHEREAS, N.J.S.A. 40A:11-4.3(b) requires that the competitive contracting process shall be administered by a designated Authorized Agent who may be a purchasing agent pursuant to N.J.S.A. 40A:11-9, or by legal counsel of the contracting unit, or by the chief administrative officer of the contracting unit; and,

WHEREAS, the Council of the Borough of Madison has determined that the procurement of consulting services for the development of a master plan for the Borough parks system through the use of Competitive Contracting is in the best interest of the Borough of Madison; and,

WHEREAS, the use of competitive contracting for consulting services is authorized pursuant to N.J.S.A. 40A:11-4.1(m).

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that the Borough's Acting Qualified Purchasing Agent is authorized to initiate competitive contracting for the solicitation of proposals for the development of a master plan for the Borough parks system in conformance with N.J.S.A. 40A:11-4.1(m).

R 224-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING ACCEPTANCE OF A SETTLEMENT AGREEMENT

WHEREAS, certain matters have arisen pertaining to K.S.'s employment with the Borough of Madison ("Borough"); and

WHEREAS, K.S. has agreed to a Settlement Agreement and Release and executed same on September 11, 2020; and

WHEREAS, the Borough Council has reviewed the Settlement Agreement and Release and seeks to accept and agree to the terms of same; and

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NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Madison, County of Morris, State of New Jersey, as follows:

- 1). The Borough hereby accepts and ratifies the terms and conditions of the Settlement Agreement and Release executed by K.S. on September 11, 2020; and
- 2). The Borough hereby authorizes the Mayor to execute the Settlement Agreement and Release; and
- 3). That this resolution shall take effect immediately.

R 225-2020 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING HALEIGH BLIDE TO THE POSITION OF OFFICE ASSISTANT, BUILDING DEPARTMENT

WHEREAS, the Acting Personnel Director recommends the appointment of Haleigh Blide of Budd Lake to fill the position of Office Assistant, Building Department, effective, September 15, 2020; and,

WHEREAS, the Council concurs with this recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison in the County of Morris and State of New Jersey, that Haleigh Blide is hereby appointed to the position of Office Assistant, Building Department, effective September 15, 2020; and,

BE IT FURTHER RESOLVED that Ms. Blide be compensated at the annual salary of \$45,000.00.

R 226-2020 RESOLUTION OF THE BOROUGH OF MADISON APPOINTING AMY GREELEY TO THE POSITION OF TECHNICAL ASSISTANT TO THE CONSTRUCTION CODE OFFICIAL (TACO) IN THE BUILDING DEPARTMENT

WHEREAS, the Acting Personnel Director has recommended appointing Amy Greeley to the position of Technical Assistant to the Construction Code Official (TACO) in the Office of the Building Department effective September 15, 2020; and

WHEREAS, the Borough Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, County of Morris, State of New Jersey, that Amy Greeley is hereby appointed to the position of Technical Assistant to the Construction Code Official (TACO) in the Building Department, effective September 15, 2020, to be compensated at the annual salary of \$66,000.00.

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R 227-2020 RESOLUTION OF THE BOROUGH OF MADISON APPROVING TRANSFER OF SEBASTIANO (SAM) BASSOLINO TO THE POSITION OF TRUCK DRIVER I IN THE PUBLIC WORKS DEPARTMENT

WHEREAS, the Acting Personnel Director has recommended the approval of a transfer for Sebastiano (Sam) Bassolino from the Electric Utility to the position of Truck Driver I, in the Public Works Department effective September 15, 2020; and

WHEREAS, the Borough Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, County of Morris, State of New Jersey, that Sebastiano (Sam) Bassolino is hereby appointed to the position of Truck Driver I in the Public Works Department, effective September 15, 2020, to be compensated at the annual salary of \$79,384.00.

R 228 -2020 RESOLUTION OF THE BOROUGH OF MADISON AWARDING PROFESSIONAL SERVICES CONTRACT TO FRANK RUSSO CONSULTING FOR PROFESSIONAL ENGINEERING SERVICES TO THE PLANNING BOARD AND THE ZONING BOARD OF ADJUSTMENT

WHEREAS, the Borough is in need of professional engineering services for the Planning Board and the Zoning Board of Adjustment, until the replacement of the Assistant Engineer; and

WHEREAS, said services would constitute professional services for which a contract may be awarded without the need of competitive bidding pursuant to N.J.S.A. 40A:11-5; and

WHEREAS, the Qualified Purchasing Agent has determined and certified in writing that the cost of those services will exceed \$17,500.00; and

WHEREAS, the Borough Administrator has recommended that the Borough Council award a Contract to Frank Russo Consulting in an amount not to exceed \$115.00 per hour, for professional engineering services to the Planning Board and Zoning Board of Adjustment; and

WHEREAS, Frank Russo Consulting, has submitted to the Borough Purchasing Agent the required documents to satisfy the requirements of N.J.S.A. 19:44A-20.5, since this matter may be awarded without competitive bidding; and

WHEREAS, Frank Russo Consulting has completed and submitted a Business Entity Disclosure Certification which certifies that Frank Russo Consulting has not made any reportable contributions to a political or candidate committee in the Borough of Madison in the previous one year, and that the contract will prohibit

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Frank Russo Consulting from making any reportable contributions through the term of the contract; and

WHEREAS, funds are available in applicant escrows, or in any other account that may be deemed appropriate by the Chief Financial Officer or his designee, and the availability of funds has been certified by the Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, as follows:

1. The Mayor and Borough Clerk are hereby authorized to execute, on behalf of the Borough, a professional service contract for professional engineering services to the Planning Board and Zoning Board of Adjustment in an amount not to exceed \$115.00 per hour, such contract to be in a form approved by the Borough Attorney.
2. The Business Disclosure Entity Certification, Political Contribution Disclosure Form and the Determination of Value shall be placed on file with this resolution.
3. The Borough Clerk is hereby directed to publish notice of the adoption of this resolution in the official newspaper of the Borough of Madison within ten (10) days of its adoption pursuant to N.J.S.A. 40A:11-5.

R 229-2020 RESOLUTION OF THE BOROUGH OF MADISON AWARDING A CONTRACT TO W.E. TIMMERMAN, INC. FOR THE PURCHASE OF AN ELGIN WHIRLWIND SERIES MV VACUUM STREET SWEEPER WITH RELATED ACCESSORIES AND SUPPLIES UNDER SOURCEWELL

WHEREAS, the Borough of Madison desires to award a contract for the purchase of an ELGIN Whirlwind Series MV vacuum street sweeper with related accessories and supplies to an authorized vendor under Sourcewell (formerly National Joint Powers Alliance); and

WHEREAS, the purchase of goods and services by a local contracting unit is authorized by the Local Public Contracts Law, N.J.S.A. 40A:11-10, et seq.; and

WHEREAS, ELGIN has been awarded Sourcewell contract# 122017-FSC for Sewer Vacuum, Hydro-Excavation, and Street Sweeper Equipment with Related Accessories and Supplies; and

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WHEREAS, the Director of Public Works and the Acting Purchasing Agent have recommended that the Borough Council utilize this contract for the purchase of an ELGIN Whirlwind Series MV vacuum street sweeper with related accessories and supplies in the amount of \$292,040.10; and

WHEREAS, funds are available in Ordinance 8-2020 (account C-04-58-166-602), and the availability of funds has been certified by the Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that a contract be awarded to W.E. Timmerman, Inc. for the purchase of an ELGIN Whirlwind Series MV vacuum street sweeper with related accessories and supplies in an amount not to exceed \$292,040.10 under Sourcewell contract# 122017-FSC for Sewer Vacuum, Hydro-Excavation, and Street Sweeper Equipment with Related Accessories and Supplies and same is hereby ratified and approved.

R 230-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING CANCELLATION OF \$31.40 IN LATE FEES FOR REAL PROPERTY TAX PAYMENT

WHEREAS, the Borough Administrator has recommended approval of a request to cancel \$31.40 in late fees due to extraordinary circumstances for delinquent payment of third quarter 2020 taxes on property at 15 Bedford Ct., Block 401 Lot 3.26, Qualifier CD-8; and

WHEREAS, the Council has determined to cancel said late fees and interest thereon.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the tax collector is authorized to cancel the late fees in the amount of \$31.40 regarding Tax Block 401, Lot 3.26, Qualifier CD-8.

R 231-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING USE OF COMPETITIVE CONTRACTING FOR A COMMUNITY SOLAR STUDY

WHEREAS, the Borough of Madison wishes to solicit proposals for the development of a community solar study, and

WHEREAS, Local Public Contracts Law allows a procedure called Competitive Contracting to be used to procure certain services that warrant a qualitative evaluation of specialized goods or service providers to determine the provider that is most advantageous, price and other factors considered; and,

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WHEREAS, N.J.S.A. 40A:11-4.3(a) requires that in order to use competitive contracting for the first time for a specified purpose, the governing body shall pass a resolution authorizing the use of competitive contracting for such purpose; and,

WHEREAS, N.J.S.A. 40A:11-4.3(b) requires that the competitive contracting process shall be administered by a designated Authorized Agent who may be a purchasing agent pursuant to N.J.S.A. 40A:11-9, or by legal counsel of the contracting unit, or by the chief administrative officer of the contracting unit; and,

WHEREAS, the Council of the Borough of Madison has determined that the procurement of consulting services for the development of a community solar study through the use of Competitive Contracting is in the best interest of the Borough of Madison; and,

WHEREAS, the use of competitive contracting for consulting services is authorized pursuant to N.J.S.A. 40A:11-4.1(m).

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey that the Borough's Acting Qualified Purchasing Agent is authorized to initiate competitive contracting for the solicitation of proposals for the development of a community solar study in conformance with N.J.S.A. 40A:11-4.1(m).

R 232-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING A SPECIAL EVENT PERMIT TO ALLOW THE USE OF PUBLIC PARKING LOT NUMBER ONE BY THE ROTARY CLUB OF MADISON FOR A PUBLIC SHREDDING EVENT ON OCTOBER 17, 2020

WHEREAS, the Rotary Club of Madison has requested permission to use public parking lot number one on Saturday, October 17, 20120 between the hours of 8:30 a.m. and 1:00 p.m. for a public shredding event; and

WHEREAS, the Borough Administrator has recommended that such permission be granted; and

WHEREAS, the Rotary Club has submitted a Special Event Permit Application to the Borough as well as a Certificate of Liability Insurance naming the Borough of Madison as an additional insured; and

WHEREAS, the Borough Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Rotary Club of Madison is hereby given permission to hold a public shredding event at Madison public parking lot number one, on October 17, 2020, between the hours of 8:30 a.m.

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and 1:00 p.m. subject to such safety requirements as may be directed by the Madison Police Department and/or Fire Department.

R 233-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING USE OF COMMUNITY POOL PUBLIC PARKING LOT BY THE KINGS ROAD PTO FOR MOVIE NIGHTS

WHEREAS, the PTO of Kings Road School has requested permission to use the public parking lot at the Madison Community Pool on Friday, September 18, 2020, and Friday September 25, 2020 between the hours of 5:00 p.m. and 10:00 p.m. for movie night fundraising events; and

WHEREAS, the Borough Administrator has recommended that upon submission of an application and insurance such permission be granted; and

WHEREAS, the Borough Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the PTO of Kings Road School is hereby given permission to hold movie nights at the Madison Community Pool public parking lot on Friday, September 18, 2020 and Friday, September 25, 2020, between the hours of 5:00 p.m. and 10:00 p.m. subject to such safety requirements as may be directed by the Madison Police Department and/or Fire Department.

R 234-2020 RESOLUTION OF THE BOROUGH OF MADISON REGARDING POTENTIAL FENCING AND LANDSCAPING IMPROVEMENTS FOR THE SUBDIVIDED LOT AT CENTRAL AVENUE SCHOOL

WHEREAS, the Borough of Madison has subdivided a lot from the Central Avenue School campus for the construction of Affordable Housing pursuant to a contract previously executed with the Board of Education; and

WHEREAS, the Board of Education has requested that the potential fencing and landscaping be designed consistent with the attached letter dated August 20, 2020 from Mayor Robert H. Conley; and

WHEREAS, the Borough Council agrees with these design recommendations; and

WHEREAS, the fencing/landscaping plan will be shared with the Board of Education; and

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WHEREAS, the fencing/landscaping plan will be adjusted to address any potential “bottleneck” between the closest corner of the subdivided lot and the existing school building.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey authorizes the above reference action.

R 235-2020 RESOLUTION OF THE BOROUGH OF MADISON AUTHORIZING EXECUTION OF AN AGREEMENT FOR IMPROVEMENTS TO THE SOFTBALL FIELDS AT THE MADISON JUNIOR SCHOOL

WHEREAS, the Madison Board of Education and the Borough of Madison have agreed to enter into an agreement for renovations to the Board’s two (2) softball fields at the Madison Junior School property; and

WHEREAS, the Borough Administrator has recommended that such agreement be granted; and

WHEREAS, the Borough Council agrees with this recommendation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that the Mayor and Borough Clerk are authorized to execute an agreement for renovations to two (2) Board of Education softball fields at the Madison Junior School property, in a form acceptable to the Borough Attorney.

UNFINISHED BUSINESS - None

APPROVAL OF VOUCHERS

On motion by Mrs. Vitale, seconded by Ms. Baillie and carried, the following vouchers of the Borough of Madison were approved for payment, and the supporting documentation of said vouchers was made part of the Supplemental Minute Book.

Current Fund	\$7,043,288.58
General Capital Fund	337,172.83
Electric Operating Fund	961,690.89
Electric Capital Fund	4,458.00
Water Operating Fund	45,054.19
Water Capital Fund	13,720.00
Trusts	<u>118,434.23</u>
Total	<u>\$8,523,818.72</u>

The following roll call vote was recorded approving the aforementioned vouchers:

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Yeas: Mrs. Vitale, Ms. Baillie, Ms. Byrne,
Mr. Hoover, Ms. Coen, Ms. Ehrlich

Nays: None

NEW BUSINESS

Mayor Conley announces the following appointment:

PLANNING BOARD

Thomas F. Harris, Class IV member, 29 Cross Gates Road,
unexpired four-year term through December 31, 2021

ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Elizabeth Osborne
Borough Clerk
Approved October 14, 2020 (EO)