

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 8, 2018**

Meeting called to order at 7:00 p.m. by President McGuigan with a salute to the flag. Roll call was recorded as follows:

Present: Toto, Gerety, D'Adamo, McGuigan

Also Present: Mayor Glasser, Administrator Swain, City Clerk Samuelson, Deputy City Clerk Heath, City Solicitor Randy Lafferty

Absent: Meischker, Dill, Tapp

Open Public Meetings Act:

Pursuant to the Open Public Meetings Act, adequate notice of this meeting has been provided. Agenda for this meeting has been provided to two local newspapers and posted in the City Clerk's Office.

Communications:

None

Mayors Report:

Mayor Glasser encouraged everyone to attend the Veterans Day ceremony at Patriots Park at 11 a.m. on 11/10/18. The Shore Medical Center has a plan to perform a drill with County Hazmat and our Police Department will monitor and block off streets. Additionally, our Fire Company will be involved. AmVets will be hosting the Coast Guard Cadets and encouraged City Council to attend. The ACT students are working on signs for Purple Heart Way and had several impressive presentations. Afterwards, the Recreation Commission will view the presentation.

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City Administrators Report:

Wes Swain, City Administrator, explained that Somers Point is a Tier A community due to our proximity to the water, which includes a Storm Water Pollution Prevention Plan. The City reached out to all property owners regarding the Plan. Wes Swain, City Administrator, shared recycling and cleaning statistics throughout the year. The City has adopted standard operating procedures for salt, gas and diesel. Mr. Swain stressed that education is the key and encouraged everyone to make an effort to not pollute.

Solicitors Comments:

None

Committee Reports:

None

Approval of Minutes:

M/S- Gerety/Toto

The Regular City Council Meeting minutes of 10/25/2018 and Executive Session minutes of 10/25/2018 were approved unanimously by those members present.

Ordinances:

Ordinance No. 18 of 2018

M/S-Gerety/Toto

Second Reading/Public Hearing/Adoption

Public hearing was duly opened and hearing nothing from the public closed.

The ordinance was adopted by unanimous roll call vote of those present.

No. 18-2018

**An Ordinance of the City of Somers Point, County of Atlantic,
New Jersey Amending the 2018 Salary and Wage Ordinance,
Ordinance No. 10 of 2018**

Be it ordained by the City Council of the City of Somers Point as follows:

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SECTION 1. Purpose

Section 1 of Ordinance No. 10 of 2018 is hereby amended for the specific positions indicated below, and all other positions and salary ranges shall remain unchanged.

Position	Salary Range	
	From:	To:
Tax Assessor	\$40,000	\$85,950
Tax Coll./Tax Search Officer/ Sewer Utility Coll.	\$40,000	\$71,500

SECTION 2. Repealer

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Ordinance No. 19 of 2018

M/S – Gerety/D’Adamo

Second Reading/Public Hearing/Adoption

Public hearing was duly opened and hearing nothing from the public closed.

The ordinance was adopted by unanimous vote of those present.

Ordinance No. 19 of 2018

An Ordinance Amending and Supplementing the Stormwater Management Ordinance of the City of Somers Point to Include the 25-Year Design Storm

WHEREAS, the City of Somers Point seeks to address stormwater runoff generated by new developments; and

WHEREAS, the City of Somers Point has recently completed and adopted a Watershed Management Plan; and

WHEREAS, the City undertakes activities to enhance its resiliency to flood damage and decrease flood insurance costs for property owners by being a participating community in the Community Rating System; and

WHEREAS, the Community Rating System rewards communities that take additional steps to address flooding through stormwater management; and

WHEREAS, a pre-requisite to becoming a Class 4 in the Community Rating System is to address the 25-year storm in the City’s stormwater management ordinance.

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NOW, THEREFORE BE IT ORDAINED by the Council of the City of Somers Point, County of Atlantic, and State of New Jersey that Chapter 114, Article XXIX, Section 114-213, Sub-section F, (c), of the Code of the City of Somers Point is hereby amended as follows:

- [1] Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, postconstruction runoff hydrographs for the two-, ten-, ~~twenty-five~~, and one-hundred-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;
- [2] Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the preconstruction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten-, ~~twenty-five~~ and one-hundred-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
- [3] Design stormwater management measures so that the postconstruction peak runoff rates for the two-, ten-, ~~twenty-five~~, and one-hundred-year storm events are 50%, 75%, 75% and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the postconstruction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied

to postconstruction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or

- [4] In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with Subsection **F(1)(c)[1]**, **[2]** and **[3]** above shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

SECTION 2. All ordinances or parts of ordinances inconsistent with any terms of this Ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 3: This ordinance shall take effect upon its final passage and publication as required by law.

Ordinance No. 20 of 2018

M/S – Gerety/Toto

(First Reading/Introduction)

The ordinance was adopted by unanimous vote of those present.

No. 20 of 2018

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An Ordinance of The City of Somers Point, County of Atlantic, State of New Jersey Repealing and Replacing Chapter 69 “Affordable Housing” of the Municipal Code of the City of Somers Point and Adding Article III “Affordable Housing Set Aside for Certain New Residential Development”

STATEMENT OF INTENT AND PURPOSE.

Whereas, the New Jersey Supreme Court (the "Court"), in the case captioned In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) commonly referred to as Mount Laurel IV, reaffirmed that as a matter of constitutional law each municipality within the State has an obligation provide a realistic opportunity for an appropriate variety and choice of housing, including such opportunity for the construction of its fair share of present and prospective regional need for low and moderate income housing, persons of low and moderate income housing; and

Whereas, the Court further determined that after many opportunities, the Council of Affordable Housing ("COAH"), the State Agency established to promulgate rules, obligations, and the compliance mechanisms necessary for each municipality to meet its fair share obligation, had failed to meet that obligation; and

Whereas, the Court transferred those obligations from COAH to the Superior Court of New Jersey through the filing of declaratory judgment lawsuits; and

Whereas, on [July 7, 2015](#) the City of Somers Point (the "City") filed a declaratory judgment action on the New Jersey Superior Court ("In the Matter of the City of Somers Point" Docket Number ATL-L_1530-15) as authorized by City Council by Resolution Number 123 of 2015 adopted on June 25, 2015; and

Whereas, the declaratory judgment action was resolved through a settlement agreement between the City and Fair Share Housing Center (the "Agreement") which was approved by the Somers Point City Council on April 12, 2018 by Resolution Number 84 of 2018; and

Whereas, upon proper statutory notice a Fairness Hearing was held on [June 1, 2018](#), which was open to the public and a preliminary Order of Fairness and Compliance was entered by the Court on [June 5, 2018](#) (the "Preliminary Order") and following the required statutory notice, a Final Order of Fairness, Compliance and Repose (the "Final Order") was entered by the Court on [August 29, 2018](#); and

Whereas, in compliance with the Preliminary and Final Orders of the Court a 2018 Housing Element and Fair Share Plan was prepared by Maser Consulting, P.A. the City's affordable housing Planner; and

Whereas, on October 17, 2018, the Somers Point Planning Board adopted Resolution No. 2 –

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2018 approving an amendment to the Master Plan of the City of Somers Point to incorporate the 2018 Housing Element and Fair Share Plan, determining that the 2018 Housing Element and Fair Share Plan is in conformity with the City's affordable housing obligations as approved by the Superior Court in the Preliminary and Final Court Orders, and is consistent with the goals and objectives of the City's Master Plan; and

Whereas, Chapter 69 of the Somers Point Code was last amended in 2007; and

Whereas, in order to provide for changes in law and regulation which have been enacted and adopted subsequent to that date and to incorporate the terms and conditions contained in the 2018 Housing Element and Fair Share Plan it is necessary to repeal and replace Somers Point Municipal Code Chapter 69 "Affordable Housing".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERS POINT, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY AS FOLLOWS:

Section 1. Chapter 69 of the Somers Point Municipal Code "AFFORDABLE HOUSING" is hereby deleted in its entirety and is amended as follows:

ARTICLE 1: PURPOSE, DEFINITIONS; DEVELOPMENT FEES; AFFORDABLE HOUSING TRUST FUND.

§ 69-1 Purpose.

A. In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules, and further subject to such legislative amendments as from time to time may be enacted.

B. Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

C. This Article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate- income housing. This ordinance shall be interpreted within the

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framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8, the Court Approved Spending Plan, and the Court Approved Somers Point Settlement Agreements.

§ 69-2 Basic requirements.

A. On October 27, 2005, the City of Somers Point adopted a development fee ordinance that the Superior Court deemed consistent with COAH's rules on development fees at N.J.A.C. 5:94 et seq.

B. The City of Somers Point received a First and Second Cycle Final Judgment of Compliance and Repose and a Third Cycle Judgment of Immunity and Repose embodying the terms of the Somers Point Settlement Agreements.

C. The City of Somers Point shall not spend development fees for purposes other than set forth in the spending Plan approved by the New Jersey Superior Court as same may be supplemented and amended.

§ 69-3 Definitions.

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

AFFORDABLE HOUSING DEVELOPMENT

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

BAY AVENUE REDEVELOPERS SETTLEMENT AGREEMENT

The Agreement between Bay Avenue Redevelopers, L.L.C., Bass Harbor, L.L.C., Harbour Cove Marina, L.L.C., the City of Somers Point and the consent to the settlement terms by Shore Memorial Hospital dated April 11, 2007 approved by a Second Cycle Final Judgment of Compliance and Repose entered by the New Jersey Superior Court on July 9, 2007 in Docket No. ATL - L - 3204 -05 following a Fairness Hearing held on June 21, 2007,

CITY

The City of Somers Point.

COAH

The New Jersey Council on Affordable Housing or its successor.

DEVELOPMENT FEE

Funds paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

DEVELOPER

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

EQUALIZED ASSESSED VALUE

The value of a property determined by the Municipal Tax Assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Municipal Tax Assessor.

FAIR SHARE HOUSING CENTER OR “FSHC”

Fair Share Housing Center, a nonprofit agency.

FSHC SETTLEMENT AGREEMENT

The agreement between the City of Somers Point and Fair Share Housing Center dated April 26, 2018 approved by an Order of Fairness and Compliance and Granting Immunity from Mount Laurel lawsuits entered by the New Jersey Superior Court on June 5, 2018 in Docket No. ATL - L - 1538 - 15 following a Fairness Hearing held on June 1, 2018.

GREEN BUILDING STRATEGIES

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

PLANTATION BAY SETTLEMENT AGREEMENT

The Agreement between the City of Somers Point and Plantation Bay, LLC dated July 29, 2008 approved by a Final Judgment entered by the New Jersey Superior Court on June 30, 2011 in Docket No. ATL - L - 007302-06 P.W. following a Fairness Hearing held on June 16, 2011, and a modified Order granting continued temporary immunity and repose entered June 30, 2011 in Docket No. ATL - L- 002835-07.

SOMERS POINT SETTLEMENT AGREEMENTS

Collectively, the Bay Avenue Redevelopers Settlement Agreement, the Plantation Bay Settlement Agreement, and the Fair Share Housing Center Settlement Agreement; and any future Court or Agency Approved Settlement Agreements.

§ 69-4 Residential development fees.

A. All residential developers of one (1) or more units, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half percent (1.5%) of

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the equalized assessed value for residential development provided no increased density is permitted.

B. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d (5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. For example if a rezoning allows two extra units to be constructed, the fees could equal 1.5% of equalized assessed value on the first unit and 6% of equalized assessed value on the two incremental units. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

C. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

D. Developments that have received preliminary or final approval prior to the adoption of a municipal development fee ordinance in 2005 shall be exempt from development fees unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

E. Owner-occupied residential structures demolished as a result of a fire, flood, or natural disaster and replaced with a substantially similar residence shall be exempt from paying a development fee. If the new owner-occupied residential structure is not substantially similar to the prior, demolished structure, then the owner shall pay a development fee for the net increase in equalized assessed value.

F. The expansion of a residential structure to create a separate housekeeping unit, the conversion of a residential structure to nonresidential use, or the expansion of a residential structure or conversion to a more intense use shall be subject to development fees unless the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the converted structure or the equalized assessed value of the newly created residential unit.

G. The construction or expansion of a house of worship shall be exempt from development fees.

H. Exemption for reconstruction resulting from fire, flood or natural disaster.

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i) Owner-occupied residential structures that have been issued a demolition permit, provided that the unit for which the demolition permit has been issued was occupied by its current owner for at least one year prior to the demolition, no change in use has occurred, and which unit shall be subtracted from actual growth, a development fee pursuant to N.J.A.C. 5:97-8.3(c) based on the increase in equalized assessed value that results from reconstruction shall be imposed; unless

ii) The owner-occupied structure which shall have been issued a demolition permit which satisfies the requirements of Subsection H. (i) shall have been issued the demolition permit as a result of destruction to the premises resulting from fire, flood or natural disaster, then and in such event, no development fee shall be imposed.

69-5 Non-Residential Development

A. Imposed fees.

i) All non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

iv) The expansion of a non-residential structure or conversion to a more intense use shall be subject to development fees unless the expansion is not otherwise exempt from the development fee requirement.

B. Eligible exactions, ineligible exactions and exemptions for non-residential development.

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

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ii) Nonprofit hospital structures used solely for non-profit tax exempt hospital services/purposes and uses or as referenced in a judgment approving the settlement of exclusionary zoning litigation shall be exempt from development fees, to the extent stated in a court-approved settlement agreement but shall be obligated to pay into the City's Affordable Housing Trust Fund those amounts specified in any Settlement Agreement(s) approved by the New Jersey Superior Court.

iii) Non-residential development shall be exempt from the payment of non- residential development fees in accordance with the exemptions required pursuant to N.J.S.A. 40:55D-8.4.b, or as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv) A developer of a non-residential development exempted from the non- residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

v) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non- residential development fees under these circumstances may be enforceable by the City as a lien against the real property of the owner.

§ 69-6 Collection of fees.

A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

C. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.

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D. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

E. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a preliminary or final inspection on property (whichever first occurs) which is subject to a development fee.

F. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development to the construction official who shall calculate the development fee; and thereafter notify the developer of the amount of the fee.

G. Should the City fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A.40:55D-8.6).

H. The developer shall pay 100 percent of the calculated development fee amount prior to the municipal issuance of a certificate of occupancy for the subject property. No certificate of occupancy shall be issued for any nonresidential development until such time as the fee imposed pursuant to this section has been paid by the developer.

§ 69-7 Contested fees; Appeal process.

A. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the City. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

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

C. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

§ 69-8 Affordable Housing Trust Fund.

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A. The City has created a separate, interest-bearing housing trust fund for the purpose of depositing development fees collected from residential and nonresidential developers, payments in lieu of on-site construction of affordable units, payments to be made to the City as required by the court approved Bay Avenue Redevelopers Settlement Agreement, repayments from affordable housing program loans, proceeds from the sale of units with extinguished controls, and any other funds collected in connection with the City's affordable housing program. All development fees paid by developers pursuant to this article shall be deposited into this fund.

B. The City has provided COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH (or its successor) to direct the disbursement of the funds as provided for in N.J.A.C. 5:94-6.16(b).

C. In the event of a failure by the City to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports which are not cured; or a failure to comply with the material conditions of the judgment of compliance or a revocation of the judgment of compliance by Order of the Court; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563), or any approved extension of time; or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the City, or, if not practicable, then within the County or the Housing Region.

§ 69-9 Use of funds.

A. Funds deposited in the housing trust fund may be used for any activity approved by COAH or the Court, and in accordance with the terms and conditions set forth in any court approved Settlement Agreement to address the City's municipal fair share. Such activities include, but are not limited to: rehabilitation, new construction, ECHO housing, purchase of land for affordable housing, improvement of land to be used for affordable housing, purchase of housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, or administration necessary for implementation of the Housing Element and Fair Share Plan. The expenditure of all funds shall conform to a spending plan approved by COAH or the Court.

B. Future fund payment shall not be expended to reimburse the City for past housing activities.

C. At least 30% of the development fees collected and interest earned thereon shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of

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development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.

(1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.

(2) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The City may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18

E. No more than 20% of the revenues collected from development fees shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements.

§ 69-10 Monitoring.

In the manner set forth within Paragraph 15 of the Settlement Agreement between The City and Fair Share Housing Center dated April 26, 2018 the City shall complete and return all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan approved by the court. All monitoring reports shall be completed on forms designed by COAH, New Jersey Department of Community Affairs, New Jersey Division of Local Government Services, or other entity designated by law or regulation. The City is also subject to the additional requirements set forth in the Fair Share Housing Center Settlement Agreement which require the City to provide copies of such reports to Fair Share Housing Center and posting of information on the City's official web site.

§ 69-11 Ongoing collection of fees.

The Superior Court has approved the City of Somers Point Affordable Housing Development Fee Ordinance and the City of Somers Point Affordable Housing Spending Plan and the Fair Share Housing Center Settlement Agreement which addresses the City's Third Round Affordable Housing obligation.

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A. The ability for the City to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its Judgment of Compliance and shall continue thereafter so long as the City has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

B. If the City is not pursuing authorization to impose and collect development fees after the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

C. After the expiration of its Judgment of Compliance, if the City does not pursue or obtain continued authorization, the City shall not retroactively impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the City retroactively impose a development fee on such a development or expend any of its collected development fees.

ARTICLE II: FAIR SHARE AND AFFIRMATIVE MARKETING PLAN

§ 69-12 Intent.

This article of the City Code sets forth regulations regarding the City's affordable housing obligation consistent with the provisions of the court approved settlement agreement and subsequent adoption of a Housing Element and Fair Share Plan conforming with the terms of this agreement to satisfy its obligation under the Mount Laurel Doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et. seq. for the prior round (1987-1999) and Third Round (1999-2025) to provide a fair share of affordable housing for very low, low and moderate income households. These regulations are also intended to provide assurances that very low, low- and moderate-income units (the "affordable units") are created with controls on affordability over time and that qualifying households occupy these units. These regulations shall apply except where inconsistent with applicable law or with any prior round court approved settlements and settlement agreements.

§ 69-13 Proportion of standards for affordable units.

A. Thirteen percent (13%) of all affordable units, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 2008 and those which are subject to subparagraph F of this Section shall be very low-income units, with half of the very low income units being available to families.

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B. At least fifty percent (50%) of the affordable units addressing the City's Prospective Need shall be affordable to very low income and low-income households, with the remainder affordable to moderate-income households.

C. At least twenty-five (25%) of the City's Prospective Need shall be met through rental units including at least half in rental units available to families.

D. At least half of the units addressing the City's Prospective Need in total must be available to families.

E. A maximum of 25% of all affordable units developed or planned to meet the City's cumulative prior round and third round fair share obligation shall be age-restricted.

F. Unless the FSHC Settlement Agreement shall be modified or amended, with the exception of affordable units which shall be constructed as planned pursuant to the Bay Avenue Settlement Agreement for which ten percent (10%) affordable rental units are required to be thirty five percent (35%) of median income, for all other affordable project units, thirteen percent (13%) of affordable rental units in such projects shall be required to be at thirty percent (30%) of median income.

§ 69-14 Bedroom distribution of affordable units.

A. Affordable housing developments which are not limited to age-restricted households shall be structured in conjunction with realistic market demands so that:

(1) The combination of efficiency and one-bedroom units is no greater than 20% of the total number of affordable units;

(2) At least 30% of all affordable units shall be two-bedroom units;

(3) At least 20% of all affordable units shall be three-bedroom units.

B. Affordable housing developments that are limited to age-restricted households shall at a minimum have a total number of bedrooms equal to the number of age-restricted affordable units within the affordable housing development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.

§ 69-15 Establishment of rents and prices of units as related to household size and number of units.

A. In conjunction with realistic market information, the following shall be used to determine maximum rents and sales prices of the affordable units:

(1) Efficiency units shall be affordable to one-person households.

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(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.

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

B. For assisted-living facilities, the following standards shall be used:

(1) A studio 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 two-person household or to two, one-person households.

C. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:

(1) Provide an occupant for each unit bedroom;

(2) Provide children of different sex with separate bedrooms; and

(3) Prevent more than two persons from occupying a single bedroom.

§ 69-16 Establishing median income by household size.

Median income by household size shall be established using a regional weighted average of the uncapped Section 8 income limits published by HUD and computed as set forth in Paragraph 11(a) of the Fair Share Housing Center Settlement Agreement dated April 26, 2018.

§ 69-17 Establishing average rents of affordable units.

A. The maximum rent of affordable units within each affordable housing development shall be affordable to households earning no more than 60% of median income. The average rent for low- and moderate-income units shall be affordable to households earning no more than 52% of median income. Restricted rental units shall establish at least one rent for each bedroom type for all low- and moderate-income units provided at least 13% of all low- and moderate-income units are affordable to households earning no more than 30% of median income.

B. Low- and moderate-income units shall utilize the same heating source as market units within an inclusionary development.

C. Gross rents including an allowance for utilities shall be established for the various size affordable units at a rate not to exceed 30% of the gross monthly income of the appropriate

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household size as set forth in § 69-16A above. The allowance for utilities shall be consistent with the utility allowance approved by the New Jersey Department of Community Affairs (DCA) for use in its Section 8 Program.

D. No affordable rental units included in the Somers Point Settlement Agreements shall be subject to a rent control ordinance which may be adopted or in place in the City of Somers Point during the time period in which such Agreements are effective.

§ 69-18 Establishing average sales prices of affordable units.

A. 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. Each affordable development must achieve an affordability average of 55% for restricted ownership units. 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.

B. Low- and moderate-income units shall utilize the same heating source as market units within an inclusionary development.

C. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying costs 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 an appropriate household size as determined under N.J.A.C. 5:80-26.4; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3.

§ 69-19 Affordable housing units: condominium or homeowners association fees.

If an affordable housing unit is part of a condominium association or homeowners' association, the Master Deed shall reflect that the assessed affordable homeowners' fee be established at 100% of the market rate fee. This percentage assessment shall be recorded in the Master Deed.

§ 69-20 Reservation of units.

A. Very low-income housing units shall be reserved for households with a gross household income of 30% or less the regional weighted average medium income as set forth and published by HUD.

B. Low-income housing units shall be reserved for households with a gross household income of 50% or less of the regional weighted average median income as set forth and published by HUD.

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C. Moderate-income housing units shall be reserved for households with a gross household income in excess of 50% but less than 80% of the regional weighted average median income as set forth and published by HUD.

§ 69-21 Re-occupancy certificates.

Upon resale of an affordable unit, a certificate of re-occupancy shall be required in accordance with N.J.A.C. 5:80-26.10.

§ 69-22 Phasing of construction.

Unless otherwise approved by COAH or the Superior Court, final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low- and moderate-income units whether developed in one stage or in two or more stages:

Percentage of Market Housing Units Completed

Minimum Percentage of Affordable Units Completed	Percentage of Market Housing Units Completed
0	25
10	25 + 1 unit
50	50
75	75
100	90

§ 69-23 Control period.

Any conveyance of a newly constructed low- or moderate-income sales unit shall contain the restrictive covenants and liens that are set forth in N.J.A.C. 5:80-26 et seq.

§ 69-24 Administration of affordable housing program.

A. The City is ultimately responsible for monitoring the affordable housing program, including affordability controls and the affirmative marketing plan in accordance with the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:94 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq.

B. The City has delegated to the municipal housing liaison the responsibility for monitoring the affordable housing program including administrating and enforcing the affordability controls and the Affirmative marketing plan of the City of Somers Point in accordance with the provisions of this article, the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:94 et seq., and the New Jersey Uniform Housing Affordability Controls pursuant to

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N.J.A.C. 5:80-26 et seq. The City of Somers Point shall by resolution appoint the City administrator as the municipal housing liaison to monitor the affordable housing program.

C. Subject to COAH or Court approval, the City may contract with one or more administrative agents to administer all of the affordability controls and/or the Affirmative marketing plan in accordance with this article, the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:94 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq. The municipal housing liaison shall monitor the contracting administrative agent(s).

D. The City has entered into a court approved shared services agreement with the Atlantic County Improvement Authority, an experienced affordable housing administrator to be the administrator of the sale and rental of all new affordable housing and rehabilitation. The experienced affordable housing administrative agent will oversee and administer the income qualification of low- and moderate-income households; placing income eligible households in low- and moderate-income units upon initial occupancy; placing income eligible households in low- and moderate-income units as they become available during the period of affordability controls and enforcing the terms of the required deed restrictions and mortgage loans. The experienced affordable housing administrative agent will administer and implement:

(1) An administrative plan and program, and related monitoring and reporting requirements as outlined in N.J.A.C. 5:80-26.15 et seq. and the Land Use Ordinances of the City of Somers Point after review by the City Planning Board and City Council.

(2) A plan for certifying and verifying the income of low- and moderate-income households as per N.J.A.C. 5:80-26.16.

(3) Procedures to assure that low- and moderate-income units are initially sold or rented to eligible households and are thereafter similarly resold and re-rented during the period while there are affordability controls as per N.J.A.C. 5:80-26 et seq.

(4) The requirement that all newly constructed low- and moderate-income sales or rental units contain deed restrictions with appropriate mortgage liens as set forth in appendices in N.J.A.C. 5:80-26 et seq.

(5) The several sales/purchase options authorized under N.J.A.C. 5:80-26 et seq. except that the City retains the right to determine by resolution whether or not to prohibit, as authorized under N.J.A.C. 5:80-26 et seq., the exercise of the repayment option.

(6) The regulations determining whether installed capital improvements will authorize an increase in the maximum sales price; and which items of property may be included in the sales price as per N.J.A.C. 5:80-26.9.

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E. The developers/owners of any inclusionary site shall be responsible for the experienced affordable housing administrator's administrative fee, affirmative marketing and advertising and such shall be a condition of Planning Board or Zoning Board of Adjustment approval. Subsequent to the initial sale or the initial rental of an affordable unit, the seller of an affordable sale unit or the owner of an affordable rental unit shall be responsible for the experienced affordable housing administrator's administrative fee, affirmative marketing and advertising and such shall be a condition of any affordable housing deed restriction governing the unit.

F. The City of Somers Point reserves the right to replace the administrative agent(s) with another experienced affordable housing agency authorized by COAH to carry out the administrative processes outlined above.

§ 69-25 Time period for controls.

A. Newly constructed low- and moderate-income rental units shall remain affordable to low- and moderate-income households for a period of 30 years.

B. Newly constructed low- and moderate-income for-sale units shall remain affordable to low- and moderate income households for a period of 30 years.

C. Rehabilitated owner-occupied single-family housing units that are improved to code standard shall be subject to affordability controls for 10 years.

D. Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for at least 10 years.

E. Housing units created through conversion of a nonresidential structure shall be considered a new housing unit and shall be subject to affordability controls for new housing units as designated in Subsections A and B.

F. Affordability controls on accessory apartments shall be for a minimum period of 10 years.

G. Affordability controls for units in alternative living arrangements shall be for a period of 30 years or such other lesser period as may be applicable to special needs and / or group homes.

H. Affordability controls on buy-down units shall be for a period of 30 years.

§ 69-26 Selection of occupants of affordable units.

A. The administrative agent shall use a random selection process to select occupants of low- and moderate-income housing.

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B. A waiting list of all eligible candidates will be maintained in accordance with the provisions contained in N.J.A.C. 5:80-26 et seq.

C. Households who live or work in COAH's Housing Region 6 consisting of Atlantic, Cape May, Cumberland, and Salem Counties shall be given preference for sales and rental units constructed within this housing region. Applicants living outside this housing region will have an equal opportunity for units after regional applicants have been initially serviced.

§ 69-27 Affirmative marketing plan.

A. In accordance with the regulations of COAH pursuant to N.J.A.C. 5:94 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq., the regulations below shall serve as the City of Somers Point's Affirmative marketing plan.

B. All affordable housing units shall be marketed in accordance with the provisions therein.

C. The City has a first round, second round, and a third round obligation; all of which have been approved by orders of the New Jersey Superior Court following the statutory Fairness Hearings This section shall apply to all developments that contain proposed low- and moderate-income units and any future developments that may occur.

D. In implementing the marketing program, the administrative agent shall undertake all of the following strategies:

(1) Publication of one advertisement in a newspaper of general circulation within the housing region.

(2) Broadcast of one advertisement by a radio or television station broadcasting throughout the housing region.

(3) At least one additional regional marketing strategy using one of the other sources listed below.

E. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the period of deed restriction. The City is in the housing region consisting of Atlantic, Cape May, Cumberland, and Salem Counties. The affirmative marketing program is a continuing program and shall meet the following requirements:

(1) All newspaper articles, announcements and requests for applications for low- and moderate-income units shall appear in the following daily regional newspaper/publication:

(a) The Press of Atlantic City;

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- (b) Northfield — Linwood- Somers Point Current;
- (c) Ocean City Sentinel;
- (d) Mainland Journal.

(2) The primary marketing shall take the form of at least one press release sent to the above publications and a paid display advertisement in the above newspapers. Additional advertising and publicity shall be on an as-needed basis. The advertisement shall include a description of the:

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

(3) The following regional cable television station shall be used: Comcast Access Channel TV.

(4) The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program:

- (a) City of Somers Point Municipal Building.
- (b) City of Somers Point branch of the Atlantic County Public Library.

(5) The following is a listing of community contact person(s) and/or organizations(s) in Atlantic, Cape May, Cumberland, and Salem Counties that will aid in the affirmative marketing program with particular emphasis on contracts that will reach out to groups that are least likely to apply for housing within the region:

- (a) Atlantic County Department of Family and Community Development.
- (b) Atlantic County Improvement Authority.
- (c) New Covenant Community Church.
- (d) Calvary Bible Church.
- (e) St. Joseph's Roman Catholic Church.
- (f) Grace Lutheran Church.
- (g) Christ Episcopal Church.
- (h) Atlantic City Mission of Diocese of New Jersey.
- (i) United Methodist Church.
- (j) Holy Trinity Greek Orthodox Church.
- (k) Beth Israel Reform Congregation.
- (l) NJ State Mental Health Association.
- (m) Fair Housing Council of Atlantic County.
- (n) Family Service Association of Atlantic County.
- (o) The ARC of Atlantic County.

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- (p) Homes Now, Inc.
- (q) The Affordable Homes Group.
- (r) Affordable Homes of Millville Ecumenical.
- (s) Cumberland Empowerment Zone Corporation.
- (t) Rural Opportunities, Inc., NJ Division.
- (u) Tri-County Community Action Partnership.
- (v) Housing Services Corp. of the Diocese of Camden.
- (w) The Latino Action Network,
- (x) The Cape May County, Mainland/Pleasantville, and Atlantic City Branches of the NAACP.

(y) The New Jersey State Conference of the NAACP.

(6) Quarterly flyers and applications.

(a) Quarterly flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members:

- [1] Atlantic County Board of Realtors.
- [2] Cape May County Board of Realtors.
- [3] Cumberland County Board of Realtors.
- [4] Salem County Board of Realtors.

(b) Applications shall be mailed to prospective applicants upon request.

(c) Quarterly informational circulars and applications shall be sent to the chief administrative employees of each of the following agencies in the counties of Atlantic, Cape May, Cumberland, and Salem:

- [1] Welfare or Social Service Board.
- [2] Rental Assistance Office (local office of DCA).
- [3] Office on aging.
- [4] Housing Agency or Authority.
- [5] Library.
- [6] Area Community Action Agencies.

(d) Quarterly informational circulars and applications shall be sent to the chief administrative employees of each of the following major employers:

- [1] Shore Memorial Hospital.
- [2] Atlantic City Medical Center.
- [3] Burdette-Tomlin Memorial Hospital.
- [4] Atlantic City Electric.
- [5] All Atlantic City Casinos
- [6] Wawa.
- [7] Walmart.
- [8] ShopRite.
- [9] Acme.
- [10] Home Depot.

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[11] Lowes.

(7) A random selection method to select occupants of low- and moderate-income housing will be used in conformance with N.J.A.C.5:80-26.16 (l).

(a) The experienced affordable housing administrative agent has the responsibility to income qualify low- and moderate-income households; to place income eligible households in low- and moderate- income units upon initial occupancy; to provide for the initial occupancy of low- and moderate-income units which income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per

N.J.A.C 5:80-26. The municipal housing liaison will act as liaison to any experienced affordable housing administrative agency that may be contracted by the City in the future. The experienced affordable housing administrative agent shall provide counseling services to low- and moderate-income applicants on subject such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law.

(b) All developers of low- and moderate-income housing units shall be required to assist in the marketing of the affordable units in their respective developments.

(c) The marketing program shall commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program shall continue until all low-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or re-occupancy of units continues to be necessary.

(d) The municipal housing liaison of the City of Somers Point will comply with monitoring and reporting requirements as per N.J.A.C.5:80-26 and the FSHC Settlement Agreement.

ARTICLE III. AFFORDABLE HOUSING SET ASIDE FOR CERTAIN NEW RESIDENTIAL DEVELOPMENT

69-28 Future residential development set asides. Any property in the City that is currently zoned for nonresidential uses and subsequently receives a zoning change or use variance or approval of a redevelopment plan to permit multi-family residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment plan to permit multi-family residential development, which multi-family residential development will be constructed at a density of six (6) or more units per acre and yielding five (5) or more new dwelling units, shall provide an affordable housing set-aside of 15 percent if the affordable units will be for rent and 20 percent if the affordable units will be for sale; unless otherwise provided in the Somers Point Settlement Agreements. This provision does not affect residential development on sites that are zoned for inclusionary residential development as part of the City's Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the City of Somers Point to grant such rezoning, variance or other relief. A property shall not be permitted to be subdivided so as to avoid compliance with this

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requirement. All affordable units created pursuant to this paragraph shall be governed by the provisions of this Ordinance.

Section 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any such inconsistency.

Section 3. Should any section, subsection or paragraph of this ordinance be declared to be invalid by any court of competent jurisdiction, such invalidity shall not affect the balance of this ordinance, which shall remain valid and enforceable.

Section 4. This ordinance shall take effect after the first publication thereof after final adoption as provided by the Law of the State of New Jersey.

Ordinance No. 21 of 2018

M/S – Gerety/Toto

(First Reading/Introduction)

The ordinance was adopted by unanimous roll call vote of those present.

No. 21 of 2018

AN ORDINANCE AUTHORIZING THE SALE OF BLOCK 1715, LOT 5 ON THE TAX MAP OF THE CITY OF SOMERS POINT AND GRANTING TO THE OWNER OR OWNERS OF SAID REAL PROPERTY CONTIGUOUS TO SAME THE RIGHT TO PRIOR REFUSAL TO PURCHASE SUCH LAND IN THE CITY OF SOMERS POINT, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

WHEREAS, the City of Somers Point, County of Atlantic and State of New Jersey, is the owner of certain land hereinafter described; and

WHEREAS, in the judgment of the City Council of the City of Somers Point, said land is of no further use for public purpose and is not needed for public use and should be disposed of in accordance with the statute in such case made and provided, N.J.S.A. 40A:12-13(b), by private sale to the contiguous property owners; and

WHEREAS, said land is without any capital improvement and less than the minimum size required for development and is being offered at a minimum price which is equal to its fair market value.

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NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Somers Point, County of Atlantic and State of New Jersey, that:

SECTION 1. That authorization is hereby given to solicit bids from the contiguous property owners for the land and premises described as follows:

<u>BLOCK</u>	<u>LOTS</u>	<u>MINIMUM VALUE (BID)</u>	<u>LOCATION</u>	<u>ZONE</u>	<u>LOT SIZE</u>
1715	5	\$74,500	829 Centre Street	HC-1	7500 sf

and listed in the Notice of Sale hereinafter mentioned, at **PRIVATE SALE** to the highest bidder of the contiguous property owners which bids shall be submitted, in writing, to the City Clerk, as designee of this Governing Body, in writing and on forms prepared by the City for a period of twenty (20) days from the date of publication of the passage of this Ordinance pursuant to N.J.S.A. 40A:12-13. All bids shall be submitted in a sealed envelope. No offer less than the minimum value set forth above for said property shall be considered by the City Council.

SECTION 2. In the event that there are bids by more than one (1) contiguous property owner with respect to said property, the sale shall be made, if at all, to the highest bidder. All bids shall be submitted in the same manner and under the same conditions as set forth within Section 1.

SECTION 3. The City Council of the City of Somers Point reserves the right to reject any and all bids and to thereafter advertise the subject property for public sale pursuant to N.J.S.A. 40A:12-13(a).

SECTION 4. The City of Somers Point reserves the right to add any conditions to the sale of this property prior to acceptance of bids. If the successful bidder defaults on any condition imposed, Title to the property shall immediately and without further action revert back to the City of Somers Point and all funds paid to the City of Somers Point shall be retained by the City of Somers Point.

SECTION 5. The following conditions of sale shall apply:

- (a) The successful bidder shall submit a Certified Check made payable to the “City of Somers Point” in the amount of TEN PERCENT (10%) of the purchase price, which check shall be submitted in the sealed envelope at the time of submission of the bid. Persons bidding on behalf of a contiguous property owner shall be required to submit in writing satisfactory evidence of their authority. The balance of the purchase price plus FIVE HUNDRED ELEVEN DOLLARS AND

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(b) FIFTY-SIX CENTS (\$511.56) to cover advertising, legal and recording fees shall be paid in cash or Certified Check at the time of closing.

(b) The Deed prepared of behalf of the City of Somers Point shall not be tendered until the full purchase price is paid.

(c) Title shall be conveyed by and through a Quitclaim Deed and shall convey only the right, title and interest of the City of Somers Point to the land, as described herein. No warranties and covenants are or shall be made by the City of Somers Point and in no event shall there be any liability on the part of the City by reason thereof. The City of Somers Point makes no warranties or representations regarding any condition of the property including, but not limited to, environmental or cosmetic conditions of the property. The successful bidder shall be solely responsible for any and all expenses related to the property including, but not limited to, environmental clean-up costs that may be necessary. The right, title and interest of the successful bidder, as purchaser, shall be subject to the following conditions, covenants, restrictions, easements and exceptions which shall run with the land and shall also become part of the Deed granted to the purchaser for the recording:

- (1) Easement of utility companies and of governmental agencies or bodies.
- (2) Any encroachments, prescriptions, easements or other state of facts pertaining to said lands which may be ascertained upon a visual examination and inspection of the land and the lands surrounding said land and any restrictions and covenants of record.
- (3) All existing Federal, State, County and Municipal laws, statutes, ordinances, rules and regulations including, by way of description and not by limitation, existing zoning, health and planning board rules and regulations.
- (4) No representation of any kind is made that the land, in question, surface as well as subterranean portions, is suitable or adaptable for any particular use whatsoever.
- (5) No representation of any kind is made concerning gas or electric service to the land.

(d) In the event that the City cannot convey good and marketable title, subject to the above, the purchaser will be entitled to the return of the deposit, without interest, and the City will not be responsible or liable in any other manner and for any other amount.

(e) In the event that the purchaser defaults in making payment to the City, as set forth above, or if the purchaser cannot make settlement in accordance with the terms thereof, the deposit made by the successful bidder on account of the purchaser will be retained by the City as and for its liquidated damages, and the land may be resold. This remedy shall be in addition to the City's right to compel specific performance of the purchaser's obligation hereunder. Time is of the essence.

(f) That the purchaser, for himself, his heirs, personal representative, successors and assigns, waives any possible exemption from taxes and assessments, and interest and other lawful

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charges thereon by reason of the ownership of the premises by the City of Somers Point prior to sale, and that the said premises shall be liable for and subject to the same manner and under and subject to all lawful charges thereon, as well as the tax liens and tax sale, as real estate not municipally owned.

(g) No bids shall be accepted from any owner of property in the City of Somers Point for which any real estate taxes or municipal charges are due and unpaid at the time of sale.

(h) The Deed shall contain the condition and agreement by Buyer and Seller that the purchase price of the property or any information involved in its determination shall not be used as evidence in any appeal of municipal taxes for this or any other property.

(g) The purchaser is given the right herein to withdraw their bid at any time within ONE HUNDRED EIGHTY (180) DAYS of acceptance of the successful bid in the Office of the City Clerk. In the event that the successful bidder exercises this right and withdraws their bid as aforesaid, the purchaser will be entitled to the return of the deposit less costs to the city of FIVE HUNDRED ELEVEN DOLLARS AND FIFTY-SIX CENTS (\$511.56), without interest, and the City will not be responsible or liable in any other manner and for any other amount.

SECTION 6. Settlement shall be held within ONE HUNDRED EIGHTY (180) DAYS of acceptance of the successful bid in the Office of the City Clerk, to be held in the Office of the City Clerk or in the office of a local title insurance company if at least two (2) days written notice is given by either party to the other. If the day fixed is on a Sunday or other holiday, settlement shall be made on the next business day. The City Solicitor may, for good cause shown and in their sole discretion, extend the time of the settlement for a reasonable period. At settlement, the balance of the purchase price shall be tendered in the form of cash, Certified Check or Cashier's Check. Time is of the essence.

SECTION 7. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies, and should any section, clause, sentence or provision of any item in this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not effect the validity of the remaining portions of this Ordinance.

SECTION 8. This Ordinance shall take effect upon its final passage and publication as provided by law.

Public Portion on Resolutions:

The Public Portion was duly opened and hearing nothing from the public it was closed.

Resolution No. 189 of 2018

M/S- Gerety/Toto

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The resolution was adopted by unanimous roll call vote of those present.

No. 189 of 2018

Subject: 2018 Best Practices Inventory

Introduced By: Council President McGuigan, Councilmen Gerety and Dill

WHEREAS, the State of New Jersey Division of Local Government Services has developed a Best Practices Inventory to be completed by each municipality; and

WHEREAS, the completed form must be an agenda item for discussion at a municipal governing body meeting in order to ensure that local officials have been apprised of the response; and

WHEREAS, the City Clerk must certify that the governing body has reviewed the completed Best Practices Inventory at a public meeting; and

WHEREAS, the completed Best Practices Inventory and required certification are attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Somers Point hereby acknowledges receipt of and discussion of the 2018 Best Practices Inventory.

Resolution No. 190 of 2018

M/S- D'Adamo/Gerety

The resolution was adopted by unanimous roll call vote of those present.

No. 190 of 2018

Subject: A Resolution to Adjourn to Executive Session to Discuss Pending Litigation Entitled Woytowich v. City of Somers Point, Docket No. ATL-L-002479-18

Introduced By: Council President McGuigan

WHEREAS, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of the Somers Point City Council to be held in public, N.J.S.A.10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in "Executive Session," i.e. without the public being permitted to attend, and

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WHEREAS, the Somers Point City Council has determined that one (1) issue permitted by N.J.S.A. 10:4-12(b) is to be discussed without the public in attendance during an Executive Session to be held on November 8, 2018, during a public meeting to be held commencing at 7:00 P.M, and

WHEREAS, there are nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b) and next to applicable exception is a box within which the **number of issues** to be privately discussed that fall within that exception shall be written, and after each exception is a space where additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

1 (7) **Pending or anticipated litigation or contract negotiation other than in subsection b. (4) herein in which the public body is, or may become, a party, or matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer. Described as specifically as possible without undermining the need for confidentiality is:**

To discuss with Counsel the issues related to litigation entitled Woytowich v. City of Somers Point, Docket No. ATL-L-002479-18, matters subject to the Attorney-Client Privilege

WHEREAS, the length of the Executive Session is estimated to be approximately 20 minutes after which the public meeting of the City Council shall reconvene;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Somers Point will go into Executive Session for **only** the above stated reason;

BE IT FURTHER RESOLVED that the City Council directs the City Clerk to make ten (10) photocopies of this resolution immediately after it passes and to distribute those photocopies to the public in attendance prior to the Executive Session commencing;

BE IT FURTHER RESOLVED that any blank spaces within this form of resolution are to be filled out in conformity with a Consent Judgment and Memorandum of Understanding dated June 8, 2009 that arose that the City Council hereby declares that its discussion of the aforementioned subject(s) will be made public at a time when the public's interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary):

Subject of Discussion	Estimated Date	Necessary Occurrence
See Exception 7 Above	Cannot be determined at this time.	City Council Action by Resolution or Order of the

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		Superior Court of State of New Jersey
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BE IT FURTHER RESOLVED that the governing body will reconvene in public session and confirm the results of the executive session if there is a majority consensus for action to be taken at this time

Resolution No. 191 of 2018

M/S- Toto/D'Adamo

The resolution was adopted by unanimous vote of those present.

No. 191 of 2018

Subject: A Resolution pledging support of New Jersey's Wildlife Action Plan

Sponsor: Councilman Meischker

WHEREAS, the City of Somers Point (" City") has the authority to enact laws which promote the public health, safety and general welfare of its residents, resident animals, and wildlife; and

WHEREAS, the City is required under State and Federal law to implement policies and programs to protect unique coastal resources and environmentally sensitive habitat areas, reduce the amount of waste produced by the community and prevent storm water runoff, trash, and debris from polluting bay and ocean waters; and

WHEREAS, the City of Somers Point is bordered by the Great Egg Harbor Bay to the south and east and the Patcong Creek on the west.

WHEREAS, the Somers Point community is attractive to residents, businesses, and visitors due to a local economy and quality of life that is centered on a clean and healthy environment, including but not limited to beaches, parks, public open spaces, bays, estuary, tidelands, and the ocean that are home to abundant wildlife; and

WHEREAS, we want to continue to protect wildlife as New Jersey is a critical migratory pathway for a great diversity of species; and

WHEREAS, Somers Point is home to at least ten endangered and/or threatened species that live part of their life here; and

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WHEREAS, in order to help maintain diversity, support New Jersey's Wildlife Action Plan, and improve the quality of life and the environment of Somers Point; and

WHEREAS New Jersey's Wildlife Action Plan is in support of New Jersey Department of Environmental Protection, Division of Fish and Wildlife, State-level Priority Conservation Goals and Strategies Recognizing that animals are an integral and valuable part of all communities and believing concern for the wellbeing of wild animals and wild species is a hallmark of a sustainable natural community the City of Somers Point pledges its support for the New Jersey Wildlife Action Plan as outlined:

WHEREAS, New Jersey is home to a rich diversity of wildlife and ecologically significant natural communities,

WHEREAS, New Jersey's wildlife and wild places are under threat from development, fragmentation, invasive species and the impacts of people,

WHEREAS, the populations of mammals, birds, invertebrates, fish, reptiles and amphibians that live in and migrate through New Jersey find themselves clinging to smaller and smaller pieces of wild clean lands and aquatic habitats,

WHEREAS, it is more cost-effective to prevent species from becoming imperiled than it is to recover them once their populations have declined,

WHEREAS, a naturally functioning and healthy ecosystem represents a healthy environment for NJ wildlife and our citizens,

WHEREAS, the NJ Division of Fish and Wildlife, other state and federal agencies, and many partners in conservation have worked together to develop a state Wildlife Action Plan for the benefit of biologists, wildlife experts, municipal leaders, land stewards, non-profit organizations, educators, planners, researchers, outdoor recreation enthusiasts, landowners and all the people who know the wild places of New Jersey State,

WHEREAS, the New Jersey Wildlife Action plan is a comprehensive action agenda for the conservation of native wildlife, the restoration of important lands and water, and public education targeting the needs of rare wildlife in New Jersey,

WHEREAS, the residents of, and visitors to, New Jersey also enjoy and benefit from New Jersey's wildlife and wild spaces.

NOW THEREFORE, we the City of Somers Point, resolve to take the following steps with regard to our municipal land-use decisions with the intent of sustaining the City of Somers Point as an ecologically sustainable community. It is our intent to include these principles in our public

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lands management and our environmental resources inventory. The next master plan revision and future zoning updates will take this pledge to support the New Jersey Wildlife Action plan into consideration based on the following:

- We will identify imperiled species, critical habitat and unique ecosystems in our Environmental Resource Inventory.
- Acknowledging that it is more cost-effective to protect species than recover species, we will protect populations of rare and imperiled species that live and breed in, and migrate through, the municipality and the habitats they depend upon.
- Because habitat integrity is critical to healthy biodiversity we will manage publicly owned lands in accordance with wildlife management actions laid out in the New Jersey Wildlife Action Plan and will promote the management of all protected lands to promote biodiversity.
- We will protect wildlife habitats and maintain connectivity of habitat when formulating an open space acquisition strategy, open space stewardship plans and through the municipal master plan including planning and zoning ordinances.
- We will seek to minimize disturbance of critical wildlife populations and their habitats from human activities, subsidized predators and invasive species, following the guidelines set forth in Environmental District Development Regulations.

- When possible and appropriate, we will continue to work with neighboring municipalities to implement the aforementioned principles across municipal boundaries.
- When possible and appropriate, we will strive to monitor and implement appropriate management of municipal easements to ensure native vegetation and wildlife takes precedence over invasive and/or exotic species.

Resolution No. 192 of 2018

M/S- Toto/Gerety

The resolution was adopted by unanimous vote of those present.

No. 192 of 2018

Subject: Taxes Cancelled and Refunded

Introduced by: Council President McGuigan

WHEREAS, the property owner at 32 W. Maryland Avenue is a 100% permanently and totally disabled veteran as of September 14, 2018; and

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WHEREAS, the owner has filed all of the forms and provided all the necessary documentation for tax exemption; and

WHEREAS, the owner is now entitled to total real estate tax exemption beginning on September 14, 2018; and

WHEREAS, the taxes from September 14, 2018 to September 30th, 2018 should be canceled in the of amount \$220.80.

WHEREAS, the owner has paid his 4th quarter 2018 taxes creating an overpayment in the amount \$1122.38.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point, that the above taxes be canceled, and overpayment be reimbursed.

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Tax Collector and the Finance Officer by the City Clerk.

Block	Lot	Qual.	Owner	Amount	Year
1114	8		William A. Loro	\$1343.18	2018
TOTAL.....				\$1343.18	

Old Business:

None

New Business:

None

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Discussion of Bills:

Administrator Swain reported a Bill List dated 11/5/18 in the amount of \$2,490,651.92.

Public Portion:

The meeting was duly opened to the public and hearing nothing from the public, the meeting was duly closed.

Payment of Bills:

M/S – Gerety/Toto

The Bill List was approved by a unanimous vote of those present. A complete list of bills is on file in the Office of the Municipal Clerk.

City Council adjourned in to Executive Session.

Adjournment:

There being no further business to come before Council, the meeting was adjourned at 7:52 p.m.

Respectfully submitted,

Lucy R. Samuelsen, RMC
Municipal Clerk
Approved: 12-13-18