(Revised November 12, 2018)

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER XXVIII, ENTITLED "LAND DEVELOPMENT REGULATIONS OF THE BOROUGH OF WATCHUNG" TO ESTABLISH MANDATORY AFFORDABLE HOUSING SET-ASIDE

ORDINANCE NO.#OR:18/19

BE IT ORDAINED, by the Mayor and Council of the Borough of Watchung, County of Somerset, State of New Jersey as follows:

SECTION 1. Purpose. The purpose of this Ordinance is to create a Borough-wide mandatory affordable housing set-aside zoning requirement in accordance with the June 7, 2018 Settlement Agreement between the Borough of Watchung and the Fair Share Housing Center, Inc., and the September 19, 2018 Order on Fairness and Preliminary Compliance Hearing by the Superior Court of New Jersey Law Division: Somerset County Docket No.:SOM-L-902-15.

SECTION 2. A new Section 28 – 401. AB entitled "Mandatory Affordable Housing Set-Aside" is established as follows:

A. **Purpose:** The purpose of the Mandatory Affordable Housing Set-Aside requirement is to provide for affordable housing within residential developments above a certain density, which are not zoned for inclusionary development.

B. **Mandatory Affordable Housing Set-Aside Requirements:**

1. All residential development of five (5) or more units that occurs at a density above six (6) units per acre arising as a result of a density or use variance or rezoning or approval of a redevelopment plan or rehabilitation plan shall be required to provide a minimum affordable housing set-aside of 20%, except that the minimum set-aside shall be 15% where affordable rental units are provided.

2. Section 28-401.BB.B.1 does not affect residential development on sites that are zoned for inclusionary residential development as part of the Borough's Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning.

3. A property shall not be permitted to be subdivided to avoid compliance with this Section 28-401.BB requirement.

SECTION 3. This Ordinance shall remain in effect until such time that the unmet affordable housing need for the Borough has been fulfilled. This Ordinance shall expire after the last affordable unit fulfilling the unmet affordable housing need receives a Certificate of Occupancy.

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 Somerset County Planning Board and to all other persons or entities

entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerk of adjoining municipalities. The Borough Clerk shall execute Affidavits of Proof of Service of the notices required by this Section 4, and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

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 Watchung for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 6. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 7. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8. This Ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing of the final form of adopted Ordinance by the Clerk with the Somerset County Planning Board pursuant to N.J.S.A. 40:55D-16.

ATTEST:

Michelle DeRocco

Michelle DeRocco, Clerk

BOROUGH OF WATCHUNG

Stephen K. Pote

Stephen K. Pote, Mayor

Introduced: November 19, 2018

Adopted: December 6, 2018