

**TOWNSHIP OF CEDAR GROVE  
ESSEX COUNTY NEW JERSEY**

**PUBLIC MEETING**

**MINUTES**

**AUGUST 13, 2018**

**1. ROLL CALL, INVOCATION AND FLAG SALUTE**

Mayor Cicala called the meeting to order at 7:00 p.m.

Present: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala  
Also Present: Township Manager Tucci, Attorney Townes for Township Attorney Zielinski,  
Township Clerk Stutz and Alternate Counsel Semeraro  
Absent: Councilwoman Peterson

The flag salute was led by Mayor Cicala.

Mayor Cicala made the required announcement concerning the Open Public Meetings Act as follows:  
Adequate notice of this meeting was duly provided to the Verona-Cedar Grove Times and the Star Ledger on December 28, 2017, filed with the Township Clerk, and posted on the public bulletin board in the Municipal Building Lobby in accordance with the Open Public Meeting Act.

**2. APPROVAL OF MINUTES**

- a) To consider approval of annual reorganization meeting minutes of July 2, 2018

Councilman Tanella moved approval of the minutes as presented, seconded by Deputy Mayor Vargo, and passed by the following vote:

AYE: Councilmember Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSTAIN: Councilman Kumburis

ABSENT: Councilwoman Peterson

- b) To consider approval of regular public meeting minutes of July 16, 2018

Councilman Tanella moved approval of the minutes as presented, seconded by Councilman Kumburis, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

**3. MEETING OPEN TO RESIDENTS OF THE TOWNSHIP WISHING TO BE HEARD ON ANY ITEM ON THE AGENDA**

Mayor Cicala opened this portion of the meeting to anyone wishing to be heard on any item on the agenda.

Paul Burns; 2 Elm Dr. – Mr. Burns inquired the specifics of Agenda Items #6 g,h,i,j. Mayor Cicala advised that Agenda Item #6g has been removed from the agenda. Mayor Cicala requested that Attorney Semeraro address Mr. Burns' inquiry pertaining to items #6 h,i, and j. At Attorney Semeraro's direction, Councilman Kumburis stated that he had a conflict of interest regarding Ord. 18-829, being a notified property owner, requested that Attorney Semeraro provide further explanation, and left the dais. Attorney Semeraro explained that according to the Municipal Land Use Law an individual that resides within 200' of property which is the subject of a zoning amendment, has an irrevocable conflict of interest, and should therefore not vote, deliberate or participate in any action on the re-zoning ordinance. Attorney Semeraro further explained that since Councilman Kumburis voted on a motion to adjourn the public hearing of Pending Ord. 18-829, he recommended that the Council re-introduce both the proposed zoning ordinances, for record clarification purposes. Attorney Semeraro stated that agenda items 6 h, i, j constitute the formal action of re-introducing the ordinances for clarification purposes. Attorney Semeraro stated that there have been no changes made to either ordinances or ensuing resolution for forward the ordinance to the Planning Board. Attorney Semeraro further stated that the public hearing date is September 17, 2018, at which time the Township's professionals will be present to explain the circumstances that resulted in the proposed ordinances and address questions/comments from the public.

Cheryl Nardino; 118 Brunswick Rd. – Ms. Nardino requested specific addresses for properties cited in ordinances. Attorney Semeraro provided the general location of the properties, i.e. Cliffside Drive, Commerce Road Industrial Park, and Rutgers Lane and Lewis Road. Mayor Cicala advised that copy of the full ordinances are available at the Township Clerk's Office.

There being no one else present wishing to be heard, Mayor Cicala closed this portion of the meeting.

#### **4. REPORTS OF TOWNSHIP OFFICIALS**

a) Township Manager – The Manager provided a storm damage update from flash flooding that occurred within the Township on Saturday, August 11, 2018. The Manager explained that four specific areas within the Township were affected; Pompton Ave. in the center of town by Foodtown, Taylor's Brook, Little Falls Road, and W. Lindsley Rd. Councilman Kumburis rejoined the meeting at 7:16 p.m. The Manager announced that there will be additional bulk garbage collections during the week to assist affected homeowners and businesses. Mr. Tucci further noted the potential availability of FEMA funding in the form of low interest loans to assist property owners who experienced severe damage i.e. 40% or more of the assessed value of property. The Manager also urged residents to notify the Township of specific roadway problems. The Manager commended the DPW employees, Police, Fire and Ambulance & Rescue Squad personnel for their response during the recent weather event. The Manager noted the resolution on the agenda to execute documents to transfer of property from South End Fire Company #3 to the Township to effect demolition and reconstruction of a new fire house. Mr. Tucci reported three block party requests; Upland Way, Cedar Grove Pkwy., and Beverly Rd. to which the governing body agreed. The Manager provided an update on efforts to resolve property maintenance issues at the Post Office property. The Manager requested an executive session to discuss acquisition of property.

b) Township Clerk – The Clerk noted a request from the Elks Club for annual Patriotism Week proclamation, to which the governing body agreed.

c) Township Attorney – Attorney Townes referred to a memo requesting execution of a use and occupancy agreement and deed execution to effect property transfer and the demolition and reconstruction of South End Fire House.

d) Other Reports – Mayor Cicala commended DPW and emergency services for their efforts during the recent weather event. Mayor Cicala suggested that the Township conduct a joint 9/11 remembrance ceremony with the Board of Education at the high school in conjunction with the CG Waves display at 8:45 am on 9/11, to which the governing body concurred.

Deputy Mayor Vargo also commended the Township’s emergency services, as well as residents and local businesses for assistance rendered during the recent weather event on August 11th. Deputy Mayor Vargo reported the Downtown Advisory Committee’s plans to conduct a craft festival at LRP on October 20<sup>th</sup> from 4:00 – 8:00 p.m. Deputy Mayor Vargo provided an update on the trestle aesthetic enhancement project. Deputy Mayor Vargo also advised that the Bill Fearon memorial dedication is anticipated to take place in late September/early October at Panther Park.

Councilman Kumburis commended DPW, Police, Fire and Ambulance & Rescue Squad responses to the recent flood event in the Township. Councilman Kumburis also requested that the governing body re-consider membership in the Regional Flood Control Board.

## 5. CONSENT AGENDA

a) To consider resolution concerning appointment/re-appointment of Zoning Board member

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**BE IT RESOLVED** by the Township Council of the Township of Cedar Grove that Marcia Vollero is hereby appointed as Alternate #1 member of the Zoning Board of Adjustment for a two-year term effective immediately and terminating June 30, 2020.

**BE IT FURTHER RESOLVED** that Ed Christenson is hereby appointed as Alternate #2 member of the Zoning Board of Adjustment for a two-year unexpired term effective immediately and terminating June 30, 2019.

Councilman Tanella moved adoption of the resolution, seconded by Councilman Kumburis, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSTAIN: Deputy Mayor Vargo

ABSENT: Councilwoman Peterson

b) To consider resolution concerning approval of raffle applications – Cedar Grove High School APT

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, applications for raffle licenses have been received from:

**APPLICANTS**

**EVENTS, DATES TIMES & PLACE**

Cedar Grove High School APT  
90 Rugby Rd.  
Cedar Grove NJ 07009

On-Premise 50/50 Raffle to be held  
September 20, 2018 at 5:00 pm at  
90 Rugby Rd., Cedar Grove NJ 07009

Cedar Grove High School APT  
90 Rugby Rd.  
Cedar Grove NJ 07009

On-Premise 50/50 Raffle to be held  
September 14, 2018 at 8:00 p.m.,  
September 28, 2018 at 7:30 p.m., and  
October 12, & 26, 2018 at 8:00 p.m. at  
90 Rugby Rd., Cedar Grove NJ 07009

Cedar Grove High School APT  
90 Rugby Rd.  
Cedar Grove NJ 07009

Off-Premise 50/50 Raffle to be held  
September 28, 2018 at 8:00 pm at  
90 Rugby Rd., Cedar Grove NJ 07009

**WHEREAS**, the fees have been paid, and the applications have been reviewed by the Township Clerk and found acceptable.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Cedar Grove that it does hereby approve said applications.

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

- c) To consider resolution concerning approval of raffle application – St. Kiril & Methodij Macedonian Church

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, an application for raffle license have been received from:

**APPLICANTS**

**EVENTS, DATES TIMES & PLACE**

Sts. Kiril & Metodij Macedonian Church  
1050 Pompton Ave.  
Cedar Grove NJ 07009

On-Premise Merchandise Raffle to be held  
October 20, 2018 at 6:00 – 11:00 pm at  
1050 Pompton Ave., Cedar Grove NJ 07009

**WHEREAS**, the fees have been paid, and the application has been reviewed by the Township Clerk and found acceptable.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Cedar Grove that it does hereby approve said applications.

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

- d) To consider resolution concerning approval of raffle applications – Foundation for Diabetes Research

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, applications for raffle licenses have been received from:

**APPLICANTS**

**EVENTS, DATES TIMES & PLACE**

Foundation for Diabetes Research  
513 West Mount Pleasant Ave.  
Livingston NJ 07039

On-Premise Draw Raffle to be held  
October 17, 2018 at 6:00 – 9:30 pm at  
691 Pompton Ave., Cedar Grove NJ 07009

Foundation for Diabetes Research  
513 West Mount Pleasant Ave.  
Livingston NJ 07039

Off-Premise Draw Raffle to be held  
October 17, 2018 at 9:00 pm at  
691 Pompton Ave., Cedar Grove NJ 07009

**WHEREAS**, the fees have been paid, and the applications have been reviewed by the Township Clerk and found acceptable.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Cedar Grove that it does hereby approve said applications.

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

- e) To consider resolution concerning approval of raffle application – Cedar Grove Elks

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, an application for raffle license have been received from:

**APPLICANTS**

**EVENTS, DATES TIMES & PLACE**

Cedar Grove Elks Lodge #2237  
405 Bowden Rd.  
Cedar Grove NJ 07009

Instant Raffle for September 1, 2018  
through August 31, 2019 to be held at  
405 Bowden Rd., Cedar Grove NJ 07009

**WHEREAS**, the fees have been paid, and the application has been reviewed by the Township Clerk and found acceptable.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Cedar Grove that it does hereby approve said applications.

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

**6. NEW BUSINESS**

- a) To consider introduction of Pending Ordinance #18-831 – Amending Chapter 190 of the Code of the Township of Cedar Grove entitled “Peddling and soliciting”

The clerk read the Ordinance by title only:

**ORDINANCE AMENDING CHAPTER 190 OF THE CODE OF THE TOWNSHIP OF CEDAR GROVE ENTITLED “PEDDLING AND SOLICITING”**

**WHEREAS**, vendors routinely solicit business from the residents of the Township of Cedar Grove; and

**WHEREAS**, the Township of Cedar Grove’s municipal code concerning peddling and solicitation has not been updated since the 1970’s; and

**WHEREAS**, the Township of Cedar Grove has determined that it is in the best interest of the Township to update the municipal code concerning peddling and solicitation to be consistent with changes in the law and social norms; and

**BE IT ORDAINED** by the Township Council of the Township of Cedar Grove that the Municipal Code be amended as follows:

**SECTION 1**

**§ 190-6. Investigation and verification of application.**

The existing language is hereby deleted in its entirety and replaced with the following language:

Within 30 days of receiving the application for a solicitor’s license, the Chief of Police shall complete an investigation and verify the information respecting the moral character and business responsibility of the applicant.

**SECTION 2**

**§ 190-7. Standards for approval or rejection of application.**

Paragraph B (5) Evidence of bad character shall be deleted.

### **SECTION 3**

#### **§ 190-9. Fees**

The existing paragraph is deleted in its entirety and replaced with the following language:

The fees for all licenses required by the provisions of this chapter shall be \$50 for up to a maximum of one year.

### **SECTION 4**

#### **§190-14. Hours**

The existing paragraph shall be amended to delete 5:00 p.m. and replace with 8:00 p.m. (anticipated daylight hours)

### **SECTION 5**

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity of constitutionality of any other sections or parts thereof.

### **SECTION 6**

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

### **SECTION 7**

This Ordinance shall take effect immediately as provided by law.

Deputy Mayor Vargo moved that Pending Ordinance #18-831 be passed at first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of September 10, 2018, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

- b) To consider introduction of Pending Ord. #18-832 – Amending Chapter 186 of the Code of the Township of Cedar Grove entitled “Parental Supervision of Minors”

The clerk read the Ordinance by title only:

**AN ORDINANCE OF THE TOWNSHIP OF CEDAR GROVE, COUNTY OF ESSEX, STATE OF NEW JERSEY AMENDING CHAPTER 186 OF THE TOWNSHIP CODE ENTITLED “PARENTAL SUPERVISION OF MINORS”**

WHEREAS, Chapter 186 of the Township Code is titled, "Parental Supervision of Minors"; and

WHEREAS, Chapter 186 of the Township Code provides for certain penalties for the parents of minors who violate the Township Code; and

WHEREAS, the Township desires to amend Chapter 186 of the Township Code to include the violation of a Township Ordinance as a defined violation of the public peace; and

NOW THEREFORE BE IT ORDAINED that the Township hereby amends Chapter 186 of the Township Code to include the phrase, "violation of a Township Ordinance" in the definition of "Violation of the Public Peace" provided in section 186-2 of the Township Code; and

NOW THEREFORE BE IT FURTHER ORDAINED that the definition of "Violation of the Public Peace" in section 186-2 of the Township Code shall be and is hereby amended to read as follows:

Includes any of the following acts: defacing, damaging or destroying public or private property of another within the Township of Cedar Grove; committing an assault and battery upon another in the Township of Cedar Grove; consuming and/or possessing alcoholic beverages in a public place in the Township; breaking and entering or entering without breaking into the property of another with the intention of stealing money or anything of value; possession and/or use of a controlled dangerous substance, as the same shall be defined under Title 24, Revised Statutes of New Jersey; violation of a Township Ordinance or juvenile delinquency based upon any of the above offenses.

The provisions of this Ordinance shall be applicable within Cedar Grove Township upon final adoption and shall become part of the Cedar Grove Township Code once completed and adopted.

Councilman Kumburis moved that Pending Ordinance #18-832 be passed at first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of September 10, 2018, seconded by Deputy Mayor Vargo, and passed by the following vote:  
AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala  
NO: None

- c) To consider resolution concerning annual renewal of inactive ABC license for 2017-2018 license term – Ramven Inc.

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

WHEREAS, the following corporation has applied for the renewal of their Alcoholic Beverage License for the period from July 1, 2017 through June 30, 2018, namely:

<u>LICENSE NO.</u>	<u>APPLICANT</u>	<u>TRADENAME</u>	<u>FEE</u>
0704-33-005-010	Ramven Inc. 30 Pompton Ave.	None	\$2,002.00

WHEREAS, the above corporation submitted their application for renewal prior to June 30, 2017 pursuant to N.J.S.A. 33:1-12.13 to the Township Clerk, and said application complies with the State Laws regulating the sale and consumption of alcoholic beverages; and

WHEREAS, the licensee has filed a verified petition to the Division of Alcoholic Beverage Control of the State of New Jersey requesting authorization for the local issuing authority to consider its renewal application for Plenary Retail Consumption License No. 0704-33-005-010 for the 2017-2018 license term pursuant to the provisions of N.J.S.A. 33:1-12.39; and

WHEREAS, the Division of Alcoholic Beverage Control of the State of New Jersey has authorized the Mayor and Council of the Township of Cedar Grove to consider the application of Ramven, Inc. for renewal of its license for the 2017-2018 license term as an inactive license and to grant or deny said application in the reasonable exercise of their discretion and;

WHEREAS, required Tax Clearance certification was issued October 12, 2017; and

WHEREAS, the licensee must file an amendment to said license application pursuant to N.J.A.C. 13:2-2.4 to activate the license during the 2017-2018 term.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Cedar Grove that the application for renewal of existing alcoholic beverage license from Ramven, Inc. be approved; and

BE IT FURTHER RESOLVED that the Township Clerk be and is hereby authorized to issue said license to the applicant for the period from July 1, 2017 through June 30, 2018.

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Kumburis, and passed by the following vote:

AYE: Councilmember Kumburis, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSTAIN: Councilman Tanella

ABSENT: Councilwoman Peterson

- d) To consider resolution concerning annual renewal of inactive ABC license for 2018-2019 license term – Ramven Inc.

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

WHEREAS, the following corporation has applied for the renewal of their Alcoholic Beverage License for the period from July 1, 2018 through June 30, 2019, namely:

<u>LICENSE NO.</u>	<u>APPLICANT</u>	<u>TRADENAME</u>	<u>FEE</u>
0704-33-005-010	Ramven Inc. 30 Pompton Ave.	None	\$2,002.00

WHEREAS, the above corporation submitted their application for renewal prior to June 30, 2018 pursuant to N.J.S.A. 33:1-12.13 to the Township Clerk, and said application complies with the State Laws regulating the sale and consumption of alcoholic beverages; and

WHEREAS, the licensee has filed a verified petition to the Division of Alcoholic Beverage Control of the State of New Jersey requesting authorization for the local issuing authority to consider its renewal

application for Plenary Retail Consumption License No. 0704-33-005-010 for the 2018-2019 license term pursuant to the provisions of N.J.S.A. 33:1-12.39; and

WHEREAS, the Division of Alcoholic Beverage Control of the State of New Jersey has authorized the Mayor and Council of the Township of Cedar Grove to consider the application of Ramven, Inc. for renewal of its license for the 2018-2019 license term as an inactive license and to grant or deny said application in the reasonable exercise of their discretion and;

WHEREAS, required renewal of the 2017-2018 has been approved so that renewal of the current license term (2018-2019) may now be considered; and

WHEREAS, the licensee must file an amendment to said license application pursuant to N.J.A.C. 13:2-2.4 to activate the license during the 2018-2019 term.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Cedar Grove that the application for renewal of existing alcoholic beverage license from Ramven, Inc. be approved; and

BE IT FURTHER RESOLVED that the Township Clerk be and is hereby authorized to issue said license to the applicant for the period from July 1, 2018 through June 30, 2019.

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Kumburis, and passed by the following vote:

AYE: Councilmember Kumburis, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSTAIN: Councilman Tanella

ABSENT: Councilwoman Peterson

e) To consider resolution concerning waiver of developer agreement – St. Catherine of Siena

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**In the Matter of:  
St. Catherine of Siena  
Block 52, Lot 31**

**BE IT RESOLVED** by the Township Council of the Township of Cedar Grove that pursuant to Section 38-32.1 of the Code of the Township of Cedar Grove, the governing body does hereby waive the requirements for a developer's agreement, performance guarantee and insurance certificate in connection with the above referenced project.

**BE IT FURTHER RESOLVED** that submission of the 5% post approval escrow required per Chapter 38-26.2 of the Code of the Township of Cedar Grove is also waived.

Councilman Tanella moved adoption of the resolution, seconded by Deputy Mayor Vargo, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

- f) To consider resolution concerning purchase from Morris County Cooperative Pricing Council for road resurfacing

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**WHEREAS**, the Township of Cedar Grove utilizes the Morris County Cooperative Pricing Council Contract #6 for road resurfacing; and

**WHEREAS**, the contract amount for road resurfacing of Grissing Court, Robin Lane, Summit Avenue, Lynwood Avenue and Bradford Way will not exceed \$250,000.00; and

**WHEREAS**, the funds are available to satisfy our obligations under this contract through Bond Ordinance No. 18-826.

**NOW THEREFORE BE IT RESOLVED** by the Township Council of the Township of Cedar Grove authorizes the Township of Cedar Grove to purchase from the Morris County Cooperative Pricing Council Contract #6 for road resurfacing of Grissing Court, Robin Lane, Summit Avenue, Lynwood Avenue and Bradford Way from Tilcon New York, Inc. for an amount not to exceed \$250,000.00.

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Kumburis, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

- g) To consider resolution concerning amendment to Developer's Agreement for Grove Ave. LLC

Mayor Cicala advised that this item was removed from the agenda at the request of the developer.

Councilman Kumburis and Attorney Townes recused themselves from Agenda Item 6 h and left the Council Chambers. Attorney Semeraro joined the governing body on the dais.

- h) To consider re-introduction of Pending Ord. #18-829 – Amending Chapter 268 of the Township Code entitled “Zoning” to establish inclusionary development regulations for multi-family housing to address municipal affordable housing obligations

The clerk read the Ordinance by title only:

**AN ORDINANCE AMENDING CHAPTER 268, ZONING, OF THE CODE OF THE TOWNSHIP OF CEDAR GROVE COUNTY OF ESSEX AND STATE OF NEW JERSEY, TO ESTABLISH INCLUSIONARY DEVELOPMENT REGULATIONS FOR MULTI-FAMILY HOUSING TO ADDRESS MUNICIPAL AFFORDABLE HOUSING OBLIGATIONS**

**Explanatory Statement:** This ordinance is a rezoning ordinance to repeal and replace the existing zoning on Block 280, Lots 247, 320, 330, 551.1, 552, 601 and a portion of Lot 551 and replace it with a new “Multi Family Affordable MF-AH Zone” as depicted on the attached map entitled Zoning Map Amendment, June 2018, MF-AH Zone. The new zone will permit multi-family apartment development at a gross density of 15 dwelling units per acre with a 15% affordable housing set-aside if the affordable units will be for rent and a 20% affordable housing set-aside if the affordable units will be for sale or attached townhouse development at a gross density of 12 dwelling units per acre with a 20% affordable housing set-aside, with the required set-aside to be provided within the development. The purpose of the rezoning is to address a portion of the Township of Cedar Grove’s Third Round affordable housing obligations. A maximum of 347 multi-family apartments will be permitted on Block 280, Lots 247, 320 and 330 under this new zoning designation, including 52 affordable units. Alternatively, a maximum of 276 attached single-family or townhouse units will be permitted on Block 280, Lots 247, 320 and 330, including 56 affordable units.

**WHEREAS**, Cedar Grove Township has maintained full compliance in addressing its constitutional Mount Laurel affordable housing obligations, first through the New Jersey Council on Affordable Housing (COAH) substantive certification process and most recently through the municipalities’ participation in the Court process established by the New Jersey Supreme Court in March of 2015; and

**WHEREAS**, Cedar Grove Township is desirous of implementing zoning ordinance amendments responsive to meeting its Third Round municipal affordable housing obligations and maintaining full compliance in addressing its constitutional Mount Laurel affordable housing obligations; and

**WHEREAS**, through the Court Process and under the supervision of a Special Court Master appointed by the Superior Court, Cedar Grove Township has identified zoning mechanisms to address the Third Round municipal affordable housing obligations; and

**WHEREAS**, it is necessary to amend Chapter 268, Zoning, of the Code of the Township of Cedar Grove to implement inclusionary zoning development regulations to provide a zoning opportunity to address Third Round municipal affordable housing obligations, and the governing body of the Township of Cedar Grove has identified undeveloped land designated Block 280, Lots 247, 320, 330, 551.1 and 552 that is controlled under one entity that has expressed interest in developing inclusionary development including affordable housing that will address the municipal Third Round affordable housing obligations;

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Cedar Grove, County of Essex, and State of New Jersey that Chapter 268, Zoning, of the Code of the Township of Cedar Grove is hereby amended, supplemented and revised, to establish affordable housing development standards for the provision of affordable housing development to address Cedar Grove Township’s Mount Laurel constitutional obligations, as follows:

**SECTION I.** Amend and supplement the Code of the Township of Cedar Grove, Chapter 268, Zoning, as follows:

1. Amend Chapter 268, Zoning, § 268-3. “Designation of Zones” by adding the following new zoning designation as subsection (capital letter) “O.”:

O. Multi Family Affordable Housing (MF-AH) Zone.

2. Amend § 268-4, “Zoning map established”, by repealing and replacing the existing zoning on Block 280, Lots 247, 320, 330, 551.1, 552, 601 and a portion of Lot 551 as depicted on the attached map entitled Zoning Map Amendment, June 2018, MF-AH Zone, and establishing the “Multi Family Affordable MF-AH Zone” designation as depicted thereon for Block 280, Lots 247, 320, 330, 551.1, 552, 601 and a portion of Lot 551.

**SECTION II.** The Code of the Township of Cedar Grove, Chapter 268 Article VII, District Regulations is hereby amended and supplemented by adding the following new Section § 268-32A. Multi Family Affordable Housing (MF-AH) Zone, as follows:

§ 268-32A. Multi Family Affordable Housing (MF-AH) Zone. The Multi Family Affordable Housing Zone requires a twenty (20) percent affordable housing set aside for affordable sale units and a fifteen (15) percent affordable housing set aside for affordable rental units. Affordable housing shall be provided in accordance with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 5:80-26.1 et seq., the Uniform Housing Affordability Controls (UHAC), and the Township’s Court-approved Affordable Housing Ordinance.

A. Permitted principal uses.

- (1) Multi-family housing.
- (2) Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill, and community residences for persons with head injuries, each in accordance with N.J.S.A. 40:55D-66.1.

B. Permitted accessory uses.

- (1) Customary accessory structures, buildings and uses, provided that such are incidental to that of the principal building and use, subject to the provisions of § 268-10 and applicable requirements of this section.
- (2) Private recreational facilities for the exclusive use of residents, such as swimming pools, tennis courts, and playgrounds, and customary accessory buildings shall include such buildings as clubhouses, storage buildings, or garages, subject to the provisions of § 268-10 and applicable requirements of this section.
- (3) Signs as permitted in Article V.
- (4) Driveways and off-street parking as provided in Article VI.
- (5) Indoor and surface parking for multi-family housing.
- (6) Family day-care homes as regulated in N.J.S.A. 40:55D-66.5b.

C. Area, yard, bulk, parking and open space requirements. The following table identifies the area, yard, bulk, parking and open space requirements for the Multi Family Affordable Housing Zone:

Multi Family Affordable Housing Zone

A. Min. tract area	23 acres
B. Maximum tract development area:	16.25 acres
C. Min Lot Width (Tract)	200 Feet
D. Min Lot Depth (Tract)	600 Feet
E. Min Front Yard Setback	30 Feet
F. Min Side Yard Setback <sup>1</sup> ,	30 Feet
G. Min Rear Yard Setback <sup>1</sup> ,	30 Feet
H. Min. Setback from Buildings Onsite:	

Front to Front; Front to Side; Side to Side:	100 Feet
Rear to Rear	100 Feet
Rear to Side	100 Feet
I. Min. Building Setback to Internal Roadway	20 Feet
J. Max. Building Coverage (residential)	15%
K. Max. Impervious Coverage	35%
L. Max. Building Height:	5-stories / 55 feet
M. Maximum number of apartments:	347
N. Max. gross density of apartments:	15 du/ac. <sup>2</sup>
O. Min. % set-aside (affordable rental units):	15% of all units
P. Min. % set-aside (affordable for-sale units):	20% of all units
Q. Maximum number of townhouses:	278
R. Max. gross density of attached/townhouse units	12 du/ac.
S. Min. % set-aside for attached/townhouse units:	20% of all units
T. Maximum # affordable units per building	20
U. Impervious coverage (Parking) Setbacks:	
From Building	15 Feet
From Property Line or Public Street	15 Feet
V. Parking spaces:	2/unit <sup>3</sup> Plus 1 visitor space/ 5 dwelling units
W. Two-way drive aisle width:	24'
X. Minimum landscaped perimeter buffer	25' <sup>4</sup>
Y. Open Space Area – minimum:	30% developed tract area <sup>5</sup>
<ol style="list-style-type: none"> <li>1. Patios, decks, balconies and fences shall be located within required building setbacks.</li> <li>2. Density shall be calculated for all lots in the Zone to determine the number of residential apartments that shall be permitted on Lots 247, 320 &amp; 330.</li> <li>3. There shall be a minimum of one garage or underground parking space per unit.</li> <li>4. Landscaped buffer shall be continuously planted with double rows of trees 15' on center at least 8' in height at the time of planting.</li> <li>5. Developed tract area is that portion of the tract upon which development is situated. Areas in required setbacks and landscaped buffers may be counted toward the minimum open space area.</li> </ol>	

## D. Other requirements.

- (1) Tract Development Area.
  - (a) All residential development and associated improvements shall be limited to Block 280, Lots 247, 320 & 330.
  - (b) An open space management plan shall be submitted for Block 280, Lots 551.1 and 552 at the time of site plan approval for development of Lots 247, 320 & 330, which shall be subject to Planning Board approval at the time of site plan development approval. Lots 551.1 and 552 may be donated to the Township of Cedar Grove as open space or held by the owner or an open space organization established to own and

maintain such open space, provided the open space is appropriately deed restricted to ensure its continued maintenance as such.

(c) The development shall include improved pedestrian trail linkages to access the West Essex Trail from the development.

(2) Affordable housing requirements / very low-, low- and moderate-income units.

(a) Except as specifically provided in D.(2)(c) below, affordable units shall conform to the requirements of the NJ Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (“FHA”), the “Round 2” regulations adopted by the NJ Council on Affordable Housing, N.J.A.C. 5:93-1.1 et. seq., the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq., all other relevant statutes, regulations, and policies, and the Cedar Grove Township’s Court-approved Third Round Affordable Housing Ordinance.

(b) Affordability average; bedroom distribution. Affordable units shall be provided in accordance with N.J.A.C. 5:80-26.3 Affordability average; bedroom distribution.

(c) Very low, low and moderate-income housing shall be constructed and rented in accordance with the NJ Fair Housing Act and the Uniform Housing Affordability Controls (“UHAC”) found at N.J.A.C. 5:80-26.1 et seq., including standards for the split between very low-, low- and moderate-income housing, except that, consistent with N.J.S.A. 52:27D-329.1, at least 13% of the affordable units shall be very low-income units, i.e., affordable to households earning 30% or less of the regional median household income by household size; and at least 37% of the affordable units shall be low income units. The balance of the affordable units shall be moderate income units.

(d) Affordable units shall be affirmatively marketed in accordance with the affirmative marketing provisions identified at N.J.A.C. 5:80-26.15.

(e) Controls on affordability. There shall be an income control period pursuant to N.J.A.C. 5:80-26.11 of at least 30 years, and thereafter until Cedar Grove takes action to release the controls on affordability, for all affordable units.

[1] The applicant shall submit a copy of the draft deed restriction to be placed on the affordable units at the time of application for site plan approval for Planning Board Attorney review and approval prior to the Planning Board granting preliminary site plan approval.

[2] Affordability controls shall be established in the form of a deed restriction, which shall be approved by the Planning Board Attorney and recorded with the County Clerk and filed with Cedar Grove Municipal Clerk and Cedar Grove Municipal Housing Liaison.

(f) Affordable units shall be administered by a qualified administrative agent in accordance with the administrative procedures for affordable units identified in the UHAC. The developer shall be responsible for the cost for all aspects of administering the affordable units, including but not limited to affirmative marketing,

income qualification, tenant placement/purchaser selection, maintenance of controls, etc.

- (3) Site plan review required as set forth under Article X. An application for site plan approval shall comply with the Township's submission requirements procedures for a site plan application.
  - (a) A comprehensive traffic study shall be submitted with the application for development. This study will include a matrix with estimated projections for vehicle movements in and out of the facility in each hour of each day in a typical seven-day week. The projections for each hour will be built up from separate estimates for ingress and egress, and for different categories of use. The latter will include, but not be limited to, residents, deliveries and visitors. Added together the separate categories will equal all traffic in and out. The study will also include background traffic in each direction on the public road servicing the facility in the same twenty-four-hour, seven-day format. The factual and analytical basis for all estimates will be explained.
  - (b) The Planning Board may use the traffic study to foster proper design, such as, but not limited to, ingress and egress, and to determine the applicant's pro-rata share of off-site and off-tract improvements, if any, that may be required. The Planning Board shall not use the traffic study to alter the density of sites to be developed with inclusionary zoning.
  - (c) The applicant shall have the option of preparing the traffic study or choosing a consultant from a list of at least two professionals (prepared by the municipality) to prepare the studies. If the developer chooses a consultant from the municipally prepared list, the developer and municipality shall both rely on the consultant's recommendations.
- (4) Open Space. Not less than 30% of the developed tract area of a permitted multifamily development shall be dedicated to common open space areas. Such space may include required buffers, setback areas, stormwater management facilities, active recreational areas, as well as natural, undeveloped areas, and shall be maintained by the owner or a homeowners' association and appropriately deed restricted.
  - (a) Of the tract area dedicated to common open space and recreation facilities, at least 1/2 (or 15% of the tract area) shall consist of natural, undeveloped open space, which may include perimeter buffering. Such buffer areas with pre-development natural vegetative cover shall be retained and appropriately protected from root damage during construction, which shall include drip-line limits of disturbance for trees within the required buffer, which shall be approved by the Township Engineer prior to site disturbance.
- (5) Required off-street parking spaces pursuant to the requirements of Article VI, and specifically restricted as follows:
  - (a) No parking area shall be located within 50 feet of a property line nor between any building or a public road.
  - (b) No parking shall be permitted on any access driveway.

- (c) Dwelling units shall each be provided with a minimum of one garage parking space of at least nine feet by 18 feet.
- (d) Not more than 100 parking spaces shall be provided as surface parking.
- (6) A landscaped buffer shall be required on any side or rear yard adjacent to any property used or zoned for lower density residential purposes. The buffer shall be a minimum of 25 feet in width and shall be landscaped via massed evergreen trees and/or shrubs having a minimum height of eight feet (8') at the time of planting. Such buffer areas may also be required upon site plan review to have walls and/or fences in order to further screen the multifamily use from surrounding uses and zones. No building or other structure, parking area, driveway or storage area shall encroach upon such buffer area.
- (7) Buildings shall conform to the following additional limitations and requirements:
  - (a) All buildings and accessory structures shall be designed with a unified architectural theme that is visually compatible with the surrounding area. Said design shall consider such elements as building materials and colors, facade treatments, rooflines, light fixtures, and site amenities such as street furniture. All buildings shall have pitched roofs as an integral component of their design. Exterior building material colors shall be earth-tone and designed to blend into the surrounding neighborhood.
  - (b) Limitations on size.
    - [1] Buildings exceeding 100' in length shall be interrupted by offset planes not exceeding 100' in length. Each plane shall be recessed or offset by 2' or more. Exterior finishes shall vary for each offset plane, which shall be subject to Planning Board approval.
- (8) Telephone and electric lines. There shall not be permitted overhead telephone and electric transmission lines traversing a lot. Telephone and electric transmission lines shall be placed at the rear of the lot. Where this is not practical or possible, overhead transmission lines may be placed alongside the lot line, and service to a building or group of buildings on a lot from the transmission line shall be by underground conduit.
- (9) Fire hydrants. Fire hydrants shall be installed in number and location as directed by the Township Engineer acting upon the advice of the Chief of the Township Fire Department and the Office of Fire Prevention, or as required by the New Jersey Residential Site Improvement Standards.
- (10) Interior roads, access drives, and sidewalks. All road and sidewalk construction shall be pursuant to the New Jersey Residential Site Improvement Standards. A grass area of a minimum width of two feet shall be provided between the sidewalks and interior roads and between the sidewalks and access drives.
- (11) Recycling. There shall be included within each new multifamily building an indoor recycling area for the collection and storage of residentially generated recyclable materials.
- (12) Solid waste. Solid waste collection and storage areas shall be similarly provided within each multi-family building. for the facility, and may be indoors or outdoors. Outdoor areas shall be enclosed by a maximum seven foot high fence or wall enclosure compatible

with the architectural style of the building, and landscaped as required by the reviewing board.

(13) Lighting. Exterior lighting in accordance with § 268-7, with the exception that the maximum height of a fixture shall not exceed 20 feet measured from the ground level to the top of the light source.

(a) All light fixtures shall be downward directed and side shielded to prevent direct view of the light source of light fixtures from off site. The Planning Board shall have the authority to approve the type and style of light fixtures used, which may be a decorative design, or shoebox style fixture with a 150° beam spread.

(b) The lamp of light fixture shall be sufficiently recessed to prevent direct view of the light source from off site.

(14) Landscaping. The overall site design shall include a comprehensive landscaping plan providing a variety of trees, shrubs, and ground cover(s) designed to shade parking and recreation areas, reduce stormwater runoff and soil erosion, offer visual screening, accent and complement buildings, and soften the lines of paved roadways on the interior and exterior of the site. The preservation of existing natural features such as rock outcroppings, woodlands, and topographic elements shall be an integral part of the site planning process, and at its discretion, the reviewing board may waive additional screening requirements where such features are present within a required buffer area.

**SECTION III. RENUMBERING.**

This ordinance may be renumbered for codification purposes.

**SECTION IV. SEVERABILITY.**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**SECTION V. REPEALER.**

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

**SECTION VI. EFFECTIVE DATE.**

This Ordinance shall not take effect until approved by the Court

Councilman Tanella moved that Pending Ordinance #18-829 be passed at first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of September 17, 2018, seconded by Deputy Mayor Vargo, and passed by the following vote:

AYE: Councilmember Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSTAIN: Councilman Kumburis

ABSENT: Councilwoman Peterson

Councilman Kumburis rejoined the meeting for Agenda Item i.

- i) To consider re-introduction of Pending Ord. #18-830 – Amending Chapter 268 of the Township Code entitled “Zoning” to establish overlay inclusionary zoning standards for townhouse & multi-family housing to address unmet need affordable housing obligations

The clerk read the Ordinance by title only:

**AN ORDINANCE AMENDING CHAPTER 268, ZONING, OF THE CODE OF THE TOWNSHIP OF CEDAR GROVE, COUNTY OF ESSEX AND STATE OF NEW JERSEY, TO ESTABLISH OVERLAY INCLUSIONARY ZONING STANDARDS FOR TOWNHOUSE & MULTI-FAMILY HOUSING TO ADDRESS CEDAR GROVE TOWNSHIP’S CONTINUING LONG TERM AFFORDABLE HOUSING OBLIGATIONS**

**Explanatory Statement:** This ordinance is an inclusionary zoning overlay ordinance affecting certain non-residentially zoned and developed parcels of land in the Township of Cedar Grove, which overlay permits a market-rate and affordable housing development option in addition to the non-residential zoning of parcels reclassified with this proposed inclusionary zoning overlay ordinance amendment. Existing non-residential developed lots may continue to exist with lawfully existing structures and permitted uses in accordance with underlying zoning and may change in accordance with existing nonresidential development ordinance standards. The residential development options provided in this overlay zone will permit (1) townhouse development at a gross density of 10 dwelling units including a 20% affordable housing set-aside; and (2) apartments at a gross density of 14 dwelling units per acre including a 15% affordable housing set-aside, if the affordable units will be for rent, and a 20% set-aside if the affordable units will be for sale.

**WHEREAS**, Cedar Grove Township has maintained full compliance in addressing its constitutional Mount Laurel affordable housing obligations, first through the New Jersey Council on Affordable Housing (COAH) substantive certification process and most recently through the municipalities’ participation in the Court process established by the New Jersey Supreme Court in March of 2015; and

**WHEREAS**, Cedar Grove Township is desirous of implementing overlay zoning ordinance amendments to capture future affordable housing opportunities on suitable sites in order to maintain such compliance over the long term; and

**WHEREAS**, this effort is being undertaken through the Court Process and under the supervision of a Special Court Master appointed by the Superior Court; and

**WHEREAS**, it is necessary to amend Chapter 268, Zoning, of the Code of the Township of Cedar Grove to implement the inclusionary overlay zoning development regulations; and

**WHEREAS**, the governing body of the Township of Cedar Grove has identified certain non-residentially-developed land that appears to be capable of supporting future inclusionary affordable housing development if zoning standards are established to permit alternative residential development options to the existing non-residential development zoning;

**NOW, THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Cedar Grove, County of Essex, and State of New Jersey that Chapter 268, Zoning, of the Code of the Township of Cedar Grove is hereby amended, supplemented and revised, to establish affordable housing development standards for the provision of affordable housing development to address Cedar Grove Township's Mount Laurel constitutional obligations, as follows:

**SECTION I.** Amend the Code of the Township of Cedar Grove, Chapter 268, Zoning, as follows: 1. Amend Chapter 268, Zoning, § 268-3. "Designation of Zones" by adding the following new zoning designation as subsection (capital letter) "O.":

P. Multi Family Affordable Housing Inclusionary Overlay (MF-AH-IO) Zone.

2. Amend § 268-4, "Zoning map established", by adding the following new Multi Family Affordable Housing Inclusionary Overlay (MF-AH-IO) Zone designation for the two areas depicted on the attached map entitled: "Zoning Map Amendment MF-AH-IO, Affordable Housing Overlay Zones" and dated June 2018.

**SECTION II.** The Code of the Township of Cedar Grove, Chapter 268 Article VII, District Regulations is hereby amended and supplemented by adding the following new Section § 268-32.2 Multi Family Affordable Housing Inclusionary Overlay (MF-AH-IO) Zone, as follows:

§ 268-32.2 Multi Family Affordable Housing Inclusionary Overlay (MF-AH-IO) Zone. The Multi Family Affordable Housing Inclusionary Overlay (MF-AH-IO) Zone adds an inclusionary residential development option in addition to the underlying non-residential zoning that permits:

- (1) Townhouse development at a gross density of 10 dwelling units per acre including a twenty percent (20%) affordable housing set-aside; and
- (2) Multi-family apartments at a gross density of 14 dwelling units per acre including a fifteen percent (15%) affordable housing set-aside if the affordable housing units will be for rent or a twenty percent (20%) affordable housing set-aside if the affordable units will be for sale.

Affordable Housing shall be provided in accordance with the requirements of the New Jersey Fair Housing Act and N.J.S.A. 5:80-26.1 et seq., the Uniform Housing Affordability Controls (UHAC).

A. Permitted principal uses.

- (1) Multi-family apartment buildings, including affordable housing as prescribed above.
- (2) Attached townhouses, including affordable housing as prescribed above.
- (3) Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill, and community residences for persons with head injuries, each in accordance with N.J.S.A. 40:55D-66.1.
- (4) Uses permitted and developed in accordance with the existing underlying zoning that are in existence as of date of adoption of this ordinance amendment, which uses shall be permitted to continue and/or expand in accordance with the provisions of underlying zoning without the need for an application for use variance approval from the Zoning Board of Adjustment as a non-permitted use, provided that no existing non-residential use, even if permitted and conforming to the zoning as of date of adoption of this ordinance amendment,

shall be permitted to expand beyond the limits of the tax lot(s) upon which such use is located as of date of adoption of this ordinance amendment.

B. Permitted accessory uses.

(1) Customary accessory structures, buildings and uses, provided that such are incidental to that of the principal building and use, subject to the provisions of § 268-10 and applicable requirements of this section.

(2) Private recreational facilities for the exclusive use of residents, such as swimming pools, tennis courts, and playgrounds, and customary accessory buildings shall include such buildings as clubhouses, storage buildings, or garages, subject to the provisions of § 268-10 and applicable requirements of this section.

(3) Signs as permitted in Article V.

(4) Driveways and off-street parking as provided in Article VI.

(5) Family day-care homes as regulated in N.J.S.A. 40:55D-66.5b.

C. Area, yard, bulk, parking and open space requirements. All residential development within the Multi Family Affordable Housing Inclusionary Overlay (MF-AH-IO) Zone shall conform in all respects to § 268-25 Multifamily Zone, subsections C. – D.

D. Affordable housing requirements / very low-, low- and moderate-income units.

(1) Except as specifically provided in D.(3) below, affordable units shall conform to the requirements of the NJ Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (“FHA”), the “Round 2” regulations adopted by the NJ Council on Affordable Housing, N.J.A.C. 5:93-1.1 et. seq., the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq., all other relevant statutes, regulations, and policies and the Cedar Grove Township Third Round Affordable Housing Ordinance.

(2) Affordability average; bedroom distribution. Affordable units shall be provided in accordance with N.J.S.A. 5:80-26.3 Affordability average; bedroom distribution.

(3) Very low, low and moderate-income housing shall be constructed and rented in accordance with the NJ Fair Housing Act and Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq. including standards for the split between very low-, low- and moderate-income housing, except that, consistent with N.J.S.A. 52:27D-329.1, at least 13% of the affordable units shall be very low-income units, i.e., affordable to households earning 30% or less of the regional median household income by household size; and at least 37% of the affordable units shall be low income units. The balance of the affordable units shall be moderate income units.

(4) Affordable units shall be affirmatively marketed in accordance with the affirmative marketing provisions identified at N.J.A.C. 5:80-26.15.

(5) Controls on affordability. There shall be an income control period pursuant to N.J.A.C. 5:80-26.11 of at least 30 years for all affordable units and thereafter until Cedar Grove takes action to release the controls on affordability.

(a) The applicant shall submit a copy of the draft deed restriction to be placed on affordable units at the time of application for site plan approval for Planning Board Attorney review and approval prior to the Planning Board granting preliminary site plan approval.

(b) Affordability controls shall be established in the form of a deed restriction, which shall be approved by the Planning Board Attorney and recorded with the County Clerk and filed with Cedar Grove Municipal Clerk and the Cedar Grove Municipal Housing Liaison.

(6) Affordable units shall be administered by a qualified administrative agent in accordance with the administrative procedures for affordable units identified in the UHAC. The developer shall be responsible for the cost for all aspects of administering the affordable units, including but not limited to affirmative marketing, income qualification, tenant placement/purchaser selection, maintenance of controls, etc.

E. Site plan review required as set forth under Article X. An application for site plan approval shall comply with the Township's submission requirements and procedures for a site plan application.

(a) A comprehensive traffic study shall be submitted with the application for development. This study will include a matrix with estimated projections for vehicle movements in and out of the facility in each hour of each day in a typical seven-day week. The projections for each hour will be built up from separate estimates for ingress and egress, and for different categories of use. The latter will include, but not be limited to, residents, deliveries and visitors. Added together the separate categories will equal all traffic in and out. The study will also include background traffic in each direction on the public road servicing the facility in the same twenty-four-hour, seven-day format. The factual and analytical basis for all estimates will be explained.

(b) The Planning Board shall use the traffic study to foster proper design, such as, but not limited to ingress and egress, and to determine the applicant's pro-rata share of off-site and off-tract improvements, if any, that may be required. The Planning Board shall not use the traffic study to alter the density of sites to be developed with inclusionary zoning.

(c) The applicant shall have the option of preparing the traffic study or choosing a consultant from a list of at least two professionals (prepared by the municipality) to prepare the studies. If the developer chooses a consultant from the municipally prepared list, the developer and municipality shall both rely on the consultant's recommendations.

F. A landscaped buffer shall be required on any side or rear yard adjacent to any property used or zoned for nonresidential purposes. The buffer shall be a minimum of 25 feet in width and shall be landscaped via massed evergreen trees and/or shrubs having a minimum height of eight feet (8') at the time of planting. Such buffer areas may also be required upon site plan review to have walls and/or fences in order to further screen the multifamily development from surrounding land uses. No building or other structure, parking area, driveway or storage area shall encroach upon such buffer area.

**SECTION III. RENUMBERING.** This ordinance may be renumbered for codification purposes.

**SECTION IV. SEVERABILITY.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**SECTION V. REPEALER.** Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

**SECTION VI. EFFECTIVE DATE.** This Ordinance shall not take effect until approved by the Court.

Deputy Mayor Vargo moved that Pending Ordinance #18-830 be passed at first reading, published in the Verona-Cedar Grove Times as a pending ordinance with a public hearing of September 17, 2018, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

Councilman Kumburis recused himself from Agenda Item 6(j) and left the dais.

- j) To consider resolution concerning referral of Pending Ord. #18-829 and 18-830 to Planning Board

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

RESOLUTION REFERRING ORDINANCE NUMBERS 18-829 & 18-830  
ENTITLED ORDINANCE AMENDING CHAPTER 268 OF TOWNSHIP CODE  
ENTITLED "ZONING" TO ESTABLISH INCLUSIONARY DEVELOPMENT  
REGULATIONS FOR MULTI\_FAMILY HOUSING TO ADDRESS MUNICIPAL  
AFFORDABLE HOUSING OBLIGATIONS & ORDINANCE AMENDING  
CHAPTER 268 OF TOWNSHIP CODE ENTITLED "ZONING" TO ESTABLISH  
OVERLAY INCLUSIONARY ZONING STANDARDS FOR TOWNHOUSE &  
MULTI-FAMILY HOUSING TO ADDRESS UNMET NEED AFFORDABLE  
HOUSING OBLIGATIONS RESPECTIVELY, TO THE PLANNING BOARD  
FOR REVIEW AND COMMENT

WHEREAS the governing body of the Township of Cedar Grove (“Township”) is considering adopting two zoning ordinances entitled ORDINANCE AMENDING CHAPTER 268 OF TOWNSHIP CODE ENTITLED “ZONING” TO ESTABLISH INCLUSIONARY DEVELOPMENT REGULATIONS FOR MULTI-FAMILY HOUSING TO ADDRESS MUNICIPAL AFFORDABLE HOUSING OBLIGATIONS & ORDINANCE AMENDING CHAPTER 268 OF TOWNSHIP CODE ENTITLED “ZONING” TO ESTABLISH OVERLAY INCLUSIONARY ZONING STANDARDS FOR TOWNHOUSE & MULTI-FAMILY HOUSING TO ADDRESS UNMET NEED AFFORDABLE HOUSING OBLIGATIONS respectively in the forms attached hereto as Exhibit “A” and Exhibit “B”; and

WHEREAS the Township is desirous of meeting its obligations to provide for its fair share of Affordable Housing within the Township; and

WHEREAS the proposed Ordinances will provide a Realistic Development Opportunity for the creation of Affordable Housing; and

WHEREAS the Township has been represented by Jeffrey Surenian & Associates, LLC in connection with an action for Declaratory Relief pending under Docket Number:ESX-L-4659-15, to determine the Township’s Affordable Housing Obligation; and

WHEREAS Michael Jedziniak, Esq. of Jeffrey Surenian & Associates, LLC has consulted with the Borough’s Planner, Mayor and Council and other Township professionals and recommends the adoption of the attached proposed ordinances in connection with bringing the aforementioned litigation to conclusion; and

WHEREAS continued litigation and uncertainty creates a possibility that the Township’s Zoning Ordinance could be invalidated in its entirety leading to unchecked and undesirable over-development; and

WHEREAS prior to the final adoption of a land use ordinance certain procedural requirements must be completed otherwise the ordinance is *void ab initio*, and

WHEREAS the Township requires, pursuant to N.J.S.A 40:55D, that the Planning Board review the proposed ordinance for consistency with the master plan (and updates thereto) in accordance with N.J.S.A. 40:55D-26 and report back to the Township with its Report and identify any provisions in the proposed ordinances which are inconsistent with the Master Plan, recommendations concerning any inconsistencies and any other matters the Planning Board deems appropriate; and

WHEREAS the Township requests that such review be conducted expeditiously but in no event outside of the 35 Days provided for under N.J.S.A. 40:55D-26(a);

NOW THEREFORE BE IT RESOLVED that the Clerk of the Township shall transmit the within Resolution with Attachments A and B to the Planning Board Secretary, Planning Board Counsel and Planning Board Professional Planner for action at its next scheduled meeting pursuant to N.J.S.A 40:55D and N.J.S.A. 40:55D-26(a).

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilmember Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSTAIN: Councilman Kumburis

ABSENT: Councilwoman Peterson

Councilman Kumburis rejoined the meeting. Attorney Semeraro left the dais.

## 7. CONTRACTS & AGREEMENTS

- a) To consider resolution authorizing execution of a Use and Occupancy Agreement and Deeds with Cedar Grove Volunteer Fire Engine Co. #3

The following resolution had been posted on the bulletin board, and a brief synopsis was given by the Township Clerk:

**BE IT RESOLVED** by the Township Council of the Township of Cedar Grove that the Mayor is hereby authorized to execute a Use and Occupancy Agreement and Deeds with Cedar Grove Volunteer Fire Company #3.

Deputy Mayor Vargo moved adoption of the resolution, seconded by Councilman Tanella, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

## 8. APPROVAL OF BILLS

The Bill Resolution was read by title and amount as follows:

BE IT RESOLVED by the Township Council of the Township of Cedar Grove, County of Essex, New Jersey, that the attached summary of bills having been duly audited and found correct be and they are thereby ordered paid and that warrants be drawn on the Treasurer in the aggregate amount of \$8,054,311.82

Councilman Kumburis moved adoption of the resolution, seconded by Deputy Mayor Vargo, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

## 9. MEETING OPEN TO RESIDENTS OF THE TOWNSHIP WISHING TO BE HEARD ON ANY ITEM ON OR OFF THE AGENDA CONCERNING TOWNSHIP BUSINESS

Kate Hartwyk; Essex County Liaison – Ms. Hartwyk advised that the County has commenced clean-up efforts on W. Lindsley Rd. resulting from the recent rain event. The Manager also noted that Ridge Rd. also suffered damage that should be addressed by the County. Ms. Hartwyk also announced that the County is conducting a “Senior Wellness Day” on September 18<sup>th</sup> at Cody Arena in West Orange.

Cheryl Nardino; 118 Brunswick Rd. – Responding to Ms. Nardino’s inquiry regarding Township clean-up of mud on Pompton Ave. resulting from recent flash flood, the Manager advised that the State requested the Township refrain from any action until the State can document. The Manager also clarified the process for FEMA applications and potential financial assistance available to small business owners. Mayor Cicala addressed Ms. Nardino’s inquiry regarding Township membership on the Regional Flood Board.

Maria Avolio, proprietor Nick Matthews Salon; 604 Pompton Ave. – Ms. Avolio requested Township action to address damage sustained by business owners from recent flash flood on Pompton Ave. and prevent future occurrences. Ms. Avolio suggested that additional catch basins on the roadway may improve the run-off. Ms. Avolio offered her assistance to help Township resolve flooding.

Marlena Connor; 18 Woodstone Dr. – Ms. Connor referred to the upcoming “Whispering Woods” hearing before the Zoning Board concerning the Coptic Church. Ms. Connor commented that the studies associated with the application are outdated. Attorney Semeraro interceded to explain that the referenced Zoning Board hearing is part of a specific process to resolve litigation. Attorney Semeraro further advised that the Township Council is not able to comment; as the application is the subject of litigation.

John Connor; 18 Woodstone Dr. – Mr. Connor commented that the studies that that are being relied on for the hearing are five years old and do not accurately reflect the current traffic situation.

Carol Hartnett; 15 Woodstone Dr. – Ms. Hartnett stated that the residents of the area are prepared to fight the application again.

Nancy Feldman; 26 Highpoint – Ms. Feldman presented a cell phone video to the governing body of flooding during the recent storm and expressed concern regarding the impact proposed blasting related to Coptic Church zoning application and a decision on the application without updated geological and ecological surveys.

Robert Meyers; 17 Westview Ct. – Mr. Meyers referred to a recent application before the Zoning Board related to current Cedar Grove Garden Center property, and suggested the Garden Center property as an alternate location for Coptic Church. Mr. Meyers further suggested that municipal officials should have an interest in brokering a land swap transaction between the parties.

Christine Monda; 29 Highpoint – Ms. Monda stated that she has been unable to obtain information regarding the Whispering woods hearing from Zoning Office.

Charles Dovico; 111 Holly Lane – Mr. Dovico expressed property tax concerns related to the apportionment of taxes paid to the County (i.e. approximately 23% of a resident’s tax bill).

Jolie Ruffalo; 14 Woodstone Dr. – Ms. Ruffalo questioned the governing body’s decision to discontinue membership in Regional Flood Board. Mayor Cicala, Councilman Kumburis, and Deputy Mayor Vargo responded to Ms. Ruffalo’s inquiry. Ms. Ruffalo proposed that the Township conduct independent stormwater, traffic and environmental analyses prior to a final decision on the Coptic Church zoning application. Ms. Ruffalo further commented on ability of new zoning members to make a decision on the application. Attorney Semeraro commented on residents’ repeated requests for the governing body to take action on a zoning application. Attorney Semeraro explained governmental roles of governing body and Zoning Board related to zoning applications;

that that the Zoning Board is an autonomous body regulated by its own body of law. Attorney Semeraro further noted that it is illegal for governing body member(s) to try to influence and decision of the Zoning Board.

Jerry Guarino; 5 Pompton Ave. – Mr. Guarino thanked the Township Council, Fire Dept. and Road Dept. personnel for response to affected businesses from the recent weather event. Mr. Guarino also suggested that businessowners' comments are most likely the result of insurance claim issues rather than dissatisfaction with the Township and governmental officials.

Paul Burns; 2 Elm Dr. – Mr. Burns commented on need to upgrade Township's infrastructure i.e. water and sewer lines.

Victor Castro; 602-604 Pompton Ave. , business owner – Mr. Castro inquired about any planned project to remediate flooding of Peckman River in central business district area. Mr. Castro also voiced concern regarding tree and potential building damage sustained from the recent flash flood event. The Manager explained the desnagging efforts undertaken by Passaic Valley Sewage Commission to prevent obstruction that negatively impacts the flow of water. Mr. Tucci further commented that dredging is prohibited by DEP. The Manager also commented that pipes referred to by Mr. Castro are part of the County's drainage system. Mr. Tucci suggested that Mr. Castro may contact the County regarding the specific drainage issue.

Jolie Ruffalo; 14 Woodstone Dr. – Ms. Jolie commented on impact of tree removal related to current and proposed development on water run-off particularly related to recent storm event.

#### AUTHORIZATION TO GO INTO EXECUTIVE SESSION

WHEREAS, Section 8 of the Open Public Meetings' Act (N.J.S.A.10:4-12 (b) (1-9) permits the exclusion of the public from a Meeting of the Mayor and Council in certain circumstances; and

WHEREAS, the Mayor and Council of the Township of Cedar Grove are of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Cedar Grove, County of Essex, State of New Jersey that:

1. The public shall be excluded from discussion of any action on the Executive Session of the Meeting of the Mayor and Council of August 13, 2018.
2. The general nature of the subject matters to be discussed is property acquisition.
3. It is anticipated at this time that the above stated subject matter will be made public as soon thereafter as it is deemed in the public interest to do so.
4. This Resolution shall take effect immediately.

Councilman Tanella moved adoption of the resolution, seconded by Deputy Mayor Vargo, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

**10. ADJOURNMENT**

Councilman Tanella moved adjournment of the public council meeting, seconded by Deputy Mayor Vargo, and passed by the following vote:

AYE: Councilmember Kumburis, Tanella, Deputy Mayor Vargo, Mayor Cicala

NO: None

ABSENT: Councilwoman Peterson

The meeting adjourned at 8:30 p.m.

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JOSEPH CICALA                      MAYOR

ATTEST:

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KATHLEEN R. STUTZ              MUNICIPAL CLERK