

**MINUTES**  
Mayor and Council Regular Meeting  
Monday, September 21, 2020  
7:00 P.M.

*Meeting held via ZOOM*

**CALL TO ORDER –**

Mayor Papaleo called the meeting to order at 7:00 p.m. in the Council Chambers of the Borough Hall.

**SILENT PRAYER – FLAG SALUTE**

Mayor Papaleo called for a moment of silent reflection and keep in their thoughts those who have passed from COVID, Chief Justice Ruth Bader Ginsberg and others who are suffering or have been lost. The Mayor led the salute to the flag.

**STATEMENT –**

Statement of Compliance with Open Public Meeting Act: This meeting complies with the Open Public Meeting Act by notification on December 20<sup>th</sup> of this location, date and time to the Ridgewood News and the Record and by posting of same on the municipal bulletin board and Borough Web Site and filing a notice of the same with the Municipal Clerk.

**ROLL CALL –** Councilwoman Busteed, Councilman Chinigo, Councilman Gautier, Councilwoman Kaufman, Councilwoman Kinsella, Councilwoman Montisano-Koen and Mayor Papaleo were present.

**MINUTES -**

On motion by Councilwoman Kinsella, seconded by Councilwoman Montisano-Koen the minutes of the Mayor and Council Regular Meeting of September 8, 2020 were unanimously approved.

**PROCLAMATIONS & AWARDS –**

Council President Chinigo-said that it's an honor for him to introduce these young men who he's known for a quite a while. He said that they're a group of young men who are good athletes, very polite, intelligent and is happy that they won the championship. Council President Chinigo congratulated them as they've made River Edge very proud and he is happy to know each and every one of them.

Mayor Papaleo-introduced the Rob Berninger who in turn introduced coaches Kevin LoPresti and Jim Blackman.

Mayor Papaleo extended his congratulations the coaches and members of the team and read the names on the Certificates of Recognition for the Little League U10 Team as follows: John Blackman, Jeffrey Zhang, Charles LoPresti, Connor Gastman, Ryan Giampietro, Brendan Komar, Iain Rossig, Luca Colaiemma, Justin Kim, Chris Nader and Nico Petrosino.

Coach Kevin LoPresti-said that he wanted to thank all the members of the team as they practiced very hard, they played hard every game and it was an honor to coach them.

**PUBLIC COMMENTS ON ANY ITEM ON THIS AGENDA –**

On motion by Councilwoman Kaufman, seconded by Councilman Gautier to open for public comments on any item on the agenda was unanimously approved.

There being no comments by the public, the motion by Councilwoman Busteed, seconded by Councilman Chinigo to close public comments was unanimously approved.

**APPOINTMENTS & PERSONNEL CHANGES –**

On motion by Councilman Chinigo, seconded by Councilwoman Busted, the salary increase of Joseph Zemaites, Police Officer from an annual salary of \$126,578.14 to \$129,012.33 due to an increase in longevity from 4% to 6% effective September 16, 2020.

**MONTHLY REPORTS –**

Library Board	-	September 2020
Land Use Board	-	September 2, 2020

**FIRST READING ON ORDINANCES –**

Mayor Papaleo read the title of Ordinance #20-18 into the record.

Ordinance #20-18 – AN ORDINANCE REPEALING AND REPLACING CHAPTER 362, ARTICLE III ENTITLED “STREET EXCAVATIONS” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RIVER EDGE, COUNTY OF BERGEN AND STATE OF NEW JERSEY

On motion by Councilman Gautier, seconded by Councilwoman Kaufman the first reading of Ordinance #20-18 was unanimously approved as follows:

Raymond Poerio, Borough Administrator-explained that the street opening ordinance has not been updated in many years and on the advice of our Borough Engineer and Public Works Director they wanted to bring it up to date with what the current practice is.

BOROUGH OF RIVER EDGE  
ORDINANCE #20-18

AN ORDINANCE REPEALING AND REPLACING CHAPTER 362, ARTICLE III ENTITLED “STREET EXCAVATIONS” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RIVER EDGE, COUNTY OF BERGEN AND STATE OF NEW JERSEY

BE IT ORDAINED by the Mayor and Council of the Borough of River Edge, County of Bergen and State of New Jersey that the entirety of Chapter 362, Article III entitled “Street Excavations” is hereby repealed in its entirety and shall be replaced with the following newly titled Chapter 362, Article III, “Street Excavations” as follows:

**Chapter 362. Streets and Sidewalks**

**Article III. Street Excavations**

§ 362-11. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**BLOCK PAVEMENT**

A street having a granite, wooden or stone substance in block form.

**CONCRETE PAVEMENT**

Any pavement having a concrete surface.

**DEPARTMENT**

Except where otherwise required by the context, shall mean the Public Works Manager.

**PERMANENT PAVEMENT**

A street having an asphalt Topeka surface on a stone base.

**SEMI-PERMANENT**

A street having macadam or a penetration surface.

## **UNIMPROVED STREET**

Any street having a dirt or cinder surface.

## **HISTORICAL STREET**

Any street within the Borough of River Edge designated in Chapter 240

### **§ 362-12. Permit required.**

No person shall remove, obstruct, excavate, dig up or in any way disturb the surface of any street, road, avenue or public place within the Borough, or any gutter or pavement thereon, for any purpose, without obtaining a written permit from the Borough Clerk, in the event of clerk's absence such permit can be issued by the Deputy Clerk and/or Borough Administrator. A street shall be defined as set forth in § 362-11 No person shall make an excavation in, or tunnel under, any street without the necessity of the issuance of a permit. Where an emergency has arisen which makes it necessary to commence work immediately, provided that the application for a permit is filed with the responsible municipal official no later than the commencement of work together with an estimate of fees required and estimated performance guarantee, provided further that such procedure may be delayed until the next business day succeeding the commencement of work where the emergency arises subsequent to the departure for the day of the responsible municipal official. The permit, when issued, shall be retroactive to the date on which the work has begun.

### **§ 362-13. Application; fees.**

- A. Application. All permits granted under §362-12 shall be done by completing Borough of River Edge Street Opening Application. The permit shall specify the full name of the person to whom it is granted and the place or places at which the work is to be done, the character of the work and the time within which it is to be completed. No such permit shall be valid except for the place, time and character of the work specified therein. No permits shall be granted to dig up or excavate any street, road, avenue or public place until there shall have been paid to the Borough Clerk a fee as hereinafter provided. The fee shall become the property of the Borough to be used for the repairing and maintenance of the surface of the trench or opening until it has been properly filled. The fee shall also be for the use of the Borough for preparing and recording every permit and inspecting the street when the work is completed.
- B. Fees shall be paid simultaneously with the submission of the permit application. Applicants shall be charged a permit fee of \$500 for each opening permit, or such higher fee as is set forth in Chapter 206. In addition, the applicant shall be required to post a performance guarantee in the form of cash or an approved surety bond in the amount of \$1,500 (Bituminous Concrete Roads) or \$3,600 (Concrete Roads, Granite, Concrete Pavers or Historical Street), provided that the estimated dimensions of the opening are 120 square feet or less, and in the amount of \$1,500 ( for Bituminous Concrete Roads) or \$3,600 (Concrete Roads, Granite, Concrete Pavers or Historical Street) plus \$15 (Bituminous Concrete Roads) or \$30 (Concrete Roads, Granite, Concrete Pavers or Historical Street) per square foot for each square foot of openings estimated to exceed 120 square feet, to insure the restoration of the street in accordance with the requirements of this chapter. A public utility company in lieu of giving a separate bond for each project may annually, once in January of each year, post a bond for each project in the amount of \$15,000 sufficient to encompass the estimated work performed by said utility during the ensuing calendar year. In the event that the actual street opening work exceeds the posted bond amount, additional bonds and/or cash security will be required.

### **§ 362-14 Rules and regulations.**

All permits issued under this section shall be subject to the following rules and regulations:

- A. All excavations shall be kept properly barricaded by the permittee at all times. No excavation work area shall be open overnight. This regulation shall not excuse the permittee from taking any other reasonably necessary precaution for the protection of persons or property.
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- B. All work shall be done in such a manner as to cause a minimum of disruption to the community at large.
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- C. No work shall be done in such a manner as to interfere with any water main or sewer line, or any connection with either of the same, from any building unless that is the purpose of the excavation or permission has been obtained in advance from the Borough Engineer. No work shall be carried on in such a manner as to result in destruction or damage of any property of the Borough unless this is necessary for completion of the work and permission has been obtained in advance from the Borough department or agency having jurisdiction over such property.
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- D. Pavement shall be cut with mechanical pavement cutters, saws or other like tools. The edges of the opening shall be kept as square and clean cut as possible. The paved roadway surfaces shall be cut vertically on a straight line at least Twelve (12") inches beyond the outer limits of the trench before excavating to avoid undermining the adjacent roadway. The trench in which any utilities and/or appurtenances are to be constructed shall be excavated in open cut from the surface and in such a manner and to such depth and width as will give suitable room for bracing and supporting, pumping and drainage at the permittee's discretion.
- E. All applications for excavations exceeding four (4') feet in depth shall be accompanied by engineering documents showing how the excavation will be supported from side wall collapse and how adjacent property and structures shall be protected.
- F. No trench may be backfilled until such time as the Director of Public Works, Borough Engineer or their designee has inspected the subterranean installations and approved same.
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- G. All excavations shall be completely backfilled at the end of each working day by the permittee. As much as possible of suitable material excavated modified proctor density. Consolidation will not be acceptable as a method to achieve the soil densities specified. Upon completion of the work, the permittee shall remove any excess material and leave the premises in a clean condition. If the Director of Public Works, Borough Engineer or their designee determines that any backfilled excavation has settled or caved in, he shall so notify the permittee who shall promptly continue backfilling until the Director of Public Works, Borough Engineer or their designee determines that settlement is complete.
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- H. All required utility mark outs, including the Borough if necessary, should be done in a timely fashion, specifically before excavation takes place.
- I. It is the responsibility of the permittee to ensure traffic safety arrangements have been arranged with the River Edge Police Department.
- J. A permit shall be valid for Sixty (60) Calendar Days to open and restore the street in accordance with Section 247-34. If the work is not completed during that timeframe; a

new permit will be required to be obtained in accordance to all the terms and conditions of this chapter.

§ 362-15. Bonds.

No permit shall be issued until the applicant has filed a bond in an amount determined to be sufficient by the Director. The Director may waive the requirements of this subsection in the case of public utilities upon the presentation of satisfactory proof that it is capable of meeting any claims against it up to the amount of the bond which would otherwise be required. The bond shall be executed by the applicant as principal and a surety company licensed to do business in the State of New Jersey as surety and shall be conditioned as follows:

- A. To indemnify and hold harmless the Borough from all loss, damage, claim or expense, including expenses incurred in the defense of any litigation arising out of injury to any person or property resulting from any work done by the applicant under the permit.
- B. To indemnify the Borough for any expense incurred in enforcing any of the provisions of this article.
- C. To indemnify any person who sustains personal injuries or damage to his property as a result of any act or omission of the applicant, his agents, employees or subcontractors done in the course of any work under the permit.
- D. The bond shall also be conditioned upon the applicant's restoring the surface and foundation of the street for which the permit is granted in a manner acceptable to the Public Works Manager.
- E. One bond may be accepted to cover a number of excavations by the same applicant. Bonds shall remain in force for a period to be determined by the Public Works Manager.

§ 362-16. Insurance.

- A. No permit shall be issued until the applicant has furnished the Public Works Manager with satisfactory proof that he is insured against injury to persons and damage to property caused by any act or omission of the applicant, his agents, employees or subcontractors done in the course of the work to be performed under the permit. The insurance shall cover all hazards likely to arise in connection with the work, including but not limited to collapse and explosion, and shall also insure against liability arising from completed operations. The limits of the insurance policy shall be a combined single limit of \$1,000,000 for injury to any one person, for injuries to more than one person in the same accident and for property damage for a single incident. The Superintendent may waive the requirements of this section in the case of a public utility upon the presentation of satisfactory proof that it is capable of meeting claims against it up to the amount of the limits of the insurance policy which would otherwise be required.
- B. Satisfactory proof that the applicant is insured as stated above must have what is considered to be an A or better rating by the A.M. Best: Rating Service. The governing body of the Borough of River Edge reserves the right to waive this requirement at its discretion by passage of a resolution.

The following requirements shall pertain to every applicant for a street opening permit:

- A. Every application for a street opening permit must be accompanied by a certificate of insurance demonstrating that the applicant possesses personal injury liability insurance in the amount of \$1,000,000 combined single limit and property damage liability insurance in the

amount of \$500,000 per occurrence. Said insurance shall be maintained by the permittee during the period of construction. Utility companies may file an annual certificate showing proof of coverage.

- B. Every application for a street opening permit shall contain an agreement by the applicant, in writing, to indemnify and hold harmless the Borough of River Edge, its agents, servants and employees, including its reasonable attorney's fees, resulting from any damage or liability, sustained by any person or property arising out of the activities of the permittee or its agents, servants and employees in conjunction with the work authorized by said street opening permit.

§ 362-17. Restoration of surface required.

Restoration of the various roadway surfaces shall be in accordance with the following rules and regulations.

**A. Bituminous Concrete Roads:**

1. Following compaction, the permittee shall install no less than six (6") inches of Virgin Dense Graded Aggregate followed by eight (8") inches of Bituminous Stabilized Base Course to the trench. If the distance from the edge of the excavation work area to the existing curb or roadway edge is less than two feet, the permittee shall be required to excavate to the curb and evenly install six (6") inches of dense graded aggregate followed by eight (8") inches of bituminous stabilized base course in the entire area (See Detail-A, Detail-B, Detail-C, Detail-D & Detail-E).
2. The partially restored pavement shall be allowed to settle for no less than Ninety (90) days and no more than One Hundred Eighty (180) days (Period of Settlement). The Borough has the responsibility to inspect the trench at any time during the settlement period or after at its sole discretion, if the trench becomes unacceptable, the permittee shall be notified of the condition requiring repair and such repair shall be performed by the permittee within Fifteen (15) Business Days.
3. Following the period of settlement, the permittee shall be required to mill the excavation work area surface as specified in this article and install no less than two (2") inches of Fine Aggregate Bituminous Concrete (FABC) 9.5 HMA 64 surface course. The permittee shall also be required to provide a tack coat on all existing bituminous concrete surfaces and a hot-poured, rubber asphalt joint sealer per Section 914 of NJDOT Standard Specifications for Roads and Bridges.
4. All longitudinal excavations shall require milling and restoration of the excavation work area extending from the curb to curb of the road and/or a minimum of one (1') foot beyond the outer edges of the excavation. Individual excavations less than One Hundred Twenty (120SF) square feet shall be restored via the "infrared" method. If square excavations are located within 50 feet on center, full curb-to-curb restoration for the entire distance between excavations shall be required (See Detail-C, Detail-D & Detail-E).
5. The permittee shall be required to replace any facilities, including but not limited to curb, pavement, sidewalk, line stripping, trees, etc. that are affected by the excavation and restoration work.

6. With written approval from the Borough Engineer, the center line of road milling and restoration may be offset by the distance necessary to avoid disturbing the existing line striping or markers.

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**B. Concrete Roads.**

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1. Following compaction, the permittee shall install no less than six (6") inches of virgin dense graded aggregate.
2. The permittee shall install No. 4 longitudinal and transverse reinforcing bars (two rows spaced four inches apart). The permittee shall install No. 4 reinforcing bars (Steel dowels; 18 inches long) shall be set in predrilled holes in the existing concrete pavement spaced every two feet along the cut edge. Following approval by the Borough Engineer, the permittee shall then follow with eight (8") inches of 5,000 psi concrete with polypropylene fibers at a mix of One Pound per Cubic yard (1lb/cy), bringing the finished trench to grade. If concrete has been overlaid with asphalt, the same thickness of asphalt present (minimum two inches) shall be installed (See Detail-F & Detail-G).
3. The permittee shall be required to replace any facilities, including but not limited to curb, pavement, sidewalk, line striping, trees, etc. that are affected by the excavation and restoration work.

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**C. Granite Paver Crosswalks and Intersections.**

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1. Following compaction, the permittee shall install no less than six (6") inches of dense graded aggregate base course to the trench. If the distance from the edge of the excavation work area to the existing curb is less than two (2') feet, the permittee shall be required to excavate to the curb and evenly install six (6") inches of dense graded aggregate base course in the entire area (See Detail-H).
2. The permittee shall follow with matching brick pavers approved by the Borough Engineer, 2 1/4 inches thick on a one-and-one-half-inch sand setting bed leaving a separation for swept-in sand. The subgrade will consist of Twelve (12") inches of Virgin Dense Graded Aggregate, along with Geogrid Fabric for Structural Strength (See Detail-H).
3. The permittee shall be required to replace any facilities, including but not limited to curb, pavement, sidewalk, line striping, etc. that are affected by the excavation and restoration work.

§ 362-18. Permit conditions and regulations.

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- A. Transferability. A permit shall apply only to the person to whom it is issued and shall not be transferable.
  - B. Commencement of work. Work under a permit shall commence within 45 days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate, unless extended, in writing, by the Borough Clerk, in the event of clerk's absence such permit can be issued by the Deputy Clerk and/or Borough Administrator.
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- C. Possession of permit. A copy of the permit, together with a copy of the plan, endorsed with the approval of the Director of Public Works, Borough Engineer or their designee, must be kept in possession of the person actually performing the work and shall be exhibited on demand to Director of Public Works, Borough Engineer or their designee, any duly authorized employee of the Department of Public Works or to any police officer of the Borough.
  
- D. Revocation of permit. Director of Public Works, Borough Engineer or their designee may revoke a permit for any of the following reasons:
  - 1. Violation of any provision of this article or any other applicable rules, regulations, law or ordinance.
  
  - 2. Violation of any conditions of the permit issued.
  
  - 3. Carrying on work under the permit in a manner which endangers life or property, or which creates any condition which is unhealthy, unsanitary or declared by any provisions of this Code to constitute a nuisance.
  
- E. The procedure for revoking a permit shall be the same as that set forth in this Code for the revocation of licenses, except that the initial hearing shall be before the Director of Public Works, Borough Engineer or their designee with a right of appeal to the Council; and the Director of Public Works, Borough Engineer or their designee may provide in his decision that the revocation shall not become effective if the permittee corrects the violation within a specified period of time.
  
- F. Modification of permit conditions. In a special case, the Council may by resolution impose special conditions to which the issuance of the permit may be subject, or may decide that any provision of this article shall not apply or shall be altered.
  
- G. There will be no street opening work permitted on Saturday or Sunday in accordance with this article unless it is an emergency.

§ 362-19. Power to make additional rules and regulations.

The Borough may make any rules and regulations which he considers necessary for the administration and enforcement of this article, but no regulation shall be inconsistent with, alter or amend any provision of this article, or impose any requirement which is in addition to those expressly or by implication imposed by this article. No regulations shall be effective unless they shall be approved by resolution of the Council. Copies of all current regulations shall be furnished each permittee at the time of the issuance of the permit.

§ 362-20. Permit and fee for storing material.

It shall be unlawful for any person to store any material upon the right-of-way of any road or street in the Borough for the maintenance of which the Borough is responsible without first obtaining a storing permit. The charge for each storing permit shall be as set forth in the Borough Fee Schedule, adopted by resolution of the Borough Council, on file in the office of the Borough Clerk. The permit shall run for the time as so designated when issued by the Clerk. Each permit can be renewed upon application and a further payment as set forth in the Borough Fee Schedule, adopted by resolution of the Borough Council, on file in the office of the Borough Clerk.

§ 362-21 Approvals required.

Any person, company, firm or corporation who has applied and received approval before the Planning or Zoning Board of the Borough shall apply for the permit required under this article and shall pay the appropriate fee. Prior to granting approval to any applicant, the Planning or Zoning Board must consult with the Borough Engineer or his/her designee regarding any activity. Such work



shall be performed under the authority of the Borough Engineer. Additional escrow fees necessary under this section shall be determined at time of permit application.

§ 362-22 Inspections.

No performance guarantees will be returned until such time as the Director of Public Works, Borough Engineer or their designee has satisfied himself that the permittee has complied with all of the requirements of this chapter relative to opening, backfilling and restoration of the street surface.

§ 362-23 Notice and inspections.

Forty-Eight (48) hours prior to the commencement of work, the permittee shall notify the Director of Public Works, Borough Engineer or their designee and request that an inspector be present to observe the excavation and restoration. The permittee shall also call for a utility mark-out prior to undertaking any excavating activity and supply the Dig Number to the Borough.

§ 362-24 Inspection fees.

At the time of submission of the permit application, a nonrefundable inspection fee of \$500 for each opening permit (Includes up to 2 inspections of a maximum duration of 1 hours each), Inspection fees are as follows \$150/Hour or such higher amount as may be set forth in Chapter 206, shall be deposited with the Borough of River Edge to defray the cost of inspections.

§ 362-25 Maintenance procedures.

Performance Bond will be released when final pavement restoration is approved by Director of Public Works, Borough Engineer or their designee. Such release shall be subject to the permittee agreeing to maintain the restored excavation work area for a period of two (2) years from the date of final approval of the work and posting a maintenance bond to guarantee same. As such, the Borough shall retain as a cash retainage 50% of the cash repair deposit and/or performance guaranty during the two-year period. If an inspection reveals that the restored excavation area becomes unacceptable, the Director of Public Works, Borough Engineer or their designee shall notify the permittee that he must repair the area in accordance with the aforementioned procedure within Thirty (30) days from the date of notification or sooner if safety on public conveyances is involved. If the permittee fails to repair trench within this time limit, the Borough will utilize the permittee's cash retainage and maintenance bond to pay for the cost of the repairs. Upon termination of the two-year maintenance period, any remaining portions of said maintenance bond that has not been expended shall be returned to the permittee without interest.

§ 362-26 Newly paved streets.

- A. Notice of Improvements: Before any street is improved or paved, the Borough shall give notice to all persons owning property abutting on the street and to all public utilities and authorities operating in the Borough that the street is about to be paved or improved. Such notice shall state that all connections and repairs to utilities in the street and all other work which requires excavation of the street, including the installation of sewer laterals and other utility connections from sewer, gas or water mains to the curb line of unimproved lots, shall be completed within thirty (30) days of the receipt of notice. The time for the completion of work may be extended, in writing, by the Director of Public Works, Borough Engineer or their designee upon application by the person performing the work. This subsection shall not excuse any person from the requirement of obtaining a permit as provided in this article, except that there will be no requirement of posting a performance guarantee for the street restoration. In the event an excavation must be made the requirement for Restoration of the Surface Section 362-17 shall control with the addition of a curb to curb restoration and an extension of ten feet past the excavation in each direction of the opening.

B. Restrictions on excavation.

- 1. For a period of three (3) years following the completion of the street improvements causing notice to be issued pursuant to this article, no person to whom such notice was given shall be issued a permit to excavate the newly improved street unless its issuance is approved by the Borough Engineer.
- 2. Subsection **B(1)** shall not apply to any case where the excavation is made necessary by the occurrence of some event which could not have been foreseen at the time that notice was given, or where the public health or safety requires the performance of the street opening.

§ 362-27. Violations and penalties.

For a violation of any provision of this article, the maximum penalty, upon conviction thereof, shall be a fine not exceeding \$1,000, or imprisonment for up to 90 days, or a period of community service not exceeding 90 days, or any combination thereof.

§ 362-28. Severability.

The provisions of this Ordinance are declared to be severable and if any section, subsection sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

§ 362-29. Effective Date.

This Ordinance shall take effect immediately upon passage and publication as provided by law.

§ 362-30. Codification.

This ordinance shall be a part of the Code of the Borough of River Edge as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The Borough Clerk and Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Borough of River Edge in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

ATTEST:

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Stephanie Evans  
Borough Clerk

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Thomas Papaleo  
Mayor

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Mayor Papaleo read the title of Ordinance #20-19 into the record.

Ordinance #20-19 – AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF RIVER EDGE (1998) CHAPTER 206 – “FEES”

On motion by Councilwoman Montisano-Koen, seconded by Councilwoman Kinsella

the first reading of Ordinance #20-19 was approved unanimously as follows:

BOROUGH OF RIVER EDGE  
ORDINANCE #20-19

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH  
OF RIVER EDGE (1998) CHAPTER 206 – “FEES”

BE IT ORDAINED that the following changes be made:

Section 1. - Section 206-2 – Schedule of Fees amended as follows:

U. Street Opening Permit – Delete in its entirety.

Add:

U. Street Opening Permit

1. Application Fee (minimum fee) - \$500.00 (plus \$1.00 per linear foot over 100 linear feet)

- a. Fee for failure to apply for a road opening permit shall be a fine not exceeding -  
\$1,000.00  
(24 hour grace period for emergency road opening)

2. Inspection Fee (minimum fee) - \$500.00 (includes up to 2 inspections of a maximum duration of 1 hour each (any additional inspections thereafter shall be paid at the rate of \$150.00 per hour – 1 hour minimum)

3. Performance Escrow (refundable) – In the form of cash or an approved surety bond in the amount of \$1,500.00 (Bituminous Concrete Roads) or \$3,600.00 (Concrete Roads, Granite, Concrete Pavers or Historical Street), provided that the estimated dimensions of the opening are 120 square feet or less, and in the amount of \$1,500.00 (for Bituminous Concrete Roads) or \$3,600.00 (Concrete Roads, Granite, Concrete Pavers or Historical Street) plus \$15.00 (Bituminous Concrete Roads) or \$30.00 (Concrete Roads, Granite, Concrete Pavers or Historical Street) per square foot for each square foot of openings estimated to exceed 120 square feet.

For Public Utilities refers to Chapter 362-13(B)

4. Permanent Maintenance Fee (non-refundable) – shall be paid prior to the release of the performance escrow. Refers to Chapter 362-25.

5. Waiver of Fees – Municipalities - Road Opening Permit Fees may be waived for Municipal Projects, in connection with County roads, including but not limited to: handicap ramp installation curb replacement projects, and streetscape projects. Notwithstanding anything to the contrary, Road Opening Permit Fees apply to all municipally owned utilities and may not be waived.

\*Violations of Road Opening Ordinance and/or Procedures  
(up to) \$1,000.00 per occurrence

Section II.

All ordinances inconsistent with the provision of this ordinance are hereby repealed as to such inconsistencies only.

Section III:

If any provision of this ordinance are found to be invalid, for any reason, by the final judgement of a court of competent jurisdiction, the invalidity of such portions shall not effect the remaining provisions of this ordinance, which shall be severable therefrom.

Section IV:

This ordinance shall take effect immediately upon final passage and publication as required by law.

\_\_\_\_\_  
Mayor Thomas Papaleo

ATTEST:

Stephanie Evans, Borough Clerk

Dated:

**SECOND READING & HEARING ON ORDINANCES –**

Mayor Papaleo read the title of Ordinance #20-13 into the record.

Ordinance #20-13 – ORDINANCE AMENDING CHAPTER 71, ARTICLE III OF THE CODE OF THE BOROUGH OF RIVER EDGE ENTITLED “POLICE DEPARTMENT” ESTABLISHING PROMOTION PROCEDURES FOR THE RANK OF LIEUTENANT

Ordinance #20-13 was introduced by Councilman Chinigo, seconded by Councilwoman Kaufman and unanimously approved as amended at the September 8, 2020 meeting as follows:

**ORDINANCE #20-13  
BOROUGH OF RIVER EDGE  
COUNTY OF BERGEN**

**ORDINANCE AMENDING CHAPTER 71, ARTICLE III OF  
THE CODE OF THE BOROUGH OF RIVER EDGE  
ENTITLED “POLICE DEPARTMENT,” ESTABLISHING  
PROMOTION PROCEDURES FOR THE RANK OF  
LIEUTENANT**

**WHEREAS**, within its general powers as a municipality, the Borough of River Edge may make and enforce ordinances, rules and regulations not contrary to federal or state law as it deems necessary and to protect the public safety and welfare of its residents; and

**WHEREAS**, the Mayor and Council of the Borough of River Edge support and encourage efficiency within the River Edge Police Department; and

**WHEREAS**, the Mayor and Council of the Borough of River Edge have determined that it would be in the best interest of the citizens of the Borough to establish a promotion practice based upon merit for the position of Lieutenant when there is a vacancy in said position; and

**WHEREAS**, the Borough of River Edge desires to have a promotional practice for the position of Lieutenant based upon merit, experience, education, demonstrated ability and competitive examinations within the River Edge Police Department in the interest of better serving the residents of the Borough of River Edge;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of River Edge as follows:

§ \_\_\_\_\_ **Promotion to Rank of Lieutenant**

A. The Borough of River Edge Governing Body desires to promote the most qualified candidate to the position of Lieutenant. This ordinance establishes the eligibility requirements and the process for promotion to Lieutenant. The promotion process shall be on the basis of merit, experience, education, demonstrated ability, competitive examinations and an interview. In accordance with N.J.S.A. 40A:14-129, the promotion of any officer shall be made from the

membership of the River Edge Police department. No person shall be eligible for promotion to Lieutenant unless he or she is a current full-time police officer in the Borough of River Edge Police Department and hold the rank of Sergeant for a period of not less than one year.

B. The Chief of Police shall announce the promotional process to members of the department at least ninety (90) days before any written examination is to be given. The announcement shall be posted in common areas of the department accessible to all members. The announcement shall contain, at a minimum, the rank to be filled and the dates of the exams. Candidates, who qualify, shall notify the Chief of Police of his or her interest in taking the examination by submitting a letter of interest no later than ten (10) calendar days after the promotion announcement. Failure to do so shall render the officer ineligible to participate in the process.

### C. Promotional Testing Procedure:

The promotional testing procedure for the Borough of River Edge Police Department may consist of the following: a written examination, an oral examination, a record review and an interview with the Mayor and Council. The Mayor and Council reserve the right to waive the oral examination and shall so notify any applicant when the initial announcement for the promotional process is posted.

1. **Written Examinations:** The written examination shall be supplied by a professional testing company, professional law enforcement organization (e.g. State Chiefs of Police Association, International Chiefs of Police Association, etc.) To proceed to the oral examination of the examination procedure, a candidate must achieve a minimum score of seventy (70%) percent on the written examination.

2. **Oral Examinations:** Candidates will be notified, in writing, of their successful or unsuccessful completion of the written portion of the exam by the Borough Administrator or his designee. The oral examination shall take place after the receipt of the written examination results. A standardized interview will be conducted by an outside agency (e.g. Chiefs of Police Association, International Chiefs of Police Association, etc.) by a Board of three (3) examiners, at least one of which shall be a Personnel Evaluator from the outside testing agency. None of the evaluators shall be an officer, employee, resident or relative thereof, of the Borough of River Edge or of any of the candidates.

The testing organization shall assign each candidate an identification number, which shall be the only identification used when the written and oral examination is graded. The identification numbers of all candidates for promotion shall be posted on a pass/fail basis only. A complete master list of the actual results of the written and oral examination shall be placed under seal and retained in the office of the Borough Administrator and shall not be revealed to the Mayor and Council until after the interview and record review of the applicants are complete.

### 3. Record Review and Interview by the Mayor and Council

Candidates that successfully achieve a minimum score of seventy percent (70%) on the written examination and received a satisfactory psychological examination, if applicable, shall proceed to the next step in the promotional process, the review of service record and interview. The interview shall be conducted by the Mayor and Council. At the request of the Mayor and Council, the Chief of Police may be present to assist, offer opinions, suggestions and make comments and recommendations. The record review shall be conducted by the Borough Administrator, Mayor, Council Police Liaison and one Councilperson of the Personnel Subcommittee.

(a) As part of the interview process, the Mayor and Council shall also consider the results of a department evaluation/peer review of each candidate. The department evaluation/peer review shall be conducted by the Chief of Police and/or his/her designee. The Mayor and Council shall grade each candidate on a forty (40) point scale and shall ask each candidate the identical questions and the Borough Clerk will keep written records of each candidate's responses to same.

(b). The Borough Administrator, Mayor, Council Police Liaison and one Councilperson of the Personnel Subcommittee shall examine the personnel jacket of each candidate and give specific weight to each category and grade each candidate on a ten (10) point scale. The weight of each category of the record review shall be the maximum of the following points in each of the

enumerated categories as follows:

**Specialized Training (e.g. FBI Academy) 0 to 3 points**

Each completed course +1 point to a total of 3 points.

**Education**

Candidate only gets the point(s) associated with the highest educational degree attained and not the point(s) for each separate education degree.

Associate's Degree	1 point
Bachelor's Degree	2 points
Master's Degree	3 points
Doctorate Degree	5 points

**Military Experience**

Active Duty or Reserve Duty-Candidate only gets the highest of the following point(s).

Any enlisted rank	1 point
Any officer rank	2 points

**Disciplinary Actions**

Each major sustained discipline (more than 5 day) -2 points. All previous sustained disciplinary actions shall be considered and reviewed to achieve the broadest scope of review for the given candidate by his/her supervisors.

4. The weight or percentage of each portion of the process shall be as follows:

Written examination	30%
Oral examination	20%
Record Review	10%
Mayor and Council Interview	40%

D. Candidates shall be ranked based on their overall cumulative scores. The candidate with the highest overall score shall be voted on by the Mayor and Council as the Lieutenant.

E. Where two (2) or more candidates are ranked equally pursuant to the promotional procedure set forth herein, preference shall be given to the candidate with the most seniority in service pursuant to N.J.S.A. 40A:14-129.

F. The Mayor and Council may, at their discretion, create and maintain a list of any remaining candidates to be eligible for promotion to Lieutenant. The remaining candidates shall be ranked on their overall cumulative scores from highest to lowest total scores. Said promotional list shall be adopted via Resolution. This list shall remain valid for two (2) years from the date of the adoption of the resolution creating the Lieutenant's list.

G. A probationary period of one year shall be served in the rank of Lieutenant.

3) **SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

4) **REPEALER**

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

5) **EFFECTIVE DATE**

This Ordinance shall take effect after final passage as provided by law and shall be applied for any promotion to the Lieutenant.

\_\_\_\_\_  
Mayor Thomas Papaleo

Attest:

\_\_\_\_\_  
Stephanie Evans, Borough Clerk

**OPEN HEARING OF THE PUBLIC – Ordinance #20-13**

On motion by Councilwoman Kinsella, seconded by Councilwoman Montisano-Koen to open the hearing on Ordinance #20-13 was unanimously approved.

**CLOSE HEARING OF THE PUBLIC – Ordinance #20-13**

There being no comments by the public, the motion by Councilwoman Kaufman, seconded by Councilman Gautier to close the hearing on Ordinance #20-13 was unanimously approved.

**ADOPTION – Ordinance #20-13**

On motion by Councilwoman Busteded, seconded by Councilman Chinigo the adoption of Ordinance #20-13 as amended was unanimously approved.

Councilwoman Busteded-said that at their last meeting, Councilman Chinigo offered an amendment regarding disciplinary actions and asked him to elaborate.

Councilman Chinigo-said that at the last meeting they did make minor amendments. He reported that he and Mayor Papaleo met with representatives from the PBA where they brought up several concerns about the proposed ordinance. They went over their concerns and explained why they did certain things and they seemed satisfied with some of the things. Some concerns were brought to legal counsel asking if it would be possible to make the changes that were made in the Chief's ordinance as well as the Sergeants and Lieutenants ordinance. He also called Chief Cariddi and discussed the proposed changes. The Chief did not have any objections since they were considered minor by our legal counsel.

Tom Sarlo, Esq.-explained that the changes that they made between the introduction and now are minor. One was a typographical error and the other we are not adding anything to the ordinance, we are actually removing and making it a lesser impact to the ordinance. He said that for those reasons, they are minor changes.

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Mayor Papaleo read the title of Ordinance #20-14 into the record.

Ordinance #20-14 - ORDINANCE AMENDING CHAPTER 71, ARTICLE III OF THE CODE OF THE BOROUGH OF RIVER EDGE ENTITLED "POLICE DEPARTMENT" ESTABLISHING PROMOTION PROCEDURES FOR THE RANK OF SERGEANT

Ordinance #20-14 was introduced by Councilman Gautier, seconded by Councilwoman Busteded and unanimously approved as amended at the September 8, 2020 meeting as follows:

**ORDINANCE #20-14  
BOROUGH OF RIVER EDGE**

**COUNTY OF BERGEN**

**ORDINANCE AMENDING CHAPTER 71, ARTICLE IV OF  
THE CODE OF THE BOROUGH OF RIVER EDGE  
ENTITLED "POLICE DEPARTMENT," ESTABLISHING  
PROMOTION PROCEDURES FOR THE RANK OF  
SERGEANT**

**WHEREAS**, within its general powers as a municipality, the Borough of River Edge may make and enforce ordinances, rules and regulations not contrary to federal or state law as it deems necessary and to protect the public safety and welfare of its residents; and

**WHEREAS**, the Mayor and Council of the Borough of River Edge support and encourage efficiency within the River Edge Police Department; and

**WHEREAS**, the Mayor and Council of the Borough of River Edge have determined that it would be in the best interest of the citizens of the Borough to establish a promotion practice based upon merit for the position of Sergeant when there is a vacancy in said position; and

**WHEREAS**, the Borough of River Edge desires to have a promotional practice for the position of Sergeants based upon merit, experience, education, demonstrated ability, and competitive examinations within the River Edge Police Department in the interest of better serving the residents of the Borough of River Edge;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of River Edge as follows:

§ \_\_\_\_\_ **Promotion to Rank of Sergeant**

A. The Borough of River Edge Governing Body desires to promote the most qualified candidate to the position of Sergeant. This ordinance establishes the eligibility requirements and the process for promotion to Sergeant. The promotion process shall be on the basis of merit, experience, education, demonstrated ability, competitive examinations and an interview. In accordance with N.J.S.A. 40A:14-129, the promotion of any officer shall be made from the membership of the River Edge Police department. No person shall be eligible for promotion to Sergeant unless he or she is a current full-time police officer in the Borough of River Edge Police Department for a period of five (5) years or more.

B. The Chief of Police shall announce the promotional process to members of the department at least ninety (90) days before any written examination is to be given. The announcement shall be posted in common areas of the department accessible to all members. The announcement shall contain, at a minimum, the rank to be filled and the dates of the exams. Candidates, who qualify, shall notify the Chief of Police of his or her interest in taking the examination by submitting a letter of interest no later than ten (10) calendar days after the promotion announcement. Failure to do so shall render the officer ineligible to participate in the process.

C. Promotional Testing Procedure:

The promotional testing procedure for the Borough of River Edge Police Department may consist of the following: a written examination, an oral examination, a record review and an interview with the Mayor and Council. The Mayor and Council reserve the right to waive the oral examination and shall so notify any applicant when the initial announcement for the promotional process is posted.

1. Written Examinations: The written examination shall be supplied by a professional testing company, professional law enforcement organization (e.g. State Chiefs of Police Association, International Chiefs of Police Association, etc.) To proceed to the oral examination of the examination procedure, a candidate must achieve a minimum score of seventy (70%) percent on the written examination.

2. Oral Examinations: Candidates will be notified, in writing, of their successful or



unsuccessful completion of the written portion of the exam by the Borough Administrator or his designee. The oral examination shall take place after the receipt of the written examination results. A standardized interview will be conducted by an outside agency (e.g. Chiefs of Police Association, International Chiefs of Police Association, etc.) by a Board of three (3) examiners, at least one of which shall be a Personnel Evaluator from the outside testing agency. None of the evaluators shall be an officer, employee, resident or relative thereof, of the Borough of River Edge or of any of the candidates.

The testing organization shall assign each candidate an identification number, which shall be the only identification used when the written and oral examination is graded. The identification numbers of all candidates for promotion shall be posted on a pass/fail basis only. A complete master list of the actual results of the written and oral examination shall be placed under seal and retained in the office of the Borough Administrator and shall not be revealed to the Mayor and Council until after the interview and record review of the applicants are complete.

### 3. Record Review and Interview by the Mayor and Council

Candidates that successfully achieve a minimum score of seventy percent (70%) on the written examination and received a satisfactory psychological examination, if applicable, shall proceed to the next step in the promotional process, the review of service record and interview. The interview shall be conducted by the Mayor and Council. At the request of the Mayor and Council, the Chief of Police may be present to assist, offer opinions, suggestions and make comments and recommendations. The record review shall be conducted by the Borough Administrator, Mayor, Council Police Liaison and one Councilperson of the Personnel Subcommittee.

(a) As part of the interview process, the Mayor and Council shall also consider the results of a department evaluation/peer review of each candidate. The department evaluation/peer review shall be conducted by the Chief of Police and/or his/her designee(s). The Mayor and Council shall grade each candidate on a forty (40) point scale and shall ask each candidate the identical questions and the Borough Clerk will keep written records of each candidate's responses to same.

(b). The Borough Administrator, Mayor, Council Police Liaison and one Councilperson of the Personnel Subcommittee shall examine the personnel jacket of each candidate and give specific weight to each category and grade each candidate on a ten (10) point scale. The weight of each category of the record review shall be the maximum of the following points in each of the enumerated categories as follows:

#### **Specialized Training (e.g. FBI Academy) 0 to 3 points**

Each completed course +1 point to a total of 3 points.

#### **Education**

Candidate only gets the point(s) associated with the highest educational degree attained and not the point(s) for each separate education degree.

Associate's Degree	1 point
Bachelor's Degree	2 points
Master's Degree	3 points
Doctorate Degree	5 points

#### **Military Experience**

Active Duty or Reserve Duty-Candidate only gets the highest of the following point(s).

Any enlisted rank	1 point
Any officer rank	2 points

#### **Disciplinary Actions**

Each major sustained discipline (more than 5 day) -2 points. All previous sustained disciplinary actions shall be considered and reviewed to achieve the broadest scope of review for the given candidate by his/her supervisors.

4. The weight or percentage of each portion of the process shall be as follows:

Written examination	30%
Oral examination	20%
Record Review	10%
Mayor and Council Interview	40%

D. Candidates shall be ranked based on their overall cumulative scores. The candidate with the highest overall score shall be voted on by the Mayor and Council as the Sergeant.

E. Where two (2) or more candidates are ranked equally pursuant to the promotional procedure set forth herein, preference shall be given to the candidate with the most seniority in service pursuant to N.J.S.A. 40A:14-129.

F. The Mayor and Council may, at their discretion, create and maintain a list of any remaining candidates to be eligible for promotion to Sergeant. The remaining candidates shall be ranked on their overall cumulative scores from highest to lowest total scores. Said promotional list shall be adopted via Resolution. This list shall remain valid for two (2) years from the date of the adoption of the resolution creating the Sergeant's list.

G. A probationary period of one year shall be served in the rank of Sergeant.

3) **SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

4) **REPEALER**

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

5) **EFFECTIVE DATE**

This Ordinance shall take effect after final passage as provided by law and shall be applied for any promotion to the Sergeant.

\_\_\_\_\_  
Mayor Thomas Papaleo

Attest:

\_\_\_\_\_  
Stephanie Evans, Borough Clerk  
Dated:

**OPEN HEARING OF THE PUBLIC – Ordinance #20-14**

On motion by Councilman Gautier, seconded by Councilwoman Kaufman to open the hearing on Ordinance #20-14 was unanimously approved.

**ADOPTION – Ordinance #20-14**

On motion by Councilwoman Montisano-Koen, seconded by Councilwoman Kinsella, the adoption of Ordinance #20-14 as amended was unanimously approved.

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Mayor Papaleo read the title of Ordinance #20-15 into the record.

Ordinance #20-15 – AN ORDINANCE TO ADOPT A REDEVELOPMENT PLAN FOR THE NEW BRIDGE LANDING STATION REDEVELOPMENT AREA

Ordinance #20-15 was introduced by Councilwoman Busted, seconded by Councilman Gautier and unanimously approved at the September 8, 2020 meeting as follows:

**BOROUGH OF RIVER EDGE  
ORDINANCE #20-15**

**AN ORDINANCE TO ADOPT A REDEVELOPMENT PLAN FOR THE NEW BRIDGE LANDING STATION REDEVELOPMENT AREA**

WHEREAS, the Governing Body retained the services of Burgis Associates, Inc., 25 Westwood Avenue, Westwood, New Jersey 07675 to draft a Redevelopment Plan for Block 1411, Lots 1.01, 1.02 and Block 1412, Lots 1, 2 and 3; and

WHEREAS, Burgis Associates, Inc. prepared a Redevelopment Plan which has been reviewed by the River Edge Land Use Board, the property owner/developer and other agents and departments of the Borough and by the Mayor and Council who approve of the Redevelopment Plan; and

WHEREAS, the River Edge Land Use Board found in its review that the Redevelopment Plan is consistent with the Master Plan for the Borough of River Edge.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of River Edge as follows:

Section I:

The Governing Body hereby adopts the “New Bridge Landing Station Redevelopment Plan” prepared September 4, 2020 a copy of which is annexed hereto as the Redevelopment Plan for the Subject Property, Block 1411, Lots 1.01, 1.02 and Block 1412, Lots 1, 2 and 3.

Section II:

The Redevelopment Plan shall supersede all provisions of Chapter 416 “Zoning” of the Code of the Borough of River Edge. In all situations where zoning issues are not addressed in the Redevelopment Plan, Chapter 416 of the Borough Code shall remain in full force and effect.

Section III:

Pursuant to N.J.S.A. 40A:12A-7(c) the Zoning Map of the Borough of River Edge is hereby amended to identify the redevelopment area in the manner depicted in the “New Bridge Landing Station Redevelopment Plan”.

Section IV:

If any provision of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not effect the other provisions of this Ordinance, except so far as the provision so declared invalid shall be inseparable from the remainder of any portion thereof.

Section V:

This Ordinance shall take effect upon passage and publication as required by law and upon filing with the Bergen County Planning Board.

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Thomas R. Papaleo, Mayor

Attest:

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Stephanie Evans, Borough Clerk

Dated:

**OPEN HEARING OF THE PUBLIC – Ordinance #20-15**

On motion by Councilwoman Busteded, seconded by Councilman Chinigo to open the hearing on Ordinance #20-15 was unanimously approved.

**CLOSE HEARING OF THE PUBLIC – Ordinance #20-15**

There being no comments by the public, the motion by Councilman Chinigo, seconded by Councilwoman Busteded to close the hearing on Ordinance #20-15 was unanimously approved.

Raymond Poerio-explained that on both Ordinance #20-15 and #20-16 there is an amendment due to a typo that was found in the plans by our Borough Planner. The redevelopment plans call for a 15% set aside for rental units and 20 for sale units. This has been revised to a 20% set-aside for all residential units.

Tom Sarlo, Esq.-said that he conferred with Mr. Poerio and Mr. Chewcaskie who is of the opinion that these are minor changes and can adopt as amended with these changes at the next meeting.

On motion by Councilman Gautier, seconded by Councilwoman Kaufman the amendment to the New Bridge Landing Redevelopment Plan was unanimously approved. The second reading of Ordinance #20-15 will be listed for the next meeting on October 13, 2020.

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Mayor Papaleo read the title of Ordinance #20-16 into the record.

**Ordinance #20-16 – AN ORDINANCE TO ADOPT A REDEVELOPMENT PLAN FOR THE KINDERKAMACK ROAD REDEVELOPMENT AREA**

Ordinance #20-16 was introduced by Councilwoman Kinsella, seconded by Councilwoman Montisano-Koen and unanimously approved at the September 8, 2020 meeting as follows:

**BOROUGH OF RIVER EDGE  
ORDINANCE #20-16**

**AN ORDINANCE TO ADOPT A REDEVELOPMENT PLAN FOR THE KINDERKAMACK ROAD REDEVELOPMENT AREA**

WHEREAS, the Governing Body retained the services of Burgis Associates, Inc., 25 Westwood Avenue, Westwood, New Jersey 07675 to draft a Redevelopment Plan for Block 1413, Lots 1, 2.01, 4 and 5; and

WHEREAS, Burgis Associates, Inc. prepared a Redevelopment Plan which has been reviewed by the River Edge Land Use Board, the property owner/developer and other agents and departments of the Borough and by the Mayor and Council who approve of the Redevelopment Plan; and

WHEREAS, the River Edge Land Use Board found in its review that the Redevelopment Plan is consistent with the Master Plan for the Borough of River Edge.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of River Edge as follows:

Section I:

The Governing Body hereby adopts the “Kinderkamack Road Redevelopment Plan” prepared September 4, 2020 a copy of which is annexed hereto as the Redevelopment Plan for the Subject Property, Block 1413, Lots 1, 2.01, 4 and 5.

Section II:

The Redevelopment Plan shall supersede all provisions of Chapter 416 “Zoning” of the Code of the Borough of River Edge. In all situations where zoning issues are not addressed in the Redevelopment Plan, Chapter 416 of the Borough Code shall remain in full force and effect.

Section III:

Pursuant to N.J.S.A. 40A:12A-7(c) the Zoning Map of the Borough of River Edge is hereby amended to identify the redevelopment area in the manner depicted in the “New Bridge Landing Station Redevelopment Plan”.

Section IV:

If any provision of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not effect the other provisions of this Ordinance, except so far as the provision so declared invalid shall be inseparable from the remainder of any portion thereof.

Section V:

This Ordinance shall take effect upon passage and publication as required by law and upon filing with the Bergen County Planning Board.

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Thomas R. Papaleo, Mayor

Attest:

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Stephanie Evans, Borough Clerk

Dated:

**OPEN HEARING OF THE PUBLIC – Ordinance #20-16**

On motion by Councilwoman Montisano-Koen, seconded by Councilwoman Kinsella to open the hearing on Ordinance #20-16 was unanimously approved.

**CLOSE HEARING OF THE PUBLIC – Ordinance #20-16**

There being no comments by the public, the motion by Councilwoman Kinsella, seconded by Councilwoman Montisano-Koen to close the hearing on Ordinance #20-16 was unanimously approved.

On motion by Councilman Gautier, seconded by Councilwoman Kaufman the amendment to the Kinderkamack Road Redevelopment Area Plan was unanimously approved. The second reading of Ordinance #20-16 will be listed for the next meeting on October 13, 2020.

\*\*\*\*\*

Mayor Papaleo read the title of Ordinance #20-17 into the record.

Ordinance #20-17 – AN ORDINANCE AMENDING CHAPTER 50, ENTITLED “AFFORDABLE HOUSING REGULATIONS” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S

## AFFORDABLE HOUSING OBLIGATIONS

Ordinance #20-17 was introduced by Councilwoman Kinsella, seconded by Councilman Chinigo and unanimously approved at the September 8, 2020 meeting as follows:

### **BOROUGH OF RIVER EDGE ORDINANCE #20-17**

#### **AN ORDINANCE AMENDING CHAPTER 50, ENTITLED “AFFORDABLE HOUSING REGULATIONS” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS.**

**WHEREAS**, Ordinance No. 20-9 creating Chapter 50, Affordable Housing Regulations, of the Borough of River Edge Code was adopted by the Borough Council on June 22, 2020; and

**WHEREAS**, Chapter 50, Affordable Housing Regulations, of the Borough Code is being amended to include “mandatory set-aside” language in accordance with the Borough’s Settlement Agreement with Fair Share Housing Center dated June 24, 2019; and

**WHEREAS**, this Ordinance Amendment is a necessary in order for the Borough to receive a judgement of compliance and repose from the Superior Court with respect to the Borough’s Third Round affordable housing obligations.

**NOW, THEREFORE**, be it ordained by the Borough Council of the Borough of River Edge, Bergen County, New Jersey, as follows:

**SECTION 1.** Chapter 50, entitled “Affordable Housing Regulations,” of the Code of the Borough of River Edge is hereby amended to read as follows:

### **ARTICLE I AFFORDABLE HOUSING REGULATIONS**

#### **§ 50.1 Purpose.**

This Chapter is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that only qualified low- and moderate-income households shall occupy these units consistent with N.J.A.C. 5:93-1 et seq., as amended and supplemented, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Chapter shall apply except where inconsistent with applicable law.

#### **§ 50.2 Applicability.**

- A. The provisions of this Chapter shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of River Edge pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
- B. This Chapter shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

#### **§50.3 Monitoring and Reporting Requirements.**

The Borough of River Edge shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:

- A. Trust fund activity. Beginning one year after the entry of the Borough’s Round 3 Judgment

of Compliance and Repose, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

- B. Affordable housing activity. Beginning one year after the entry of the Borough's Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH, or any other forms endorsed by the Court Appointed Special Master and FSHC.
- C. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during its ten-year repose period. The Borough will comply with those provisions as follows:
  - 1. For the midpoint realistic opportunity review due on July 2, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the Borough, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
  - 2. For the review of very-low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the Borough's Judgment of Compliance and Repose, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Borough and Fair Share Housing Center on the issue of whether the Borough has complied with its very low income housing obligation under the terms of this settlement.
  - 3. In addition to the foregoing postings, the Borough may also elect to file copies of its reports with COAH or its successor agency at the State level.

#### **§50.4 Definitions.**

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

*“Accessory apartment”* shall mean a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

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

*“Adaptable”* shall mean constructed in compliance with the technical design standards of the Barrier Free Sub code, N.J.A.C. 5:23-7.

*“Administrative agent”* shall mean the entity responsible for the administration of affordable units in accordance with this Article, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

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

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

*“Affordable”* shall mean, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

*“Affordable development”* shall mean a housing development all or a portion of which consists of restricted units.

*“Affordable housing development”* shall mean a development included in the "Housing Plan Element and Fair Share Plan", and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred (100%) percent affordable development.

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

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

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

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

*“Assisted living residence”* shall mean a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four (4) or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one (1) unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

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

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

*“DCA”* shall mean the State of New Jersey Department of Community Affairs.

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

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

*“Development”* shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

*“Inclusionary development”* shall mean a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the



conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

*“Low-income household”* shall mean a household with a total gross annual household income equal to fifty (50%) percent or less of the median household income.

*“Low-income unit”* shall mean a restricted unit that is affordable to a low-income household.

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

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

*“Median income”* shall mean the median income by household size for the applicable county, as adopted annually by COAH.

*“Moderate-income household”* shall mean a household with a total gross annual household income in excess of fifty (50%) percent but less than eighty (80%) percent of the median household income.

*“Moderate-income unit”* shall mean a restricted unit that is affordable to a moderate-income household.

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

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

*“Regional asset limit”* shall mean the maximum housing value in each housing region affordable to a four-person household with an income at eighty (80%) percent of the regional median as defined by COAH’s adopted Regional Income Limits published annually by COAH.

*“Rehabilitation”* shall mean the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Sub code, N.J.A.C. 5:23-6.

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

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

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

*“Very low-income household”* shall mean a household with a total gross annual household income equal to thirty (30%) percent or less of the median household income.

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

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

## **§50.5 Mandatory Affordable Housing Set-Aside Requirements.**

- A. Purpose. This section is intended to ensure that any site or development that benefits from a subdivision or site plan approval, rezoning, use variance, redevelopment plan or rehabilitation plan approved by the Municipality or a Borough land use board that results in five (5) or more new multi-family or single-family attached dwelling units produces affordable housing at a set-aside rate of twenty percent (20%) affordable for-sale units and fifteen percent (15%) affordable rental units. This section shall apply except where inconsistent with applicable law or Court order.
- B. Mandatory Set-Aside Requirement.
1. Any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, that is approved and contains five (5) or more new dwelling units as a result of a subdivision or site plan approval, rezoning, use variance, redevelopment plan or rehabilitation plan approved by the Municipality or a Borough land use board shall be required to set aside a minimum percentage of units for affordable housing.
  2. For inclusionary projects in which the low and moderate units are to be offered for sale, the minimum set-aside percentage shall be twenty percent (20%); for projects in which the low and moderate income units are to be offered for rent, the minimum set-aside percentage shall be fifteen percent (15%). Where the set-aside percentage results in a fractional unit, the total set-aside requirement shall be rounded upwards to the next whole number, regardless of the fractional amount.
  3. A minimum of thirteen percent (13%) of any affordable units developed through the Borough's mandatory set-aside requirements shall be very-low income qualified units
  4. Nothing in this section precludes the Municipality or a Borough land use board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this section consistent with N.J.S.A. 52:27D-311(h) and other applicable law.
  5. This requirement does not create any entitlement for a property owner or applicant for subdivision or site plan approval, a zoning amendment, use variance, or adoption of a redevelopment plan or rehabilitation plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
  6. This requirement does not apply to any sites or specific zones for which higher set-aside standards have been or will be established, either by zoning, subdivision or site plan approval, or an adopted redevelopment plan or rehabilitation plan.
  7. If the Municipality's Settlement Agreement with Fair Share Housing Center ("FSHC") dated June 24, 2019 or the Municipality's 2020 Housing Element and Fair Share Plan, establishes set-aside standards for any specific sites or zones which are different from the set-aside standards set forth in this section, the set-asides established for those sites or zones in the Settlement Agreement or Housing Element and Fair Share Plan shall govern.
  8. Furthermore, this requirement shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings by five (5) or more.
  9. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or greater.
  10. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.
  11. All affordable units to be produced pursuant to this section shall comply with the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.), as may be

amended from time to time, and any applicable Order of the Court, including a Judgment of Compliance and Repose Order.

**§50.6 Rehabilitation Program.**

- A. The Borough of River Edge and Fair Share Housing Center have agreed that the Borough’s Round 3 (1999-2025) indigenous need Rehabilitation Obligation is six (6) units. The Borough will work with Bergen County or hire a separate entity to rehabilitate units in the Borough to address the Borough’s Rehabilitation Obligation. Any such rehabilitation programs will update and renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
  - 1. All rehabilitated rental and owner-occupied units shall remain affordable to low and moderate-income households for a period of ten (10) years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
  - 2. The Borough of River Edge shall dedicate an average of at least eighteen thousand dollars (\$18,000) for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
  - 3. Units in the rehabilitation programs shall be exempt from N.J.A.C. 5:93-9 and UHAC requirements, but shall be administered in accordance with the following:
    - a. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
    - b. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
    - c. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9 or the standards issued by a New Jersey administrative agency with proper authority to issue such standards.
    - d. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

**§ 50.7 Phasing Schedule for Inclusionary Development.**

In inclusionary developments the following schedule shall be followed:

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

**§ 50.8 New Construction.**

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

1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development. At least 50 percent of the very low income units must be available to families.
2. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families.
3. A maximum of 25 percent of the Borough's obligation may be met with age-restricted units. At least half of all affordable units in the Borough's Fair Share Plan shall be available to families.
4. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.
5. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - a. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
  - b. At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
  - c. At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
  - d. The remaining units may be allocated among two and three-bedroom units at the discretion of the developer.
6. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Sub Code, N.J.A.C. 5:23-7.
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - a. An adaptable toilet and bathing facility on the first floor; and
  - b. An adaptable kitchen on the first floor; and
  - c. An interior accessible route of travel on the first floor; and
  - d. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
  - e. If all of the foregoing requirements in 2.(a) through 2.(d) cannot be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs 2.(a) through 2.(d) above have

been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

- f. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free Sub Code, N.J.A.C. 5:23-7, or evidence that River Edge has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
  - (1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - (2) To this end, the builder of restricted units shall deposit funds within the Borough of River Edge's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
  - (3) The funds deposited under paragraph f (2) above shall be used by the Borough of River Edge for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
  - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of River Edge for the conversion of adaptable to accessible entrances.
  - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Sub Code, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- g. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Sub Code, N.J.A.C. 5:23-7.

C. Design:

1. In inclusionary developments, low- and moderate-income units shall be integrated with the market units to the extent possible.
2. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - a. A studio shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one and one-half person household;
  - c. A two-bedroom unit shall be affordable to a three-person household;
  - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
  - e. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
  - a. A studio shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
  - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. Income limits for all units that are part of the Borough's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to

N.J.A.C. 5:80-26.1, shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:

- a. The income limit for a moderate-income unit for a household of four shall be 80 percent of the HUD determination of the median income for COAH Region 1 for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the median income for COAH Region 1 for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the HUD determination of the median income for COAH Region 1 for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than the previous year.
  - b. The income limits are based on carrying out the process in paragraph (a) based on HUD determination of median income for the current Fiscal Year and shall be utilized by the Borough until new income limits are available.
10. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the Council:
- a. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to paragraph (9). In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
  - b. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northern New Jersey Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

#### **§ 50.9 Utilities.**

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the NJDCA for its Section 8 program.

#### **§ 50.10 Occupancy Standards**

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

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

#### **§ 5.11 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

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

requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

#### **§ 5.12 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.**

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
- B. The Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers, unless the master deed for the inclusionary project was executed prior to the enactment of UHAC.
- D. The owners of restricted ownership units may apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or addition of a bathroom.

#### **§ 5.13 Buyer Income Eligibility.**

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



50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

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

#### **§ 5-14 Limitations on Indebtedness Secured by Ownership Unit; Subordination.**

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, in accordance with N.J.A.C. 5:80-26.6(b).

#### **§ 5-15 Capital Improvements to Ownership Units.**

- A. The owners of restricted ownership units may apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer. Unless otherwise approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

#### **§ 5-16 Control Periods for Restricted Rental Units.**

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

- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. A copy of the filed document shall be provided to the Borough's Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
1. Sublease or assignment of the lease of the unit;
  2. Sale or other voluntary transfer of the ownership of the unit; or
  3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

#### **§ 5-17 Rent Restrictions for Rental Units; Leases.**

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

#### **§ 5-18 Tenant Income Eligibility.**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- B. The Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income

household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  3. The household is currently in substandard or overcrowded living conditions;
  4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in a.1. through b.5. above with the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, who shall counsel the household on budgeting.

## **ARTICLE II            MUNICIPAL HOUSING LIAISON.**

### **§ 5-19 Municipal Housing Liaison**

- A. The position of Municipal Housing Liaison (MHL) for the Borough of River Edge is established by this ordinance. The Borough shall make the actual appointment of the MHL by means of a resolution.
1. The MHL must be either a full-time or part-time employee of River Edge.
  2. The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.
  3. The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
  4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of River Edge, including the following responsibilities which may not be contracted out to the Administrative Agent, or the Administrative Agent appointed by a specific developer:
    - a. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
    - b. The implementation of the Affirmative Marketing Plan and affordability controls;
    - c. When applicable, supervising any contracting Administrative Agent;
    - d. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
    - e. Compiling, verifying and submitting annual reports as required;

- f. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
  - g. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.
- B. Subject to the approval of the Court, the Borough of River Edge shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and may be subject to approval of the Court appointed Special Master or the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

### ARTICLE III      ADMINSTRATIVE AGENT

#### § 5-20 Administrative Agent.

An Administrative Agent may be either an independent entity serving under contract to and reporting to the Borough or reporting to a specific individual developer. ***The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.*** The Borough Administrative Agent shall monitor and work with any individual Administrative Agents appointed by individual developers. The Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

- A. Affirmative Marketing:
  - 1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of River Edge and the provisions of N.J.A.C. 5:80-26.15; and
  - 2. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
  
- B. Household Certification:
  - 1. Soliciting, scheduling, conducting and following up on interviews with interested households;
  - 2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  - 3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - 4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of River Edge when referring households for certification to affordable units; and
7. Notifying the following entities of the availability of affordable housing units in the Borough of River Edge: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Bergen County Branch of the NAACP, Senior Citizens United Community Services (S.C.U.C.S.), and the Supportive Housing Association.

C. Affordability Controls:

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

D. Resales and Re-rentals:

1. Instituting and maintaining an effective means of communicating information between owners and the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, regarding the availability of restricted units for resale or re-rental; and
2. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

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

F. Enforcement:

1. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer;
3. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, where complaints of excess rent or other charges can be made;
4. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
5. Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and
6. Creating and publishing a written operating manual for each affordable housing program administered by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

1. The Borough's Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
2. The Borough's Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance. The Borough's Administrative Agent will be responsible for collecting monitoring information from any Administrative Agents appointed by specific developers.
3. The Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

## **ARTICLE IV            AFFIRMATIVE MARKETING REQUIREMENTS**

### **§ 5-21 Affirmative Marketing Program.**

- A. The Borough of River Edge shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to affordable housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan also is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 1 and covers the period of deed restriction.

- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1 comprised of Bergen, Passaic and Hudson Counties.
- D. The Administrative Agent designated by the Borough of River Edge shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four (4) months prior to the expected date of occupancy.
- H. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by River Edge Borough.

**ARTICLE V ENFORCEMENT OF AFFORDABLE HOUSING REGULATIONS**

**§ 5-22 Enforcement**

- A. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
    - a. A fine of not more than \$2,000.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
    - b. In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Oradell Affordable Housing Trust Fund of the gross amount of rent illegally collected;
    - c. In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

2. The Borough may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
  - a. The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - b. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
  - c. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
  - d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
  - e. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
  - f. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.



## ARTICLE VI AFFORDABLE HOUSING DEVELOPMENT FEES.

### § 5-23 Purpose.

- A. In Holmdel Builder's Ass'n 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.
- 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. The purpose of this section is to establish standards for the collection, maintenance and expenditure of development fees pursuant to COAH's rules and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing "low" and "moderate" income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

### § 5-24 When Effective, Authority to Spend Fees.

- A. Pursuant to N.J.A.C. 5:96-5.1, the ability to impose, collect and spend development fees is predicated on the Borough of River Edge's participation in COAH's substantive certification process or as approved by the courts.
- B. The Borough of River Edge shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

### § 5-25 Definitions.

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

*"Affordable housing development"* shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred (100%) percent affordable development.

*"COAH"* or the *"Council"* shall mean the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

*"Development fee"* shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

*"Developer"* shall mean 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"* shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

“Green building strategies” shall mean 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.

## § 5-26 Residential Development Fees.

### A. Imposed Fees:

1. In accordance with N.J.A.C. 5:97-8.3 (c) of COAH's "Substantive Rules," all new development of principal and accessory residential buildings within the Borough of River Edge, not exempt from the collection of development fees in accordance with the provisions specified in Subsection 23-74.4c. of this ordinance hereinbelow, shall pay a fee to River Edge Borough equal to one and one-half (1.5%) percent of the equalized assessed value of the residential construction, provided no increased density is permitted.
2. Notwithstanding the provisions of subsection 23-74.4a. hereinabove, if a "d" variance is granted pursuant to N.J.S.A. 40:55D-70 d.(5) for more residential units than otherwise permitted by right under the existing zoning, then the additional residential units realized as a result of the "d" variance approval shall pay a bonus development fee to River Edge Borough equal to six (6.0%) percent of the equalized assessed value of the residential development, rather than the one and one-half (1.5%) percent development fee otherwise required for the residential units permitted by right.
  - a. However, if the zoning of a site has changed during the immediate two (2) years prior to the filing of the "d" variance application, then the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two (2) year time period. . Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units, and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

### B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.

1. All affordable housing developments and developments where the developer has made a payment in lieu of constructing affordable units shall be exempt from paying development fees. All other forms of new construction shall be subject to development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of a development fee ordinance 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 construction permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that building permits are issued.
3. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded to add one or more additional dwelling units, if the expansion is not otherwise exempt from the development fee requirement. It is the intention of this Chapter that expansions to residential structures which do not add dwelling units are exempt from development fees. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
4. No development fee shall be collected for a demolition and replacement of a residential building resulting from a natural disaster and LEED certified green buildings shall be exempt from paying a development fee.

5. No development fee shall be collected for the construction of an "accessory structure" which is not a "building" as these terms are defined in the River Edge Borough "Land Development" Ordinance.

#### **§ 5-27 Nonresidential Development.**

##### **A. Imposed Fees:**

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
3. Development fees also shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half (2 1/2%) percent 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 nonresidential development fee shall be zero (0).

##### **B. Eligible Exactions, Ineligible Exactions and Exemptions for Nonresidential Development.**

1. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half (2.5%) percent development fee, unless otherwise exempted below.
2. The two and one-half (2.5%) percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form and listed below. Any exemption claimed by a developer shall be substantiated by that developer.
  - a. All nonresidential construction of buildings or structures on property used by houses of worship, and property used for educational purposes which is tax-exempt pursuant to R.S.54:4-3.6, provided that the property continues to maintain its tax-exempt status under that statute for a period of at least three (3) years from the date of the Certificate of Occupancy;
  - b. Parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a nonresidential development or as a stand-alone non-residential development;
  - c. Any nonresidential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers and senior centers as defined in section 35 of P.L.2008, c.46 (C.40:55D-8.4), which are developed in conjunction with or funded by a non-residential developer;
  - d. Projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the New Jersey State Department of Transportation; and

4. A developer of a nonresidential development exempted from the nonresidential development fee above shall be subject to it at such time the basis for the exemption set forth in this subsection no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three (3) years after that event or after the issuance of the final Certificate of Occupancy of the nonresidential development, whichever is later.
5. If a property which was exempted from the collection of a nonresidential 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 forty-five (45) days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of River Edge as a lien against the real property of the owner.

#### **§ 5-28 Collection Procedures.**

The Borough of River Edge shall collect development fees for affordable housing in accordance with the following:

- 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 or designated municipal 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 Borough Construction Official responsible for the issuance of a building permit shall notify the Borough Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within ninety (90) days of receipt of that notice, the Borough Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development. The equalized assessed value and the required development fee shall be estimated by the Borough Tax Assessor prior to the issuance of the construction permit, with the understanding that the estimate of the equalized assessed value is not intended to establish the equalized assessed value for tax purposes.
- E. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property 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; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Borough of River Edge 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. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of

occupancy. The developer shall be responsible for payment the difference between the fee calculated at building permit and that determined as issuance of certificate of occupancy.

- I. Developers shall pay the remainder of the development fee to River Edge Borough at the time of the issuance of a Certificate of Occupancy.
- J. Upon tender of the remaining development fee, provided the developer is in full compliance with all other applicable laws, the Borough shall issue a final Certificate of Occupancy for the subject property.
- K. Regardless of the time of collection of the development fee, the fee shall be based upon the percentage that applies on the date that the construction permit is issued.
- L. The Construction Code Official shall forward all collected development fees to River Edge Borough's Chief Financial Officer who shall deposit such fees into the established Housing Trust Fund.
- M. Appeal of development fees.
  - 1. A developer may challenge the development fees imposed by filing a challenge with the Director of the Division of Taxation for nonresidential development and with the County Board of Taxation for residential development. Pending a review and determination by the Director or Board, as the case may be, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough. Appeals from a determination of the Director or Board, as the case may be, 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 ninety (90) days after the date of such determination. Accrued interest earned on escrowed amounts to be returned shall also be returned to the developer.
  - 2. 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 Borough of River Edge. 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, N.J.S.A. 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.

**§ 5-29 Affordable Housing Trust Fund.**

- A. All collected development fees and any proceeds from the sale of units with extinguished controls shall be deposited by the Chief Financial Officer of the Borough of River Edge into a separate designated interest-bearing Housing Trust Fund, which shall be maintained by the Borough Chief Financial Officer.
  - 1. No money shall be expended from the Housing Trust Fund unless the expenditure conforms to the spending plan which has been approved by COAH or courts.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - 1. Recapture funds;
  - 2. Proceeds from the sale of affordable units;
  - 3. Rental income from municipally operated units;
  - 4. Payments in lieu of on-site construction of affordable units;

5. Affordable housing enforcement fines and application fees;
  6. Developer contributed funds for barrier free affordable housing pursuant to N.J.A.C. 5:97-8.5;
  7. Repayments from affordable housing program loans; and
  8. Any other funds collected in connection with the Borough's affordable housing program.
- C. Within seven (7) days from the opening of the trust fund account, the Borough of River Edge shall provide COAH or court with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH or court to permit COAH or the court to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- D. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by COAH.

**§ 5-30 Use of Funds.**

- A. Funds deposited in the Housing Trust Fund may be used for any housing activity as itemized in the spending plan and approved by COAH to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to:
1. A rehabilitation program;
  2. New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
  3. Accessory apartment, market to affordable, or regional affordable housing partnership programs;
  4. Financial assistance designed to increase affordability;
  5. Conversion of existing nonresidential buildings to create new affordable units;
  6. Acquisition and/or improvement of land to be used for affordable housing;
  7. Purchase of existing market rate or affordable housing for the purpose of maintaining or implementing affordability controls, such as in the event of a foreclosure;
  8. Extensions or improvements of roads and infrastructure directly serving affordable housing sites; in the case of inclusionary developments, costs shall be prorated based on the proportion of affordable housing units included in the development;
  9. Green building strategies designed to be cost-saving for low and moderate income households, either for new construction that is not funded by other sources, or as part of necessary maintenance or repair of existing units, in accordance with accepted Federal or State standards or such guidance as may be provided by the New Jersey State Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;
  10. Maintenance and repair of affordable housing units;
  11. Repayment of municipal bonds issued to finance low and moderate income housing activity;

12. To defray the costs of structural parking; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
  13. Administration necessary for implementation of the Housing Plan Element and Fair Share Plan, in accordance with subsection 23-74.8g. below; and
  14. Any other activity as specified in the approved spending plan and as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9.
- B. The Borough also may request authorization for expenditure of Housing Trust Funds on emergent affordable housing mechanisms not included in the Borough's Fair Share Plan in the form of an amendment to the spending plan. In addition to the amendment to the spending plan, the Borough shall submit the following:
1. A resolution to COAH or court that includes a certification that the affordable housing opportunity addresses COAH's or court's criteria set forth in N.J.A.C. 5:97-6 and information regarding the proposed mechanism in a format to be provided by COAH or court; and
  2. An amendment to its Fair Share Plan to include the mechanism at the earlier of two (2) years after COAH's or court's approval of the spending plan amendment or the next planned amendment to the Fair Share Plan resulting from the plan evaluation review pursuant to N.J.A.C. 5:96-10.
- C. Funds shall not be expended to reimburse the Borough of River Edge for past housing activities.
- D. Payments in lieu of constructing affordable housing units on residential and mixed-use sites shall only be used to fund eligible affordable housing activities within the Borough.
- E. At least thirty (30%) percent of all development fees collected and interest earned shall be devoted to providing affordability assistance to low and moderate income households in affordable units included in the Housing Element and Fair Share Plan, provided and in accordance with the following:
1. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to very low income households.
  2. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, and assistance with emergency repairs.
  3. Affordability assistance for very low income households may include buying down the cost of low or moderate income units in the third round Borough's Fair Share Plan to make them affordable to very low income households (earning thirty (30%) percent or less of median income). The use of development fees in this manner may entitle the Borough to bonus credits pursuant to N.J.A.C. 5:97-3.7.
  4. 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.
- F. The Borough of River Edge 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, subject to COAH's approval.
- G. No more than twenty (20%) percent of development fee revenues collected in any given year from the development fees may be expended on administration, including, but not limited to, the salaries and benefits for River Edge Borough employees or consultant

fees necessary to develop or implement a new affordable housing program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.

1. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses.
2. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with COAH's monitoring requirements.
3. Legal or other fees related to litigation opposing affordable housing sites or objecting to COAH's regulations and/or action are not eligible uses of the Housing Trust Fund.

#### **§ 5-31 Monitoring.**

- A. The Borough of River Edge Municipal Housing Liaison shall coordinate with the appropriate municipal officials the completion and return to COAH of all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines and application fees, and any other funds collected in connection with the Borough's housing program, and the expenditure of revenues and implementation of the plan certified by COAH.
- B. At minimum, the monitoring shall include an accounting of any Housing Trust Fund activity, identifying the source and amount of funds collected, the amount and purpose for which any funds have been expended, and the status of the spending plan regarding the remaining balance pursuant to N.J.A.C. 5:97-8.10(a)8.
- C. All monitoring reports shall be completed on forms designed by COAH.

#### **§ 5-32 Ongoing Collection of Development Fees and Expiration of Section.**

- A. The ability for the Borough of River Edge to impose, collect and expend development fees shall expire with its Substantive Certification unless River Edge Borough has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for Substantive Certification, and has received COAH's approval of its Development Fee Ordinance.
- B. If the Borough of River Edge fails to renew its ability to impose and collect development fees prior to the date of expiration of Substantive Certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund.
- C. 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).
- D. The Borough of River Edge shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Substantive Certification, or judgment of compliance, nor shall the Borough of River Edge retroactively impose a development fee on such a development.
- E. The Borough of River Edge shall not expend development fees after the expiration of its Substantive Certification or judgment of compliance.

#### **§ 50-33 Appeals.**



Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Superior Court or other agency as provided for by law.

**SECTION 2.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**SECTION 3.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of River Edge, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of River Edge are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**SECTION 4.** The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Bergen County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

**SECTION 5.** After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of River Edge for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

**SECTION 6.** This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16.

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Thomas Papaleo, Mayor

ATTEST:

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Stephanie Evans, Borough Clerk

**OPEN HEARING OF THE PUBLIC – Ordinance #20-17**

On motion by Councilwoman Busted, seconded by Councilman Chinigo to open the hearing on Ordinance #20-17 was unanimously approved.

**CLOSE HEARING OF THE PUBLIC – Ordinance #20-17**

There being no comments by the public, the motion by Councilman Chinigo, seconded by Councilwoman Busted to close the hearing on Ordinance #20-17 was unanimously approved.

**ADOPTION – Ordinance #20-17**

On motion by Councilman Gautier, seconded by Councilwoman Kaufman, the adoption of Ordinance #20-17 as amended was unanimously approved.

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**RESOLUTIONS - By Consent**

On motion by Councilwoman Kaufman, seconded by Councilwoman Kinsella, resolution #20-214 through #20-221 were unanimously approved.

**#20-214 Approve Renewal of Liquor License**

WHEREAS, application for renewal of liquor licenses have been filed with the Clerk of the Borough of River Edge by the following licenses; and

WHEREAS, reports have been received from the Police Department, Fire Prevention Official and the Department of Health that the following premises holding liquor licenses in the Borough have been found in order in accordance with the rules and regulations of this Borough and the required fees have been received.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council for the Borough of River Edge that the following licenses be issued for the premises described for a period of one (1) year commencing July 1, 2020; and

BE IT FURTHER RESOLVED that Stephanie Evans, Borough Clerk, be directed to sign and deliver said licenses on behalf of the Borough of River Edge.

**PLENARY CONSUMPTION LICENSES**

0252-33-004-002	PBJ Restaurant LLC, T/A Feathers, 77 Kinderkamack Road. River Edge, New Jersey 07661	\$2,500.00
0252-44-002-012	Country Wine & Liquors, LLC T/A Country Wine & Liquors 842 Kinderkamack Road River Edge, New Jersey 07661	\$2,500.00

September 21, 2020

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**#20-215 Authorize the Tax Collector to Refund 2019 Taxes Due to a NJ Tax Court Judgment**

WHEREAS, a Tax Court Judgment was entered on 7/29/20 and the same was received by the tax office on 8/4/20 reducing the assessed value on the property owned by 570 Kinderkamack LLC., Block 804, Lot 1, located at 574 Kinderkamack Road, River Edge; and

WHEREAS, the 2019 taxes are paid in full.

NOW, THEREFORE, BE IT RESOLVED that the Account Supervisor refund the following amount and the Tax Collector adjust her records accordingly.

<u>Tax Year</u>	<u>Old Value</u>	<u>New Value</u>	<u>Refund</u>
2019	1,025,400	825,400	6,936.00

Make check payable to: Michael Vespasiano/570 Kinderkamack LLC  
c/o Law Office of Michael Vespasiano  
331 Main Street  
Chatham, NJ 07928

September 21, 2020

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**#20-216 Authorize the Tax Collector to Refund 2019 Taxes Due to a NJ Tax Court Judgment**

WHEREAS, a Tax Court Judgment was entered on 7/29/20 and the same was received by the tax office on 8/4/20 reducing the assessed value on the property owned by 570 Kinderkamack LLC., Block 804, Lot 2, located at 570 Kinderkamack Road, River Edge; and

WHEREAS, the 2019 taxes are paid in full.

NOW, THEREFORE, BE IT RESOLVED that the Account Supervisor refund the following amount and the Tax Collector adjust her records accordingly.

<u>Tax Year</u>	<u>Old Value</u>	<u>New Value</u>	<u>Refund</u>
2019	594,500	518,500	2,635.68

Make check payable to: Michael Vespasiano/570 Kinderkamack LLC  
c/o Law Office of Michael Vespasiano  
331 Main Street  
Chatham, NJ 07928

September 21, 2020

#20-217 Authorize Account Supervisor to Refund Duplicate Easement Payment for 3<sup>rd</sup> Quarter 2020

WHEREAS, the finance office has received a duplicate payment and/ overpayment for 3<sup>rd</sup> Quarter 2020 on the following property(s); and

WHEREAS, a written request was received from the homeowner and/or their Mortgage Company/Title Company to refund the overpaid amount directly to the homeowner who made the over payment.

NOW, THEREFORE, BE IT RESOLVED that the Account Supervisor is hereby authorized to issue a check in the following amounts and adjust her records accordingly.

<u>Block/Lot</u>	<u>Location</u>	<u>Name &amp; Address</u>	<u>Refund Amount</u>
212/25.01	836 Kinderkamack Rd	Minsoo Kim Jiyoun Hwang 35 Jordan Dr. River Edge, NJ 07661	450.00

September 21, 2020

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#20-218 Resolution Combining Several Authorizations of Bonds into a Single Issue and Prescribing the Details and Bond Form Thereof for \$5,605,000 General Improvement Bonds Dated October 15, 2020

WHEREAS, the bond ordinances hereinafter described have been duly adopted and it is necessary to provide for the issuance of the bonds authorized by such bond ordinances;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of River Edge, in the County of Bergen, New Jersey (the "Borough"), as follows:

Section 1. There shall be issued at this time \$130,000 of the bonds authorized pursuant to Bond Ordinance No. 1836 adopted by the Borough Council of said Borough on June 15, 2015. The bonds are issued to finance the undertaking of the Kinderkamack Road Regional Revitalization Project (Phase 3) in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 2. There shall be issued at this time \$135,000 of the bonds authorized pursuant to Bond Ordinance No. 1837 adopted by the Borough Council of said Borough on June 15, 2015. The bonds are issued to finance the undertaking of the School Safety Improvement Project in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 3. There shall be issued at this time \$176,225 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the undertaking of the 2018 Road Resurfacing and Improvement Program in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 4. There shall be issued at this time \$100,700 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April

23, 2018. The bonds are issued to finance the undertaking of storm water drainage and sanitary sewer improvements at various locations in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 40 years computed from the date of such bonds.

Section 5. There shall be issued at this time \$15,105 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the undertaking of sidewalk improvements at various locations in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 6. There shall be issued at this time \$386,042 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the undertaking of various improvements at the Public Library in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 7. There shall be issued at this time \$25,175 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the acquisition of television and computer equipment for use in the Council Chambers and an office desk for the use of the Office of the Borough Clerk in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 5 years computed from the date of such bonds.

Section 8. There shall be issued at this time \$18,524 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the acquisition of copiers for the use of the Office of the Borough Clerk and the Recreation Department in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 9. There shall be issued at this time \$457,378 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the acquisition of a sanitary sewer pump, a sewer jet vacuum machine and a vehicle diagnostic scanner for the use of the Department of Public Works ("DPW") in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 15 years computed from the date of such bonds.

Section 10. There shall be issued at this time \$10,070 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the undertaking of various traffic and pedestrian safety improvements and equipment acquisitions in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 11. There shall be issued at this time \$11,832 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the acquisition of a snow plow and radios for the use of the DPW in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 5 years computed from the date of such bonds.

Section 12. There shall be issued at this time \$124,224 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the reconditioning of a fire rescue truck and the acquisition of a storage shed, turnout gear, radios and a command vehicle for the use of the Fire Department in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 5 years computed from the date of such bonds.

Section 13. There shall be issued at this time \$27,390 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the acquisition of a turnout gear washer-extractor and a

thermal imaging camera for the use of the Fire Department in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 14. There shall be issued at this time \$75,525 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the acquisition of computer equipment, radios and an SUV for the use of the Police Department in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 5 years computed from the date of such bonds.

Section 15. There shall be issued at this time \$56,090 of the bonds authorized pursuant to Bond Ordinance No. 18-10 adopted by the Borough Council of said Borough on April 23, 2018. The bonds are issued to finance the acquisition of in-vehicle cameras, an alcoltest machine and a radar unit for the use of the Police Department in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 16. There shall be issued at this time \$38,000 of the bonds authorized pursuant to Bond Ordinance No. 18-18 adopted by the Borough Council of said Borough on August 13, 2018. The bonds are issued to finance the replacement of sidewalks and curb ramps at various locations in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 17. There shall be issued at this time \$147,476 of the bonds authorized pursuant to Bond Ordinance No. 18-20 adopted by the Borough Council of said Borough on September 24, 2018. The bonds are issued to finance the acquisition of a new front end loader for the use of the DPW in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 15 years computed from the date of such bonds.

Section 18. There shall be issued at this time \$280,000 of the bonds authorized pursuant to Bond Ordinance No. 18-24 adopted by the Borough Council of said Borough on November 19, 2018. The bonds are issued to finance the resurfacing of Bogert Road (Section 2) and Howland Avenue (Section 7, Phase V) and the construction and reconstruction of sidewalks, curbs and driveway aprons along and in front of a portion of such streets in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 19. There shall be issued at this time \$1,697,291 of the bonds authorized pursuant to Bond Ordinance No. 19-13 adopted by the Borough Council of said Borough on May 28, 2019. The bonds are issued to finance the installation of a keyless door entry system at the Municipal Building and the acquisition of computer equipment, including printers, for the use of various Borough Departments, offices and agencies; roof restoration at the DPW Building, pump replacement at the Wayne Sanitary Sewer Pump Station, replacement of fencing at the Municipal Building parking lot, various exterior improvements to the Kenneth B. George Park Field House and installation of an ADA-access concrete ramp at Veterans Memorial Park; repair or replacement of various doors at the Municipal Building and rehabilitation of the sewer ejector pump and pit at the Public Safety Building; the undertaking of various traffic and pedestrian safety improvements and equipment acquisitions; the acquisition of a front end loader, a pickup truck, light bars and radios for installation on various vehicles and equipment for the use of the DPW; the acquisition of fire hose, nozzles and adapters, turnout gear, radios, a command vehicle, battery operated folding exhaust fans, a thermal imaging camera, a rescue pumper fire engine (partial funding) and a special operations truck for the use of the Fire Department; the undertaking of the 2019 Road Resurfacing and Improvement Program; the undertaking of storm water drainage and sanitary sewer improvements at various locations; the replacement of various counter tops at the Public Library; the acquisition of a computer system for online registration and facilities registration for the use of the Recreation Department; and the acquisition of a traffic counter, weapons and related equipment and an SUV for the use of the Police Department, all in, by and for the Borough. The average period of usefulness of the several purposes to be financed by such bond ordinance is a period of 13.54 years computed from the date of such bonds.

Section 20. There shall be issued at this time \$58,285 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the resurfacing of Reservoir Avenue in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 21. There shall be issued at this time \$105,000 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to provide supplemental funding for the undertaking of the School Safety Improvement Project in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 22. There shall be issued at this time \$31,547 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the undertaking of field renovations and installation of an irrigation system at Roosevelt Field in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 15 years computed from the date of such bonds.

Section 23. There shall be issued at this time \$41,428 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the undertaking of the design phase for various park and recreation improvements in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 15 years computed from the date of such bonds.

Section 24. There shall be issued at this time \$45,714 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the acquisition of self-contained breathing apparatus equipment and radio equipment for the use of the Fire Department in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 25. There shall be issued at this time \$631,957 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the undertaking of (i) the design phase for the resurfacing of Bogert Road (Section 5) and (ii) the 2020 Road Resurfacing and Improvement Program (including curbing and sidewalk improvements, where necessary in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 26. There shall be issued at this time \$291,714 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the undertaking of various traffic and pedestrian safety improvements, equipment acquisitions and sidewalk and ADA ramp improvements at various locations in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 27. There shall be issued at this time \$38,095 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the undertaking of the design phase for electrical system improvements at the DPW Garage in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 15 years computed from the date of such bonds.

Section 28. There shall be issued at this time \$118,095 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the acquisition of a pickup truck and a mason dump truck for the use of the DPW in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 5 years computed from the date of such bonds.

Section 29. There shall be issued at this time \$115,238 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the acquisition of mobile data terminals and SUVs for the use of the Police Department in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 5 years computed from the date of such bonds.

Section 30. There shall be issued at this time \$95,238 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to provide partial funding for the acquisition of a new rescue pumper fire engine in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 10 years computed from the date of such bonds.

Section 31. There shall be issued at this time \$120,642 of the bonds authorized pursuant to Bond Ordinance No. 20-06 adopted by the Borough Council of said Borough on May 11, 2020. The bonds are issued to finance the undertaking of the Tree Planting Program and improvements to public buildings and property in, by and for the Borough. The period of usefulness of the purpose to be financed by such bond ordinance is a period of 15 years computed from the date of such bonds.

Section 32. The bonds authorized by said eight bond ordinances described in Sections 1 to 31, inclusive, of this resolution shall be issued as a single issue of bonds, aggregating \$5,605,000 consisting of an issue of bonds of the denomination of \$5,000 each or any integral multiple thereof, numbered in the order of their maturity. In the event that the purchaser of the bonds elects to take bonds in the last maturity which are not in multiples of \$5,000, or, if there are any such bonds herein, such bonds shall be in the denomination of \$1,000 or any integral multiple thereof, numbered upwards from the last numbered \$5,000 bond. The average period of usefulness within which the bonds authorized by said eight bond ordinances mature, according to the respective reasonable lives of the purposes to be financed, as determined in said ordinances taking into consideration the respective amounts of bonds authorized for the purposes to be financed as set forth in each of the bond ordinances hereinbefore set forth, is a period of 11.93 years computed from the date of such bonds. Said issue shall be payable in annual installments on October 15 in each year as follows:

- \$285,000 in the year 2021,
- \$315,000 in the year 2022,
- \$500,000 in the year 2023,
- \$550,000 in each of the years 2024 and 2025,
- \$555,000 in the year 2026, and
- \$570,000 in each of the years 2027 to 2031, inclusive.

Said bonds shall be designated "General Improvement Bonds". A portion of the indebtedness evidenced by each such bond shall be deemed to have been incurred for the purpose described in each bond ordinance authorizing bonds of the same maturity, and such portion of such indebtedness shall be in the same proportion to the principal amount of such bonds as the total amount of bonds of like maturity to be issued pursuant to such bond ordinance bears to the aggregate amount of bonds of like maturity to be issued pursuant to such eight bond ordinances.

Section 33. All of said bonds shall be dated October 15, 2020, and shall bear interest from their date until their respective maturities at the rates per annum named in the proposal accepted. Such rates of interest shall be determined at the time said bonds are sold. Such interest shall be payable on each April 15 and October 15, commencing April 15, 2021 (each, an "Interest Payment Date"), in each year until maturity or prior redemption.

Section 34. The bonds maturing on or before October 15, 2027 are not subject to redemption prior to their stated maturities. The bonds maturing on or after October 15, 2028 are subject to redemption at the option of the Borough prior to maturity, in whole on any date or in part on any Interest Payment Date, on or after October 15, 2027, upon notice as hereinafter set forth at the redemption price of 100% of the principal amount being redeemed, plus accrued interest to the date fixed for redemption.

If the Borough determines to optionally redeem a portion of the bonds prior to maturity, such bonds so redeemed shall be in such maturities as determined by the Borough, and

within any maturity, by lot; *provided, however*, that the portion of any bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting bonds for redemption, the Bond Registrar/Paying Agent (as hereinafter defined) shall treat each bond as representing that number of bonds that is obtained by dividing the principal amount of such bond by \$5,000.

Section 35. Notice of redemption shall be given by first class mail in a sealed envelope with postage prepaid to the registered owners of the bonds at their respective addresses as they last appear on the registration books kept for that purpose by the Bond Registrar/Paying Agent at least thirty (30) but not more than sixty (60) days before the date fixed for redemption. Such mailing is not a condition precedent to redemption, and the failure to mail or to receive any redemption notice will not affect the validity of the redemption proceedings. If any bond subject to redemption is a part of a greater principal amount of the bonds not to be redeemed, such entire amount shall be surrendered to the Bond Registrar/Paying Agent and, for that portion of the bond not to be redeemed, a new bond shall be issued in the name of the registered owner in an amount equal to the principal amount of the bond surrendered less the amount to be redeemed.

Section 36. The bonds will be issued in fully registered form by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("DTC"), and immobilized in its custody. The book-entry system will evidence ownership of the bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the bonds will be payable at the times stated in Section 33 of this resolution, and principal of the bonds will be paid annually on October 15, as set forth in the maturity schedule hereinbefore stated, in immediately available funds to DTC or its nominee as registered owner of the bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. Interest will be payable to owners of bonds shown on the records of DTC as of the last business day of the month preceding the month in which such interest payment date occurs. The Borough will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the bonds, or (b) the Borough determines that continuation of the book-entry system of evidence and transfer of ownership of the bonds would adversely affect the interests of the beneficial owners of the bonds, the Borough will discontinue the book-entry system with DTC. If the Borough fails to identify another qualified securities depository to replace DTC, the Borough will authenticate and deliver replacement bonds in the form of fully registered certificates.

The principal of and the interest on the bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

Section 37. The Chief Financial Officer, pursuant to N.J.S.A. 40A:2-34, is hereby authorized to sell and award the bonds in accordance with the terms of the notice of sale, such terms to be determined by a resolution of the Borough Council to be hereafter adopted. The Chief Financial Officer shall report in writing to the Borough Council at the next meeting after the sale of the bonds as to the principal amount, interest rates and maturities of the bonds sold, the price obtained and the name of the purchaser.

Section 38. All of said bonds shall be signed by the Mayor by manual or facsimile signature and by the Chief Financial Officer by manual or facsimile signature and the corporate seal of said Borough shall be imprinted, affixed or reproduced thereon and such seal shall be attested by the Borough Clerk or Deputy Borough Clerk by manual or facsimile signature. The bonds will be authenticated by the manual signature of the Bond Registrar/Paying Agent.

Section 39. Each of said bonds shall be issued in substantially the following form:

[Form of Bond]



Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-\_\_

\$\_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF NEW JERSEY  
COUNTY OF BERGEN  
BOROUGH OF RIVER EDGE  
GENERAL IMPROVEMENT BOND

INTEREST  
RATE PER

ANNUM    MATURITY DATE    DATED DATE    CUSIP

          %                    OCTOBER 15, 20\_\_                    OCTOBER 15, 2020                    768126

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: -----DOLLARS

The Borough of River Edge, a municipal corporation of the State of New Jersey, located in the County of Bergen (hereinafter referred to as the "Borough"), for value received hereby acknowledges itself indebted and promises to pay to the REGISTERED OWNER named above, on the MATURITY DATE specified above, upon surrender hereof, the PRINCIPAL SUM stated above and to pay to the REGISTERED OWNER hereof interest thereon from the DATED DATE of this Bond until it shall mature at the INTEREST RATE PER ANNUM specified above, payable on each April 15 and October 15, commencing April 15, 2021 (each, an "Interest Payment Date"), of each year until maturity or prior redemption. The principal hereof is payable at the office of the Chief Financial Officer, Municipal Building, 705 Kinderkamack Road, River Edge, New Jersey 07661 (the "Bond Registrar/Paying Agent"). The interest so payable on any such Interest Payment Date will be paid to the person in whose name this Bond is registered on the record date for such interest, which shall be the last business day of the month preceding the month in which such Interest Payment Date occurs. Both the principal of and the interest on this Bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof.

This Bond is one of an issue of Bonds of like date and tenor, except as to number, denomination, interest rate and maturity, issued pursuant to the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes, as amended) and pursuant to eight bond ordinances adopted by the Borough Council of the Borough on June 15, 2015 (two ordinances: Ord. Nos. 1836 and 1837), April 23, 2018 (Ord. No. 18-10), August 13, 2018 (Ord. No. 18-18), September 24, 2018 (Ord. No. 18-20), November 19, 2018 (Ord. No. 18-24), May 28, 2019 (Ord. No. 19-13) and May 11, 2020 (Ord. No. 20-06) and resolutions adopted by the Borough Council of the Borough on September 21, 2020.

The Bonds maturing on or before October 15, 2027 are not subject to redemption prior to their stated maturities. The Bonds maturing on or after October 15, 2028 are subject to redemption at the option of the Borough prior to maturity, in whole on any date or in part on any Interest Payment Date, on or after October 15, 2027, upon notice as hereinafter set forth at the

redemption price of 100% of the principal amount being redeemed, plus accrued interest to the date fixed for redemption.

If the Borough determines to optionally redeem a portion of the Bonds prior to maturity, such Bonds so redeemed shall be in such maturities as determined by the Borough, and within any maturity, by lot; *provided, however*, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, the Bond Registrar/Paying Agent shall treat each Bond as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000.

Notice of redemption shall be given by first class mail in a sealed envelope with postage prepaid to the registered owners of the Bonds at their respective addresses as they last appear on the registration books kept for that purpose by the Bond Registrar/Paying Agent at least thirty (30) but not more than sixty (60) days before the date fixed for redemption. Such mailing is not a condition precedent to redemption, and the failure to mail or to receive any redemption notice will not affect the validity of the redemption proceedings. If any Bond subject to redemption is a part of a greater principal amount of the Bonds not to be redeemed, such entire amount shall be surrendered to the Bond Registrar/Paying Agent and, for that portion of the Bond not to be redeemed, a new Bond shall be issued in the name of the registered owner in an amount equal to the principal amount of the Bond surrendered less the amount to be redeemed.

The Bond Registrar/Paying Agent shall keep at its office the books of the Borough for the registration of transfer of Bonds. The transfer of this Bond may be registered only upon such books and as otherwise provided in the resolution upon the surrender hereof to the Bond Registrar/Paying Agent together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar/Paying Agent. Upon any such registration of transfer, the Bond Registrar/Paying Agent shall deliver in exchange for this Bond a new bond or bonds, registered in the name of the transferee, of authorized denomination, in an aggregate principal amount equal to the unredeemed principal amount of this Bond, of the same maturity and bearing interest at the same rate. It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of New Jersey, to exist, be performed or happen precedent to or in the issuance of this Bond exist, have been performed and have happened, and that this Bond together with all other indebtedness of the Borough, is within every debt and other limit prescribed by the Constitution or statutes of said State.

The full faith and credit of the Borough are hereby pledged irrevocably to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond shall not be valid or become obligatory for any purpose until the Certification of Authentication hereon shall have been signed by the Bond Registrar/Paying Agent.

IN WITNESS WHEREOF, the Borough has caused this Bond to be signed by its Mayor by manual or facsimile signature and by its Chief Financial Officer by manual or facsimile signature, and its seal to be impressed, affixed or reproduced hereon, and said seal to be attested by its Borough Clerk by manual or facsimile signature and this Bond to be dated October 15, 2020.

[SEAL]

(manual or facsimile signature)  
Mayor

ATTEST:

(manual or facsimile signature)  
Borough Clerk

(manual or facsimile signature)  
Chief Financial Officer

AUTHENTICATION DATE: OCTOBER 19, 2020

CERTIFICATION OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned resolutions and is one of the General Improvement Bonds dated October 15, 2020 of the Borough of River Edge, in the County of Bergen, State of New Jersey.

Chief Financial Officer,  
as Bond Registrar/Paying Agent

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_, the within Bond and irrevocably appoints \_\_\_\_\_, attorney-in-fact, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without any alteration whatsoever.

Signature Guaranteed:

\_\_\_\_\_

[End of Form of Bond]

Section 40. Bonds may, upon surrender thereof at the office of the Bond Registrar/Paying Agent together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar/Paying Agent and, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any bond may be registered only upon the registration books of the Borough upon the surrender thereof to the Bond Registrar/Paying Agent together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar/Paying Agent. Upon any such registration of transfer, the Bond Registrar/Paying Agent shall authenticate and deliver in exchange for such bond a new bond or bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which bonds shall be exchanged or the transfer of bonds shall be registered hereunder, the Bond Registrar/Paying Agent shall authenticate and deliver at the earliest practicable time bonds in accordance with the provisions of this resolution. All bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Bond Registrar/Paying Agent. The Borough or the Bond Registrar/Paying Agent may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made for exchanging or registering the transfer of bonds under this resolution.

As to any bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such bond and the interest on any such bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such bond, including interest thereon, to the extent of the sum or sums so paid.

The Borough shall appoint such registrars, transfer agents, depositories or other agents and make such other arrangements as may be necessary for the registration, registration of transfer and exchange of bonds within a reasonable time according to the then commercial standards and for the timely payment of principal and interest with respect to the bonds. The Chief Financial Officer is hereby appointed registrar and paying agent for the Bonds (the "Bond Registrar/Paying Agent") subject to the right of the Borough Council to appoint another Bond Registrar/Paying Agent, and, as such, shall keep at the Municipal Building, 705 Kinderkamack Road, River Edge, New Jersey 07661, the books of the Borough for the registration, registration of transfer, exchange and payment of the bonds.

Section 41. The Mayor, the Chief Financial Officer and the Borough Clerk are hereby authorized and directed to cause said bonds to be prepared and to execute and deliver said bonds upon payment of the purchase price therefor.

Section 42. This resolution shall take effect immediately upon its adoption.

September 21, 2020

#20-219 Resolution Authorizing the Publication, Printing and Distribution of a Notice of Sale and the Publication of a Summary Notice of Sale and Prescribing the Forms Thereof for \$5,605,000 General Improvement Bonds, Dated October 15, 2020, Approving the Preparation, Distribution and Execution of a Preliminary and Final Official Statement for Such Bonds, Undertaking to Provide Continuing Disclosure of Financial Information, Covenanting to Comply with the Internal Revenue Code of 1986, as Amended, Designating Such Bonds as "Qualified Tax-Exempt Obligations" for Purposes of the Internal Revenue Code of 1986, as Amended, and Authorizing Various Matters in Connection with Electronic Bidding for the Bonds

WHEREAS, the Borough Council of the Borough of River Edge, in the County of Bergen, New Jersey (the "Borough"), desires to make further provision for the issuance of \$5,605,000 General Improvement Bonds (the "Bonds"), which are to be issued pursuant to bond ordinances heretofore adopted by the Borough Council;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of River Edge, in the County of Bergen, as follows:

Section 1. A Notice of Sale (the "Full Notice of Sale") shall be published and printed and inserted in the Preliminary Official Statement (as hereinafter defined) for distribution in substantially the following form:

NOTICE OF SALE

BOROUGH OF RIVER EDGE,  
IN THE COUNTY OF BERGEN, NEW JERSEY

\$5,605,000 GENERAL IMPROVEMENT BONDS  
(Book-Entry Only) (Bank-Qualified)  
(Callable) (Parity Bid)

dated  
October 15, 2020

The Borough of River Edge, in the County of Bergen, a municipal corporation of the State of New Jersey (the "Borough"), hereby invites ELECTRONIC BIDS VIA PARITY AND SEALED PROPOSALS for the purchase of its \$5,605,000 General Improvement Bonds, dated October 15, 2020 (the "Bonds").

ELECTRONIC BIDS VIA PARITY AND SEALED PROPOSALS will be received and publicly opened and announced by the Chief Financial Officer at the Municipal Building, 705 Kinderkamack Road, River Edge, New Jersey 07661, on October 8, 2020 at 11:00 o'clock A.M. (local time).

The Bonds comprise an issue of bonds payable on October 15 in each year as follows:

\$285,000 in the year 2021,  
\$315,000 in the year 2022,  
\$500,000 in the year 2023,  
\$550,000 in each of the years 2024 and 2025,  
\$555,000 in the year 2026, and  
\$570,000 in each of the years 2027 to 2031, inclusive.

To the extent any instructions or directions set forth in PARITY conflict with this Notice of Sale, the terms of this Notice of Sale shall control. For further information about PARITY, potential bidders may contact Ipreo at 1359 Broadway, 2nd Floor, New York, NY 10018, telephone (212) 849-5021.

The Bonds shall be issued in registered form by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("DTC") and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of \$5,000 or any integral multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The successful bidder, as a condition to delivery of the Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., its nominee. Interest on the Bonds will be payable on each April 15 and October 15, commencing April 15, 2021 (each, an "Interest Payment Date"), in each year until maturity or prior redemption, and principal of the Bonds will be payable, at maturity, by payment of immediately available funds by the Bond Registrar/Paying Agent to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest to participants of DTC will be the responsibility of DTC. Transfer of principal and interest to beneficial owners will be the responsibility of the DTC participants and other nominees of the beneficial owners. The Borough will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In the event (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Borough determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the Borough will discontinue the book-entry system with DTC. If the Borough fails to identify another qualified securities depository to replace DTC, the Borough will deliver replacement bonds in the form of fully registered certificates.

The Bonds maturing on or before October 15, 2027 are not subject to redemption prior to their stated maturities. The Bonds maturing on or after October 15, 2028 are subject to redemption at the option of the Borough prior to maturity, in whole on any date or in part on any Interest Payment Date, on or after October 15, 2027, upon notice as hereinafter set forth at the redemption price of 100% of the principal amount being redeemed, plus accrued interest to the date fixed for

redemption.

If the Borough determines to optionally redeem a portion of the Bonds prior to maturity, such Bonds so redeemed shall be in such maturities as determined by the Borough, and within any maturity, by lot; *provided, however*, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, the Bond Registrar/Paying Agent shall treat each Bond as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000.

Notice of redemption shall be given by first class mail in a sealed envelope with postage prepaid to the registered owners of the Bonds at their respective addresses as they last appear on the registration books kept for that purpose by the Bond Registrar/Paying Agent at least thirty (30) but not more than sixty (60) days before the date fixed for redemption. Such mailing is not a condition precedent to redemption, and the failure to mail or to receive any redemption notice will not affect the validity of the redemption proceedings. If any Bond subject to redemption is a part of a greater principal amount of the Bonds not to be redeemed, such entire amount shall be surrendered to the Bond Registrar/Paying Agent and, for that portion of the Bond not to be redeemed, a new Bond shall be issued in the name of the registered owner in an amount equal to the principal amount of the Bond surrendered less the amount to be redeemed.

The Bonds are general obligations of the Borough and are secured by a pledge of the full faith and credit of the Borough for the payment of the principal thereof and the interest thereon. The Bonds are payable, if not paid from other sources, from ad valorem taxes to be levied upon all the real property taxable within the Borough without limitation as to rate or amount.

Each proposal submitted must name the rate or rates of interest per annum to be borne by the Bonds bid for, and the rate or rates named must be a multiple of 1/8th or 1/20th of one percentum (1%). The interest payable with respect to each Bond on any one date will be evidenced by a single rate of interest. Not more than one rate may be named for Bonds of the same maturity. There is no limitation on the number of rates that may be named. If more than one rate of interest is named, no interest rate named for any maturity may be less than the interest rate named for any prior maturity. Each proposal submitted must be for all of the Bonds offered and the purchase price specified must not be less than \$5,605,000 nor more than \$5,661,050. The Bonds will be awarded to the bidder on whose bid the total loan may be made at the lowest net interest cost, such net interest cost shall be computed, as to each bid, by adding to the total principal amount of Bonds bid for (which shall be all of the Bonds offered) the total interest cost to maturity in accordance with such bid and by deducting therefrom the amount of premium, if any, bid, which premium shall not exceed \$56,050 (1% of par). No proposal shall be considered which offers to pay an amount less than the principal amount of Bonds offered for sale or under which the total loan is made at an interest cost higher than the lowest net interest cost to the Borough under any legally acceptable proposal. The Borough reserves its right to reject all bids, and any bid not complying with the material terms of this notice will be rejected. The Borough reserves the right to waive defects it deems non-material, in its sole discretion.

The successful bidder must pay accrued interest from the date of the Bonds to the date of delivery. No interest will be paid upon the deposit made by the successful bidder. The Bonds will be authenticated by the Chief Financial Officer, acting as Bond Registrar/Paying Agent for the Bonds.

Sealed proposals should be addressed to the undersigned Chief Financial Officer, and enclosed in a sealed envelope marked on the outside "Proposal for Bonds". A good faith deposit (the "Deposit") in the form of a cash wire or a certified, treasurer's or cashier's check drawn upon a bank or trust company in the amount of \$112,100, payable to the order of the BOROUGH OF RIVER EDGE, is required for each bid to be considered. If a cash wire is used, the wire must be received by the Borough no later than 11:00 A.M. on October 8, 2020. If a cash wire is utilized, each bidder must notify the Borough of its intent to use such cash wire prior to 11:00 A.M. on October 8, 2020, and must provide proof of electronic transfer of such cash wire prior to 11:00 A.M. on October 8, 2020 (with return wiring instructions). Wire instructions for the Borough can be obtained by contacting the Borough's Bond Counsel (Steven Rogut or Peter Calhoun (908) 931-1150) or its municipal advisor (Jennifer G. Edwards (856) 234-2266 at Acacia Financial Group, Inc., Mount Laurel, New Jersey (the "Municipal Advisor")). If a check is used, it must accompany the bid or be

received by the undersigned Chief Financial Officer prior to the opening of bids. Each bidder accepts responsibility for delivering such cash wire or check on time and the Borough is not responsible for any cash wire or check that is not received on time. Checks or wires of unsuccessful bidders will be returned upon the award of the Bonds. No interest on the Deposit will accrue to the successful bidder. The Deposit will be applied in part payment for the Bonds or to partially secure the Borough from any loss resulting from the failure of the successful bidder to comply with the terms of its bid.

Award of the Bonds to the successful bidder or rejection of all bids is expected to be made within two hours after opening of the bids, but such successful bidder may not withdraw its proposal until after 3:00 p.m. (local time) of the day of such bid-opening and then only if such award has not been made prior to the withdrawal.

It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such number on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the successful bidder thereof to accept delivery of and pay for the Bonds in accordance with its contractual obligations arising from the acceptance of its proposal for the purchase of the Bonds. All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid for by the Borough; provided, however, that the request for the assignment of CUSIP identification numbers shall be the responsibility of the Municipal Advisor and the CUSIP Service Bureau charge therefor shall be the responsibility of and shall be paid for by the successful bidder. CUSIP numbers must be communicated to Bond Counsel within 24 hours of the award of the Bonds in order to have the CUSIP numbers printed on the Bonds.

The Bonds shall be delivered on or about October 19, 2020 at the office of Rogut McCarthy LLC, Cranford, New Jersey ("Bond Counsel"), or at such other place as may be determined by the successful bidder and the Borough. **PAYMENT FOR THE BONDS AT THE TIME OF ORIGINAL ISSUANCE AND DELIVERY SHALL BE IN IMMEDIATELY AVAILABLE FUNDS.**

A preliminary Official Statement has been prepared and is available at [www.i-DealProspectus.com](http://www.i-DealProspectus.com) or may be obtained from the undersigned, Chief Financial Officer, Municipal Building, 705 Kinderkamack Road, River Edge, New Jersey 07661, Telephone No. (201) 599-6300. The preliminary Official Statement is deemed to be a "final official statement", as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), but is subject to (a) completion with certain pricing and other information to be made available by the successful bidder for the Bonds and (b) amendment. The preliminary Official Statement, as so revised, will constitute the "final official statement". By the submission of a bid for the Bonds, the successful bidder contracts for the receipt of a reasonable number of copies of the final Official Statement within seven business days of the award of the Bonds. In order to complete the final Official Statement, the successful bidder must furnish on behalf of the underwriters of the Bonds the following information to Bond Counsel and the Borough by facsimile transmission or overnight delivery received by Bond Counsel and the Borough within 24 hours after the award of the Bonds: (a) initial offering prices or yields (expressed as percentages), (b) selling compensation (aggregate total anticipated compensation to the underwriters expressed in dollars), (c) the identity of the underwriters if the successful bidder is part of a group or syndicate and (d) any other material information necessary for the final Official Statement, but not known to the Borough (such as the bidder's purchase of credit enhancement). It shall also be the obligation of the successful bidder to furnish to DTC an underwriter's questionnaire and the denominations of the Bonds not less than seventy-two (72) hours prior to the delivery of the Bonds.

Concurrently with the delivery of the Bonds, the officials of the Borough who will have executed the final Official Statement will deliver to the purchaser of the Bonds a certificate stating that, to the best of their knowledge, the preliminary Official Statement did not as of its date and as of the sale date, and the final Official Statement did not as of its date and does not as of the date of delivery of the Bonds, contain an untrue statement of a material fact or omit to state a material fact required to be included therein for the purpose for which the preliminary Official Statement or the final Official Statement is to be used or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, provided such certificate shall not include consideration of information supplied by, or which should have been supplied by, the successful bidder for the Bonds.

The Borough has agreed in its bond resolution adopted on September 21, 2020 to provide or cause to be provided, in accordance with the requirements of Rule 15c2-12, (i) not later than seven months after the end of the Borough's fiscal year (presently December 31) certain annual financial information and operating data, including audited financial statements for the preceding fiscal year (commencing with the fiscal year ending December 31, 2020), (ii) timely notice of the occurrence of certain material events with respect to the Bonds and financial obligations of the Borough and (iii) timely notice of a failure by the Borough to provide the required annual financial information on or before the date specified in (i) above.

The successful bidder's obligation to purchase the Bonds shall be conditioned upon its receiving, at or prior to the delivery of the Bonds, in form and substance reasonably satisfactory to the successful bidder, evidence that the Borough has made the continuing disclosure undertaking set forth above in a written agreement or contract for the benefit of the Bondholders and the beneficial owners of the Bonds.

The approving legal opinion of Bond Counsel will be furnished without cost to the purchaser. The preliminary Official Statement contains a discussion of the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), with respect to the exclusion from gross income for Federal income tax purposes of the interest on the Bonds and a description of the opinion of Bond Counsel with respect thereto. The Borough has covenanted, to the extent permitted by the Constitution and laws of the State of New Jersey, to comply with the provisions of the Code required to preserve the exclusion from gross income of interest on the Bonds for Federal income tax purposes. There will also be furnished the usual closing papers.

The Borough has designated the Bonds "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code and will represent that it reasonably expects that neither it nor its subordinate entities will issue more than \$10,000,000 of new money tax-exempt obligations in the current calendar year.

If the Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of a bidder, any purchase of such insurance or commitment therefor shall be at the sole option and expense of the bidder and any increased costs of issuance of the Bonds resulting by reason of such insurance, unless otherwise paid, shall also be paid by such bidder. Any failure of the Bonds to be so insured or of any such policy of insurance to be issued, shall not in any way relieve the purchaser of its contractual obligations arising from the acceptance of its proposal for the purchase of the Bonds.

#### ISSUE PRICE DETERMINATION UNDER INTERNAL REVENUE CODE

If the "competitive sale requirements" are not satisfied, the winning bidder shall have the option to designate whether the "10% test" or the "hold-the-offering-price rule" shall apply to all the Bonds.

The following paragraphs contain the terms for the determination of issue price.

(a) The winning bidder shall assist the Borough in establishing the issue price of the Bonds and shall execute and deliver to the Borough at closing an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the Bonds, together with the supporting pricing wires or equivalent communications. A form of issue price certificate is available upon request to Steven L. Rogut, Bond Counsel, (908) 931-1150 or [slr@rogutmccarthy.com](mailto:slr@rogutmccarthy.com).

(b) The Borough intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Bonds) will apply to the initial sale of the Bonds (the "competitive sale requirements") because:

- (1) the Borough shall disseminate this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- (2) all bidders shall have an equal opportunity to bid;



- (3) the Borough may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- (4) the Borough anticipates awarding the sale of the Bonds to the bidder who submits a firm offer to purchase the Bonds at the highest price (or lowest interest cost), as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the Bonds, as specified in the bid. Bids will not be subject to cancellation in the event that the competitive sale requirements are not satisfied. Unless the bidder intends to hold the Bonds for its own account with no intention to offer the Bonds to the public, the bidder, by submitting a bid, represents to the Borough that the bidder has an established industry reputation for underwriting new issuances of municipal bonds.

(c) In the event that the competitive sale requirements are not satisfied, the Borough shall so advise the winning bidder. In that case, the winning bidder shall have the option to designate (by 5:00 P.M. Prevailing Time on the sale date) whether the issue price will be calculated upon either (a) the first price at which 10% of each maturity of the Bonds (the "10% test") is sold to the public as the issue price of that maturity, applied on a maturity-by-maturity basis, or (b) a commitment to neither offer nor sell any of the Bonds of any maturity to any person at a price that is higher than the initial offering price to the public as of the sale date (the "initial offering price") during the holding period (as defined herein).

(d) If the 10% test is selected, the winning bidder shall advise the Borough if any maturity of the Bonds satisfies the 10% test as of the date and time of the award of the Bonds, and bidders should prepare their bids on the assumption that all of the maturities of the Bonds will be subject to the 10% test in order to establish the issue price of the Bonds. If the competitive sale requirements are not satisfied and the 10% test is selected, then until the 10% test has been satisfied as to each maturity of the Bonds, the winning bidder agrees to promptly report to the Borough the prices at which the unsold Bonds of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until either (i) all Bonds of that maturity have been sold or (ii) the 10% test has been satisfied as to the Bonds of that maturity, provided that, the winning bidder's reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the Borough or Bond Counsel.

(e) In the event the "hold-the-offering-price" method is selected, for each maturity of the Bonds the winning bidder shall (a) neither offer nor sell any of the Bonds of such maturity to any person at a price that is higher than the initial offering price for such maturity during the holding period for such maturity (the "hold-the-offering-price rule"), and (b) verify that any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the third-party distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no underwriter (as defined below) shall offer or sell any maturity of the Bonds at a price that is higher than the respective initial offering price for that maturity of the Bonds during the holding period.

(f) By submitting a bid, each bidder confirms that: (i) any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the bidder is a party) relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, to (A) either comply with the hold-the-offering-price limitations stated herein or to report the prices at which it sells to the public the unsold Bonds of each maturity allocated to it, whether or not the Closing Date has occurred, until either all Bonds of that maturity allocated to it have been sold or it is notified by the winning bidder that the 10% test has been satisfied as to the Bonds of that maturity, provided that, the reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the winning bidder, depending upon whether the hold-the-offering-price method or the 10% test is selected by the winning bidder, (B) to promptly notify the winning bidder of any sales of Bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the

initial sale of the Bonds to the public (each such term being used as defined below), and (C) to acknowledge that, unless otherwise advised by the underwriter, dealer or broker-dealer, the winning bidder shall assume that each order submitted by the underwriter, dealer or broker-dealer is a sale to the public, and (ii) any agreement among underwriters or selling group agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the Bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to either comply with the hold-the-offering-price limitations stated herein or to report the prices at which it sells to the public the unsold Bonds of each maturity allocated to it, whether or not the Closing Date has occurred, until either all Bonds of that maturity allocated to it have been sold or it is notified by the winning bidder or such underwriter that the 10% test has been satisfied as to the Bonds of that maturity, provided that, the reporting obligation after the Closing Date may be at reasonable periodic intervals or otherwise upon request of the winning bidder or such underwriter, depending upon whether the hold-the-offering-price method or the 10% test is selected by the winning bidder.

(g) Sales of any Bonds to any person that is a related party to an underwriter participating in the initial sale of the Bonds to the public (each such term being used as defined below) shall not constitute sales to the public for purposes of this Notice of Sale. Further, for purposes of this Notice of Sale:

- (i) "public" means any person other than an underwriter or a related party,
- (ii) "underwriter" means (A) any person that agrees pursuant to a written contract or otherwise with the Borough (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the Bonds to the public),
- (iii) a purchaser of any of the Bonds is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other),
- (iv) "sale date" means the date that the Bonds are awarded by the Borough to the winning bidder,
- (v) "holding period" means, for each maturity of the Bonds, the period starting on the sale date and ending on the earlier of (i) the close of the fifth business day after the sale date, or (ii) the date on which the Underwriter has sold at least 10% of each maturity to the Public at prices that are no higher than the Initial Offering Price for such maturity, and
- (vi) "maturity" means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

By order of the Borough Council of the Borough of River Edge, in the County of Bergen, New Jersey.

Dated: September 25, 2020

/s/ Christopher Battaglia  
Chief Financial Officer  
Borough of River Edge  
County of Bergen, New Jersey

Section 2. A Summary Notice of Sale ("Summary Notice of Sale") shall be published in substantially the following form:

SUMMARY NOTICE OF SALE

BOROUGH OF RIVER EDGE,  
IN THE COUNTY OF BERGEN, NEW JERSEY

\$5,605,000 General Improvement Bonds  
(Book-Entry Only) (Bank-Qualified)  
(Callable) (Parity Bid)

dated  
October 15, 2020

ELECTRONIC BIDS VIA PARITY AND SEALED PROPOSALS will be received by the Chief Financial Officer of the Borough of River Edge, in the County of Bergen, New Jersey (the "Borough"), at the Municipal Building, 705 Kinderkamack Road, River Edge, New Jersey 07661, on

October 8, 2020

at 11:00 o'clock A.M. (local time) at which time they will be publicly opened and announced, for the purchase of the Borough's \$5,605,000 General Improvement Bonds dated October 15, 2020 and payable on October 15 in each year as follows:

\$285,000 in the year 2021,  
\$315,000 in the year 2022,  
\$500,000 in the year 2023,  
\$550,000 in each of the years 2024 and 2025,  
\$555,000 in the year 2026, and  
\$570,000 in each of the years 2027 to 2031, inclusive.

The Bonds shall be issued in book-entry only form through the book-entry system operated by The Depository Trust Company, New York, New York. The Bonds are subject to redemption prior to maturity at the option of the Borough in accordance with the terms set forth in the Notice of Sale to be made available to interested persons (the "Notice of Sale"). The Notice of Sale and Proposal for Bonds should be reviewed by potential bidders for additional terms and conditions of the sale of the Bonds prior to bidding on the Bonds. To the extent any instructions or directions set forth in PARITY conflict with the Notice of Sale, the terms of the Notice of Sale shall control. For further information about PARITY, potential bidders may contact Ipreo at 1359 Broadway, 2nd Floor, New York, NY 10018, telephone (212) 849-5021.

The Bonds will bear interest from their date at a rate or rates of interest in multiples of 1/8th or 1/20th of 1% per annum (same or ascending rates and only one rate per maturity) specified by the successful bidder payable on each April 15 and October 15, commencing April 15, 2021, in each year until maturity or prior redemption. The purchase price specified must not be less than \$5,605,000 nor more than \$5,661,050 (par plus a maximum 1% premium). Each proposal must be for all the Bonds offered. As further described in the Notice of Sale, bidders must, at the time of making their bids, make a wire transfer or deposit a certified, cashier's or treasurer's check drawn upon a bank or trust company in the amount of \$112,100 to the order of the Borough. The Bonds will be sold to the bidder specifying the lowest net interest cost in accordance with the terms set forth in the Notice of Sale. The Borough will furnish the Bonds and the approving legal opinion of Rogut McCarthy LLC, Cranford, New Jersey, Bond Counsel.

The Bonds will be designated as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Copies of the Preliminary Official Statement, the Notice of Sale and the Proposal for Bonds are available at [www.i-DealProspectus.com](http://www.i-DealProspectus.com) or by contacting the undersigned Chief Financial Officer at the Municipal Building, 705 Kinderkamack Road, River Edge, New Jersey 07661, Telephone No.

(201) 599-6300.

By order of the Borough Council of the Borough of River Edge, in the County of Bergen,  
New Jersey.

Dated: September 28, 2020

/s/ Christopher Battaglia  
Chief Financial Officer  
Borough of River Edge  
County of Bergen, New Jersey

Section 3. The Borough Clerk is hereby authorized and directed to publish (A) the Summary Notice of Sale in THE BOND BUYER, which is a publication carrying municipal bond notices and devoted primarily to the subject of State and municipal bonds, and is published in New York City, and (B) the Full Notice of Sale in The Ridgewood News, a newspaper of general circulation published in Bergen County and circulating in the Borough. Said Summary Notice of Sale and Full Notice of Sale shall be published in each publication not later than one week before the date of the sale of said Bonds.

Section 4. The preparation of and distribution to potential bidders for the Bonds of a Preliminary Official Statement to be dated on or about September 28, 2020 is hereby approved. Such Preliminary Official Statement is hereby deemed to be a "final official statement", as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12").

Section 5. The preparation of an Official Statement in connection with the sale of the Bonds to be dated on or about October 8, 2020 is hereby approved. Such Official Statement is hereby deemed to be a "final official statement", as of its date, within the meaning of Rule 15c2-12.

Section 6. The execution of the Official Statement by the Chief Financial Officer on behalf of the Borough, the distribution of same to the successful bidder and the successful bidder's subsequent distribution of the Official Statement to purchasers or prospective purchasers of the Bonds are hereby authorized.

Section 7. The Borough hereby agrees to undertake for the benefit of the Bondholders and the beneficial owners of the Bonds to provide certain secondary market disclosure information pursuant to Rule 15c2-12 to the Municipal Securities Rulemaking Board (the "MSRB") in an electronic format, as prescribed by the MSRB. Specifically, the Borough will do the following for the benefit of the holders of the Bonds and the beneficial owners thereof:

(A) Not later than seven months after the end of the Borough's fiscal year (presently December 31), commencing with the report for the fiscal year ending December 31, 2020, provide or cause to be provided annual financial information with respect to the Borough consisting of (i) audited financial statements (or unaudited financial statements if audited financial statements are not then available by the date of filing, which audited financial statements will be delivered when and if available) of the Borough and (ii) certain financial information and operating data consisting of information concerning the Borough's debt, overlapping indebtedness, tax rate, levy and collection data, property valuation, budget and fund balance of the type contained in Appendix A of the Official Statement. The audited financial statements will be prepared in accordance with mandated State statutory accounting principles, as in effect from time to time. Audited financial statements if not available by the filing date will be submitted separately when available.

(B) Provide or cause to be provided in a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the Bonds or financial obligations of the Borough:

- (1) Principal or interest payment delinquencies;
- (2) Non-payment related default, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to the rights of Bondholders, if material;
- (8) Bond calls, if material, and tender offers;

- (9) Defeasances;
- (10) Release, substitution or sale of property which secures the repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the Borough (the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borough in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borough, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borough);
- (13) The consummation of a merger, consolidation, or acquisition involving the Borough or the sale of all or substantially all of the assets of the Borough, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Incurrence of a financial obligation of the Borough, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Borough, any of which affect Bondholders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Borough, any of which reflect financial difficulties. The Borough intends the words used in paragraphs (15) and (16) and the definition of "financial obligation" to have the meanings ascribed to them in SEC Release No. 34-83885 (August 20, 2018).

(C) Provide or cause to be provided, in a timely manner, notice of a failure of the Borough to provide required annual financial information on or before the date specified above.

Section 8. All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

Section 9. If the Borough fails to comply with the undertaking described above, any Bondholder or beneficial owner of the Bonds may pursue an action for specific performance to enforce the rights of all Bondholders and beneficial owners with respect to such undertaking; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds or any liability by the Borough for monetary damages. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all Bondholders and beneficial owners of the Bonds.

Section 10. The Borough reserves the right to terminate its obligation to provide annual financial information and notice of material events, as set forth above, if and when the Borough no longer remains an "obligated person" with respect to the Bonds within the meaning of Rule 15c2-12.

Section 11. The undertaking may be amended by the Borough from time to time, without the consent of the Bondholders or the beneficial owners of the Bonds, in order to make modifications required in connection with a change in legal requirements or change in law, or change in

the identity, nature, type of operation, or status of the Borough, which in the opinion of nationally recognized bond counsel complies with Rule 15c2-12 and does not, in such bond counsel's opinion, materially impair the interest of the Bondholders and the beneficial owners of the Bonds.

Section 12. The Borough hereby covenants, to the extent permitted by the Constitution and the laws of the State of New Jersey, to do and perform all acts and things permitted by law and necessary to assure that interest paid on the Bonds be and remain excluded from gross income of the owners thereof for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code").

Section 13. The Borough hereby designates the Bonds as "qualified tax-exempt obligations" for the purpose of Section 265(b)(3) of the Code. It is hereby determined and stated that (1) the Bonds are not "private activity bonds" as defined in the Code and (2) the Borough and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$10 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2020. The Borough will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, the Borough does not covenant to do so, and expressly states that a covenant is not made hereby.

Section 14. The Mayor, the Chief Financial Officer and the Borough Clerk are hereby authorized and directed to execute and deliver such other documents and to take such other action as they determine to be necessary or appropriate in order to effectuate the issuance and sale of the Bonds including, without limitation, the execution and delivery of all closing documents and certificates.

Section 15. The Chief Financial Officer, the Borough Clerk, the Bond Counsel, the Auditor, the Municipal Advisor and other Borough officials and representatives are hereby authorized to take all necessary actions to allow for (A) the submission of electronic bids for the bonds, (B) the electronic posting of the Preliminary Official Statement, the full Notice of Sale and the bid form and (C) the submission by bidders of a wire transfer in lieu of a good faith check.

Section 16. This resolution shall take effect immediately upon its adoption.

September 21, 2020

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#20-220 Resolution of the Borough of River Edge, County of Bergen and State of New Jersey  
Appointing Jason Milito as the Primary Designated Employer Representative and Richard Stephen as the  
Secondary Designated Employer Representative for the Borough of River Edge

**WHEREAS**, pursuant to the United States Department of Transportation regulations governing the required alcohol and drug testing for all individuals holding a Commercial Drivers' License (CDL) and individuals designated as safety-sensitive employees, every company covered by the regulations must have one or more Designated Employer Representative ("DER"); and

**WHEREAS**, the DER must be an employee of the Borough of River Edge; and

**WHEREAS**, the DER is the person responsible within the workplace for the drug and alcohol program; and

**WHEREAS**, the DER shall be authorized by the Borough of River Edge to take immediate action to remove employees from safety-sensitive duties, to make decisions required in the testing process, and to receive test results; and

**WHEREAS**, the DER's overall responsibilities shall include:

- Managing the Borough of River Edge's drug and alcohol testing program
- Acting as the liaison for drug and alcohol testing service agents
- Staying informed of every test and its result
- Performing the necessary functions according to the results of the tests and taking immediate action, including:
  1. Removing employees from safety-sensitive duties
  2. Making necessary decisions in the testing and evaluation process
  3. Receiving test results and other communications for the employer
  4. Reporting test results to the appropriate state and/or local authorities, if necessary



5. Following the Borough of River Edge's policy regarding the consequences of a positive test result or refusal to test
6. Maintaining compliance with 49 CFR Part 40, NJ DOT regulations and Borough of River Edge policies.

**NOW THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of River Edge, in the County of Bergen and State of New Jersey that Jason Milito is hereby appointed as the Primary Designated Employer Representative and Richard Stephen as the Secondary Designated Employer Representative of the Borough of River Edge.

**BE IT FURTHER RESOLVED**, that Jason Milito as the Designated Employer Representative is hereby authorized to take all steps necessary to fulfill the requirements of the DER.

September 21, 2020

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#20-221 Approve the Hire of Part-time Office Clerk for the Department of Public Works

BE IT RESOLVED by the Governing Body of the Borough of River Edge that Miriam Fabisiak be and she is hereby hired as a part-time office clerk in the Department of Public Works at an hourly rate of \$20.76 not to exceed 29 hours per week, effective September 22, 2020.

September 21, 2020

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Councilwoman Kaufman read resolution #20-222 into the record.

On motion by Councilwoman Kaufman, seconded by Councilman Chinigo, resolution #20-222 was approved unanimously.

#20-222 Payment of Bills

At a Regular Meeting of the Mayor and Council of the Borough of River Edge, County of Bergen, State of New Jersey, held on September 21, 2020.

BE IT RESOLVED that the Mayor and Council of the Borough of River Edge approve the following expenditures.

CURRENT FUND ACCOUNT	\$222,180.27
CAPITAL FUND ACCOUNT	\$ 46,195.00
TRUST OTHER ACCOUNT	\$ 5,989.50
PAYROLL ACCOUNT	\$ 765.00
DEVELOPER'S ESCROW ACCOUNT	\$ 500.00
RECREATION ACCOUNT	\$ 899.16

September 21, 2020

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**NEW BUSINESS –**

**Repair of Storm Damaged Sidewalks –**

Ray Poerio explained that during the past storm there were some sidewalks that had been uprooted by town trees. There was a debate at the last Council meeting whether the Council would want to pay for the repairs or should it be the responsibility of the homeowner. He said that it's a policy decision for the Council. He said that the first estimate that we received was \$10,500 to replace all of the slabs. In

addition, we currently have our ADA sidewalk repairs out for bid and we've added that in to the bid document as an alternate item hoping to get a better price than the \$10,500.

Councilman Chinigo-said that he's been doing a lot of walking in town and sees that there's much more than these 31 slabs that have been lifted for one reason or another. He was wondering if we could offer the homeowners who need to repair sidewalks the opportunity to join in a sidewalk program at a lower cost than they would if they had to do the repair on their own. He thought maybe this was a good opportunity to come up with a plan that gives the homeowner a chance to get their sidewalks fixed for less money.

Councilman Gautier-thought it was an excellent suggestion.

Mayor Papaleo-also thinks it's a great idea but feels that the Council needs to be aware that there is a concern because if we move in that direction, we probably wouldn't be able to begin work on the slabs for at least a month or two. He's not sure if they bundle it together, they can address the slabs that have been brought up by the storm in a timely fashion. He asked Mr. Poerio what he thought the probable timeline would be to get a bid, informing the general public, getting responses from the general public, creating a list and then sending the contractor out to do the work.

Raymond Poerio-said it's something that can be done and thought that the Borough had a sidewalk program in the past. He feels that possibly they could deal with it next year and thinks that they need to decide what they want to do with these particular slabs right now. He agrees that there are a significant number of slabs that need work in town.

Councilwoman Busted-asked Mr. Sarlo if there are any ordinances on the books that we should consider while we're deliberating this regarding sidewalks, trees, etc.?

Tom Sarlo, Esq.-said that he agrees with Mr. Poerio that they should move on these 31 slabs and get the project done. He explained that you have to find out the funding method because residents will not be writing checks, they'll receive an assessment on their taxes for the work. He said that for the past 7 years that he's been here, there have been concerns from homeowners who want to fix their sidewalks that have been uprooted by tree roots which needed the approval of the Shade Tree Commission. In some cases you'll need to take the tree down or cut the roots which may damage the tree. He explained that the ordinance on the books right now says it's the homeowners responsibility to fix their sidewalks and if the Borough sends them a notice, they have 30 days to make repairs. If they don't make repairs, the town could make the repair and put a lien on their property.

Mayor Papaleo-said that he was the liaison to Shade Tree a few years ago and when these root issues came up Shade Tree almost always gives permission to shave the roots or sometimes they agree that the tree has to come down. He said that it's been his experience that they've always cooperated when these issues came up.

Councilman Chinigo-asked how we address the homeowner who says that their sidewalk was damaged in a past storm and now you're paying for other people's sidewalks but not ours.

Mayor Papaleo-said that he doesn't know if there would ever be a satisfying way to address this. What we're saying is that we're only doing this after major events and can always say no.

Councilman Chinigo-just wanted to bring it up because it's something that the Council may have to deal with. He feels that to make sidewalk repairs after a major storm makes sense.

Tom Sarlo, Esq.-said that they're not bound by prior administrations decisions to policies. This is a new administration and this is something that is now coming to this administration and like every storm you deal with it on a case by case basis.

Councilwoman Kaufman-asked how much time would we lose if we try to wait and bundle it in terms of going with the bid we have right now.

Raymond Poerio-said he believes that we will be opening bid within the next few weeks and possibly awarding at the next Council meeting. He said that depending on how the bids come in, we have to deal with the project first before considering the sidewalks.

Mayor Papaleo-thought 3 weeks or so?

Raymond Poerio-said that we could award at the next Council meeting and then get the contractor going.

Councilman Chinigo-asked if there is a liability issue if we don't move quickly on this?

Tom Sarlo-said that if it gets too cold, you can't lay cement. He explained that the liability rests with the homeowner for residential sidewalks. He said that the Council is on notice that these are a potential and they're working to move it forward. He feels that they're not delaying it, you're doing it as expeditiously as possible so they wouldn't be exposed to any additional liability than they would be if someone falls on a raised sidewalk now.

Councilman Chinigo-feels that they should move quickly so that the residents aren't exposed to greater liability.

Mayor Papaleo-thinks that it's a great idea putting it with the ADA project but isn't sure how much of a savings that would really be. He feels that \$10,500 is a pretty good bid and at this point it's been quite a while so maybe they should move forward.

Councilman Chinigo-agreed and feels that if we keep putting it off, they're opening up more liability for the homeowners while they're waiting for the Council to act. He feels that they should act now on the

31 to 36 slabs and then look at the ADA bid or possibly hold off and acquire a list of residents who need sidewalk repair and open that up for bid.

Raymond Poerio-said we will have to get two more quotes because it is above the \$6,000 threshold if that's their desire to move forward and get it done as quick as possible. He said he will ask the Superintendent of Public Works to get the quotes. After received the quotes, Mr. Poerio said he can act on it because it's under the \$17,500.

On motion by Councilwoman Busted, seconded by Councilman Chinigo to move forward with repairing the sidewalks that were damaged in the recent storm was unanimously approved.

Councilwoman Kinsella-stated that because this damage was a result of a storm, should we see if there's any type of grant out there for repairs.

Raymond Poerio- said that typically what happens during a storm, the President or Governor will declare a state of emergency and FEMA will come in and fund it. He feels that it's unlikely that will happen but he did ask the Superintendent of Public Works if he's heard of anything out there and the answer was no.

Tom Sarlo-said that he doesn't know if it would be a reimbursable item because it's residential sidewalks.

Raymond Poerio-said that they did reimburse for residential sidewalks during Hurricane Sandy. He doesn't remember if it was a special caveat or what the reason was but does remember that they did reimburse.

### **Waive Police Outside Duty Rate for Resident**

Councilman Chinigo-stated that because we're dealing with Kinderkamack Road he feels that it's only fair to the homeowner to waive the outside duty rate.

Mayor Papaleo-agrees with Councilman Chinigo. He feels that if someone was doing construction on one of the interior streets you would not be burdened with that responsibility of outside police duty as you would if you lived on Kinderkamack Road.

Raymond Poerio-said that a resolution has been prepared in case the Council chooses to move forward.

On motion by Councilman Chinigo, seconded by Councilwoman Kaufman to approve resolution #20-223 was unanimously approved.

Mayor Papaleo-read resolution #20-223 into the record as follows:

#### **#20-223 Approval to Waive a Portion of the Police Outside Duty Rate for Kathleen Collins, 749 Kinderkamack Road, River Edge, New Jersey**

WHEREAS, Kathleen Collins had received notice from the Code Enforcement Department of a sidewalk hazard in front of her home; and

WHEREAS, at the request of the contractor, a police officer was requested for traffic duty during the repair/replacement due to the location of the sidewalk; and

WHEREAS, Kathleen Collins has made an appeal to the Mayor and Council to waive the administrative fee portion of the \$135.00 per hour rate and be billed for the officer's overtime rate; and

WHEREAS, the Mayor and Council have indicated that the outside duty rate of the \$135.00 be waived and that the actual overtime rate of the police officer assigned to that duty be charged.

NOW, THEREFORE, BE IT RESOLVED that the Police Department and the Chief Financial Officer are instructed to adjust their billing accordingly and to notify Kathleen Collins of the fee to be paid for the services provided.

September 21, 2020

Councilwoman Busted-asked if there will be a policy regarding the type of road that we would do this for in the future or are we saying we'll take these one by one as they come before the Council. For example should we say Kinderkamack Road, Midland Avenue, Continental Avenue, etc. or do we just want to say as a Council, we'll address these on an individual basis.

Councilman Chinigo- thinks they should address them on a case to case basis.

Councilwoman Montisano-Koen-feels that they should make a policy going forward because

dealing with these on a one on one basis may prove to be burdensome.

Mayor Papaleo-asked Councilwoman Busted to raise this topic under new business at the next meeting.

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### **SCORE/Senior Bus**

Councilwoman Montisano-Koen-reported that the newly formed sub-committee has met and spoke regarding the logistics and the possibility of re-activating the senior bus. They are looking into the logistics and when they have more of an understanding, they will bring it back to the Council and brief the residents as well. She had gotten information through the Freeholders about available transportation for seniors or disabled residents in River Edge. She will be convening with OEM to discuss the limited transportation that the County has to offer that we can communicate to the residents of River Edge.

Councilwoman Kinsella-reported that she and Councilwoman Montisano-Koen spoke with Mr. and Mrs. Mah of SCORE to find out what members would be coming back and where they would be coming back to. With regards to where they are coming back to, they spoke with our Rec Director, Carolyn Baldanza who said that she is willing to work with SCORE and organize activities outside in the pavilion at Memorial Park. These activities would be on a short term basis, weather permitting.

Councilman Gautier-said that he spoke with the Superintendent of Public Works and now that we've agreed to re-hire the part-time office clerk, one of the responsibilities was to organize the senior bus schedule. They feel that it's appropriate to do a needs assessment through the list of individuals who utilized the senior bus in the past.

Councilwoman Kaufman-reported that she's still working on the new website and is closer to getting it done. She was contemplating having a "New to Town" page on the community page and asked if everyone thought it was a good idea and what they would want to see on that page.

Councilman Chinigo-suggested that they take some time to think about it and get back her with their ideas.

Councilwoman Busted-reported that the Hackensack Riverkeeper is looking to hold their annual river clean-up on October 10<sup>th</sup>. The COVID Committee had given its tentative blessing to the event, however there's an issue of a certificate of insurance that our Risk Manager was inquiring about. From what she understands, that has not been requested in the past for the dozen or so years that they've conducted this event so she wants to know how the Council would like to proceed because they would like to start advertising for the event. She asked the Council if they want the Hackensack Riverkeeper to provide a certificate of insurance liability and add the Borough to that. Councilwoman Busted said that Ezio felt they could go either way because they are doing work on behalf of the Borough.

Councilman Chinigo-said that if we have them sign a hold harmless agreement that should be enough.

Councilwoman Busted-asked if the volunteers would sign as individuals or would the Riverkeeper sign at the entity.

Councilman Chinigo-replied, the individuals.

Councilwoman Busted-asked Mr. Poerio for a copy of that so it could be distributed along with the waiver that they would sign on the day of the event. Correct?

Raymond Poerio-replied, yes.

Councilwoman Montisano-Koen-suggested that the hold harmless agreement have the COVID language that Ezio provided for the volunteers at the Library.

Councilwoman Busted-explained that the Hackensack Riverkeeper has their own waiver that Mr. Sarlo and Mr. Altamura have looked at which has the COVID language. She's open to whatever everyone wants. She asked Mr. Poerio if he would send a copy to the chair of the Environmental Protection Commission?

Raymond Poerio-replied, yes.

Councilwoman Busted-said that she will let the Environmental Commission know that they can move forward. She again announced that the event will be on October 10<sup>th</sup> but they won't know the time until the event gets closer because it's determined by the tides.

Councilman Gautier-said that they've reinstated liaisons to the different departments but never reinstated the liaison to the Health Department. He asked if they thought that was something they would be interested in doing?

Councilman Chinigo-said Councilman Gautier brought it up to him earlier this week and suggested that he bring it up this evening. He feels that it's a great idea and suggested Councilwoman Kinsella be appointed as the liaison.

On motion by Councilman Chinigo, seconded by Councilwoman Busted to appoint Councilwoman Kinsella as the Liaison to the Board of Health was unanimously approved.

Councilman Chinigo-said that while walking the other day he passed Cherry Blossom Park and saw Michelle Cariddi so he stopped by to say hello. She walked him through the park and said that it is still

being flooded on a regular basis and there is a neighbor who still throws tires and other equipment on the property. She lifted one of the tires to show the water splashing and also pointed out all of the bugs and mosquitos. Councilman Chinigo feels that they need to do something about this. He stated that on one of the community groups on Facebook someone was talking about the pocket park and what can be done with it. Someone suggested exploring the idea of a community garden. He was wondering if there is something that we can do perhaps speak with Michelle to get her input on a community garden. He said that it's a beautiful little park which has some water problems and feels that they should see what they can do to address it. It may be as simple as putting more plantings that can absorb some of the water. He said that maybe there are different types of plants that might be tried out such as sea grass. He said that Michelle has invested a lot of time and effort and he feels that it's time we as a Council give her some help.

Councilman Gautier-said that as a sub-committee they did meet at that park and what they had discussed was to start getting estimates and ideas on how to fix the drainage.

Councilwoman Busted-said that she will make a report during Council comments but one of the items would be to re-ignite the conversation regarding the easement with the homeowner so that the Borough would have access that it would need that it doesn't currently have. She suggested that this topic be brought up at a future meeting.

Councilwoman Kinsella-said that she spoke to someone regarding Green Acres funding and was told that at the moment, there is no funding available and any new applications will be considered sometime in 2021. Councilwoman Kinsella said that she will continue to follow-up.

Mayor Papaleo-feels that it's amazing how hardworking this Council is and how everyone has pitched in, helped and gets involved. This is not a laid back or passive Council this is a hardworking active Council.

### **PSE&G Request –**

Mayor Papaleo-reported that Mr. Poerio had forwarded a request from PSE&G asking if the Borough would be willing to accept some of their equipment for about two months. The only location that the Mayor thought would work would be down near the KGB field. The Mayor asked Ray to provide the Council with the details of the request.

Raymond Poerio-stated that the Regional Manager of PSE&G reached out to him the other day and explained that they are dividing their crews up because of COVID and what they are looking to do is store at least 10-15 pieces of equipment. He sent the request out to the COVID Committee for their review.

Mayor Papaleo-said that they are looking to store 4 utility trucks, 4 back hoes, 4 dump trucks, 2 office trailers, a storage trailer and a bathroom trailer.

Raymond Poerio-said that their thought process was that they could divide up their crews in order to deal with COVID for approximately 2 months. He told the manager that it was not his decision and that he would bring it before the Council.

Mayor Papaleo-said that he knows that the COVID Committee will discuss this very soon but asked if anyone on the Council has a comment.

Councilwoman Busted-said that there are sports activities still taking place down there and wants to make sure that there's parking available for those activities as well as for the Riverkeeper. She also stated that parts of the parking lot is in a state of disrepair and they have received complaints about it from the Swim Club. Her concern is that this type of equipment being stored there may add to its deterioration and feels that the Council should be made aware of that there may be potential repairs as a result of that heavy equipment being there over 2 months' time.

Councilwoman Kinsella-asked if we know what other towns would be hosting equipment?

Raymond Poerio-said that they didn't give specifics on how they're dividing it up they just asked if River Edge would be willing to help them out.

Councilman Chinigo-asked if they will be moving this equipment on and off the premises because their using it or are they just storing it?

Raymond Poerio-replied that it would be a working site.

Councilman Chinigo-said that there may be homeowners who live in the area that would be affected by trucks and heavy equipment moving in and out on a daily basis so they need to take that into consideration.

Councilwoman Kinsella-reported that at [bergencountycares.org](http://bergencountycares.org) there is small business grant program that small businesses in town may apply for. It ends October 5<sup>th</sup> and Councilwoman Kaufman will be posting it on the website.

### **PUBLIC COMMENTS –**

On motion by Councilman Chinigo, seconded by Councilwoman Busted to open for public

comments was unanimously approved.

There being no comments by the public, the motion by Councilman Gautier, seconded by Councilwoman Kaufman to close public comments was unanimously approved.

## **COUNCIL COMMENTS –**

Councilwoman Kinsella-congratulated the Little League team for winning their championship. She looks forward to being the liaison for the Board of Health. She acknowledged the passing of Justice Ginsberg who was champion of equal rights and women's rights and her voice on the board will be greatly missed.

Councilwoman Montisano-Koen-congratulated the Little League winners for a job well done. She encourages everyone to continue to wear masks and practice social distancing. She echoes Councilwoman Kinsella's sentiments regarding Justice Ginsberg and may she rest in power and peace. Councilman Gautier-echoed Councilwoman Kinsella and Councilwoman Montisano-Koen's sentiments about Justice Ginsberg and also congratulated the Little League U10 championship team.

Councilwoman Kaufman-congratulated the championship team and also echoed everyone's sentiments regarding Judge Ginsberg.

Councilwoman Busteded-wanted to update the Council on the Rec Commission and Cultural Affairs Committee. She said sadly there will not be an in person River Edge Day this year due to COVID. The Recreation Commission, under the leadership of Carolyn Baldanza, will be putting together a River Edge book that is untitled right now but will give every business in town the opportunity to put in a free ad. The book will be distributed to all of the residents to try and replicate River Edge Day and bring the residents to the businesses. She reported that the Cultural Affairs Committee will be hosting its first ever Restaurant Week to try and support our local restaurants. It will take place during the week of October 18<sup>th</sup> and more will be coming out about that event and some other things in place of River Edge Day. She also reported that the Brookside Park courts are open and back in business and is happy to see they're being used non-stop. The courts at Memorial Park should be done at the end of this week and is glad to see these recreational improvements come to fruition. As Councilman Gautier and Councilwoman Kinsella did say, the sub-committee for Cherry Blossom Park did meet at the site with Carolyn Baldanza and a representative from the Recreation Commission. They are currently working on a concept for the park which would keep the front half of the park the same as a quiet reflective place with plantings and flowers, the middle section may be some type of performance space with built in seating and in the back area where there was a tree farm, they're looking at making it more active recreation. The idea of a community garden was talked about but there is community garden space that the River Dell Middle School shares with us. She said that as the commission continues to work on the plans, they will continue to be brought to the Council. She congratulated the U10 team and in memory of Ruth Bader Ginsberg, Justice of the Supreme Court she left them with a quote that she tries to remember and knows that all her Council colleagues feel the same: "We fight for the things you care about but you do it in a way that will lead others to join you".

Council President Chinigo-also congratulated the U10 Little League team and as he said before, they make River Edge proud. He echoed everyone's sentiments and wished a happy belated Rosh Hashanah to all of our Jewish brothers and sisters.

Mayor Papaleo-thanked Dick Berry for organizing the 9/11 event and also thanked the families of those who had passed as well as the residents for attending. He thanked the Police Department, Fire Department, Ambulance Service, Boy Scouts, Father Sheehan, Pastor Sweet and the singer who performed the Star Spangled Banner for attending. The Mayor stated that we received a letter from a gentleman praising Officer Varrecchia and Officer Goetz for responding to a call for his ex-wife who lives in River Edge. He felt that it was important to show gratitude and support to police departments around the country and thanked the Mayor for having a great police department. The Mayor concurred that we have an outstanding police department and is grateful that they are always there whenever there's an emergency call. He thanked them and said that he is very proud of them. He concurs with the loss that our country's experienced in the passing of our Supreme Court Justice Ruth Bader Ginsberg and he prays for our country, as we move forward, that it might find unity and less divisiveness.

## **ADJOURNMENT - 8:27 P.M.**

On motion by Councilwoman Kaufman, seconded by Councilwoman Kinsella to adjourn the meeting at 8:27 p.m. was unanimously approved.

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Mayor Thomas Papaleo