

BOROUGH OF FOLSOM
ATLANTIC COUNTY, NEW JERSEY



Housing Element & Fair Share Plan

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The original of this document was signed and sealed in accordance with N.J.A.C. 13:41-1.3 (b) and is on file with the Folsom Borough Planning/Zoning Board.

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Executive Summary:

As the Borough of Folsom continues to satisfy its affordable housing obligations, this Fourth Round Housing Element and Fair Share Plan provides a housing policy framework with a variety of options to provide affordable housing opportunities.

Through this Fourth Round Housing Element and Fair Share Plan, the Borough promotes provision of a variety of housing types over a range of affordability, encourages the ongoing maintenance of the Borough's existing housing stock, and formally acknowledges its continuing constitutional obligation to provide a realistic opportunity for the provision of housing affordable to families of very low, low, and moderate income.

Since the Borough did not receive certification for the Prior Round or the Third Round, this Housing Element and Fair Share Plan identifies the obligation from both rounds and the Unmet Need due to the lack of infrastructure and Pinelands Commission restrictions. The Fourth Round Housing Element and Fair Share Plan will rely on the mandatory set aside ordinance, which ensures that affordable housing is constructed as part of new developments of five units or more in the Borough's Pinelands Village areas. The lack of public sewer and public water infrastructure, wetlands areas and compliance with the Pinelands Comprehensive Management Plan for all development in the Borough makes the development of these areas difficult.

This Fourth Round Housing Element and Fair Share Plan, once adopted, will be submitted to the Affordable Housing Dispute Resolution Program ("Program").

Introduction:

The Borough has prepared a Fourth Round Housing Element and Fair Share Plan in accordance with the requirements set forth in the "Municipal Land Use Law" (N.J.S.A. 40:55D-28) ("MLUL"), the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) ("FHA"), as amended by P.L. 2024 c.2, Administrative Directive #14-24, the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et. seq.), and the rules of the now-abolished New Jersey Council on Affordable Housing (N.J.A.C.5:93 et seq.) ("COAH"). Pursuant to the Amended FHA, this Fourth Round Housing Element and Fair Share Plan will be filed with the Program within 48 hours of the Planning Board's adoption.

New Jersey affordable housing law began with the New Jersey Supreme Court's (hereinafter the "Supreme Court") creation of the Mount Laurel doctrine in its landmark case, So. Burl. Cty. N.A.A.C.P. v. Tp. of Mt. Laurel, 67 N.J. 151 (1975) also known as "Mount Laurel I." In Mount Laurel I, the Supreme Court decided that under the State Constitution, each municipality "must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there", including those of low and moderate income. Thus, the Supreme Court in Mount Laurel I decision ruled that municipalities should not use their zoning powers to prevent the potential for the development of affordable housing.

Displeased with progress under its earlier decision, in 1983, the Supreme Court decided So. Burlington Ct. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) or “Mount Laurel I”. Because the Legislature had not yet acted to implement the holding in Mount Laurel I, the Court in Mount Laurel II fashioned a judicial remedy, now commonly referred to as a “Builder’s Remedy”. That remedy created a special process by which builders could file suit against a municipality for the opportunity to construct housing at much higher densities than a municipality otherwise would allow, creating affordable housing in the process. In essence, Builder’s Remedy lawsuits seek to force municipalities to meet their affordable housing obligations.

Responding to the chaos created by the implementation of the Supreme Court’s Mount Laurel decisions and the many Builder’s Remedy lawsuits that followed, the State Legislature passed the Fair Housing Act (hereinafter “FHA”) in 1985, which the Supreme Court upheld in (Hills Dev. Co. v. Bernards Twp., 103 N.J. 1 (1986) or “Mount Laurel III”), which created the Council on Affordable Housing (“COAH”) and authorized municipal Housing Elements and Fair Share Plan to be approved by COAH via the granting of Substantive Certification, which would protect municipalities from builder’s remedy lawsuits.

To implement the FHA requirements, COAH adopted a series of regulations. Round One regulations were enacted in 1987. Round 2 regulations were adopted by COAH in 1994. Round 3 regulations were supposed to be adopted in 1999 when the Round 2 rules were set to expire, but the first iteration of Round 3 regulations were not adopted by COAH until 2004. After those regulations were invalidated by the courts, COAH adopted a second iteration of Round 3 regulations in 2008. The second iteration of regulations were also invalidated by the Courts, and after COAH failed to adopt a third iteration of Round 3 regulations in 2014, the Supreme Court issued In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), in which it directed trial courts to assume COAH’s functions and ruled that municipalities would have to get their Third Round Housing Elements and Fair Share Plans approved in the courts via the granting a Judgment of Compliance and Repose (JOR), rather than getting the plans approved by COAH.

On March 20, 2024, this all changed once again when Governor Murphy signed into law, P.L. 2024, C.2, which substantially amended the FHA and created an entirely new affordable housing plan approval process. The amended FHA abolished COAH, and introduced a comprehensive structure for municipalities to meet their obligations before a new entity known as the Affordable Housing Dispute Resolution Program (hereinafter the “Program”), which consists of retired Mount Laurel judges and their Special Adjudicators, once known as Court Masters. The Program was created to approve Fourth Round Housing Elements and Fair Share Plans, along with the underlying local trial Court, and help municipalities mediate with objectors regarding their Fourth Round affordable housing obligations and the approval of the plans. The amended FHA also required the Department of Community Affairs (DCA) to take over the monitoring of affordable units in every municipality in the state, and to draft and release a report calculating non-binding Fourth Round municipal Present and Prospective Need obligation for every municipality in the

state. The DCA released its Fourth Round numbers report in October of 2024. The amended FHA also ordered the New Jersey Housing and Mortgage Finance Agency (NJHMFA) to adopt new UHAC regulations. The amended FHA also changed the way municipalities receive bonus credits amongst other things.

In response to the requirements of the amended FHA, the Borough of Folsom adopted a resolution on January 14, 2025 committing to a Fourth Round Present Need Obligation of 0 and a Fourth Round Prospective Need Obligation of 11. See Appendix A. The Borough filed a Declaratory Judgment Complaint on January 15, 2025 with the Program and the Court, along with the Borough's Fourth Round numbers resolution. See Appendix A.

The Court entered an Amended Order on March 27, 2025 setting the Borough's Fourth Round Present Need Obligation at 0 and the City's Fourth Round Prospective Need Obligation at 11. See Appendix B.

Housing Element:

Pursuant to both the FHA and the MLUL, municipalities in New Jersey are required to include a housing element in their master plans. The principal purpose of the housing element is to describe the specific, intended methods that a municipality plans to use in order to meet its low- and moderate-income housing needs. Further, the housing element is meant to demonstrate the existing zoning or planned zoning changes that will allow for the provision of adequate capacity to accommodate household and employment growth projections, to achieve the goal of access to affordable housing for present and future populations.

A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, and shall contain at least:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;

- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);
- f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing.
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

Demographic Characteristics

As indicated above, the MLUL requires an analysis of housing and demographic data as part of any Housing Element. The 2020 Census and the US Census population estimates are the most recent available comprehensive database of this type of information for the Borough of Folsom.

Table 1 below provides a comparison of population change in Folsom, Atlantic County and the State of New Jersey.

Table 1
Folsom Borough, Atlantic County and New Jersey
Population Changes: 1940-2020

	Borough of Folsom		Atlantic County		New Jersey	
Year	Number	Change	Number	Change	Number	Change
1940	229	-----	124,066	-----	4,160,165	-----
1950	292	27.5%	132,399	6.7%	4,835,329	16.2%
1960	482	65.1%	160,880	21.5%	6,066,782	25.5%
1970	1,767	266.6%	175,043	8.8%	7,168,164	18.2%
1980	1,892	7.1%	194,119	10.9%	7,365,011	2.7%
1990	2,181	15.3%	224,327	15.6%	7,730,188	5.0%
2000	1,972	-9.6%	252,552	12.6%	8,414,350	8.9%
2010	1,885	-4.4%	274,549	8.7%	8,791,894	4.5%
2020	1,811	- 3.9%	274,534	< -0.0%	9,288,994	5.7%
2023	1,732	-4.4%	275,213	0.2%	9,290,841	< 0.0%

*Source: US Census Bureau, Population Estimates Program
2020 Census Data
U.S. Census Bureau*

The age distribution within the Borough indicates an older population than both Atlantic County and the State. This can be attributed to negative rate of growth that has taken place in the Borough over the last 30 years. Approximately 31.0% of the population was over 55 years of age in 2023. The distribution of ages of persons in the Borough is indicated in Table 2.

Table 2
Borough of Folsom
Population by Age Group: 2000-2023

	2000		2010		2020		2023	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total Population	1,972	100%	1,885	100%	1,811	100%	1,732	100%
Sex	-----	-----	-----	-----	-----	-----	-----	-----
- Male	967	49.0%	937	49.7%	901	49.8%	887	51.2%
-Female	1,005	51.0%	948	50.3%	910	50.2%	845	48.8%
Age	-----	-----	-----	-----	-----	-----	-----	-----
Under 5	102	5.2%	87	4.6%	77	4.3%	59	3.4%
5-9 Years	130	6.6%	103	5.5%	86	4.7%	93	5.4%
10-14 Years	148	7.5%	140	7.4%	121	6.7%	101	5.8%
15-19 Years	172	8.7%	128	6.8%	108	6.0%	110	6.4%
20-24 Years	113	5.7%	108	5.7%	107	5.9%	97	5.6%
25-34 Years	232	11.8%	211	11.2%	195	10.8%	244	14.1%
35-44 Years	359	18.2%	262	13.9%	223	12.3%	210	12.1%
45-54 Years	352	17.8%	314	16.7%	245	13.5%	281	16.2%
55-59 Years	92	4.7%	163	8.6%	150	8.3%	103	5.9%
60-64 Years	79	4.0%	159	8.4%	129	7.1%	120	6.9%
65-74 Years	102	5.2%	128	6.8%	249	13.7%	235	13.6%
75-84 Years	71	3.6%	60	3.2%	91	5.0%	59	3.4%
85+ Years	20	1.0%	22	1.2%	30	1.7%	20	1.2%

Source: U.S. Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

Non-family households make up 25.2% of the households in Folsom Borough. This is lower than the County rate of 34.0% and lower than the State average 32.3%. In 2023, the average household size in Folsom is 2.58 persons/dwelling unit, while the County average is 2.42 and the State average is 2.58, making the average household in Folsom larger than that of the County and equal to that of the State.

Education:

Within Folsom's adult population (25 and over) 90.6% have received a high school diploma and 29.7% received a bachelor's degree or higher. This gives the Borough a slightly higher percentage of high school graduates than Atlantic County, and a slightly lower percentage of adults who have attained their bachelor's degree or higher. When compared to the County, 89.5% of the adult population has received a high school diploma and 33.3% of the adult population has received a bachelor's degree or higher.

Age of Housing:

Table 3 depicts the number of new housing units constructed between 1990 and 2010 for the Borough, County and State.

Table 3
Borough of Folsom, Atlantic County and New Jersey
Housing Units: 2000, 2010 & 2020

Jurisdiction	Housing Units 2000	Housing Units 2010	Housing Units 2020	Increase	% Increase from 2000-2020
Borough of Folsom	702	717	701	-1	-0.1%
Atlantic County	114,090	126,647	132,038	17,948	15.7%
New Jersey	3,310,275	3,553,562	3,761,229	450,954	13.6%

*Source: 2020 Census Data
2010 Census Data
2000 Census Data*

As of 2023, approximately 82.8% of Folsom's current housing stock was constructed prior to 1980, with 9.5% constructed prior to 1940. The Borough therefore has what can be considered an older housing stock, reflective of the recent population decrease, after massive increases from 1930-1980, in the Borough. The age of housing stock can be used as a gauge of the overall condition of housing in the community. In the case of the Borough of Folsom, a large percentage of homes have been constructed years in the past, and therefore, many homes are expected to have endured the "wear and tear" that typically takes place over time.

Housing Tenure:

The 2020 Census data indicates that 671 housing units (95.7%) in the Borough were occupied, and 30 units (4.3%) were vacant. A total of 601 units (89.6%) of the occupied units are owner occupied with the additional 70 units (10.4%) occupied by renters.

Table 4
Borough of Folsom
Housing Tenure: 2000, 2010 & 2020

Borough of Folsom	2000 Units	2000 % of Total	2010 Units	2010 % of Total	2020 Units	2020 % of Total
Total Housing Units	702	100%	717	100.0%	701	100%
Occupied Housing Units						
-Owner Occupied	624	88.9%	605	84.4%	601	85.7%
-Renter Occupied	47	6.7%	83	11.6%	70	10.0%
-Total	671	95.6%	688	96.0%	671	95.7%
Vacant Housing Units	31	4.4%	29	4.0%	30	4.3%
Seasonal, Recreational Use	3	0.4%	4	0.6%	3	0.4%
Rental Vacancy Rate	6.0%	N/A	0.0%	N/A	0.0%	N/A
Household Size						
-Owner Occupied	2.93	N/A	2.72	N/A	2.76	N/A
-Renter Occupied	2.87	N/A	2.25	N/A	3.70	N/A

Source: U.S. Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

Physical Character of the Borough Housing Stock

Table 5 provides an inventory of the age of the housing stock in the Borough of Folsom.

Table 5
Borough of Folsom
Inventory of Housing Age: 2023

Year(s) Constructed	Number	Percent of Total
2020 or later	0	0.0%
2010-2019	19	2.8%
2000-2009	37	5.4%
1990-1999	35	5.1%
1980-1989	27	3.9%
1970-1979	229	33.4%
1960-1969	118	17.2%
1950-1959	143	20.8%
1940-1949	13	1.9%
1939 or earlier	65	9.5%

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates

In 2023, the median value of the owner-occupied units in Folsom was \$247,900. The median home value has increased since the release of the 2020 Census, which was

\$185,400. While Folsom's average median home value is about 18.4% less than that of Atlantic County, it is even more significantly less than the average in New Jersey.

Table 6
Borough of Folsom, Atlantic County and New Jersey
Median Home Values: 2000, 2010, 2020 & 2023

Median Home Value	2000	2010	2020	2023	Percent Increase 2020-2023
Borough of Folsom	\$104,700	\$228,400	\$185,400	\$247,900	33.7%
Atlantic County	\$122,000	\$264,400	\$222,600	\$303,800	36.5%
New Jersey	\$170,800	\$357,000	\$355,700	\$427,600	20.2%

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data

As noted in Table 7 the majority of owner-occupied units are valued at less than \$500,000. Of the 611 owner occupied units reported in the 2023 American Community Survey, 92.0% were valued at less than \$500,000.

Table 7
Borough of Folsom
Home Value of Specified Owner-Occupied Units: 2023

Value of Specified Owner Occupied Units	Number of Units	Percent of Total
Less than \$50,000	13	2.1%
\$50,000- \$99,999	5	0.8%
\$100,000- \$149,999	23	3.8%
\$150,000- \$199,999	115	18.8%
\$200,000- \$299,999	268	43.9%
\$300,000- \$499,999	138	22.6%
\$500,000- \$999,999	41	6.7%
Over \$1,000,000	8	1.3%

Source: US Census Bureau
2023 American Community Survey 5-Year Estimates
2020 Census Data

As noted in Table 8, all of units where gross rents were charged were less than \$2,000 per month. Of the 43 rental units that charged rent that were reported in the 2023 American Community Survey, 100% of the units were rented at less than \$2,000.

Table 8
Borough of Folsom
Gross Rent of Specified Renter Occupied Units: 2023

Value of Occupied Rental Specified Units	Number of Units	Percent of Total
Less than \$500.00	0	0.0%
\$500.00-\$999.00	0	0.0%
\$1,000.00-\$1,499.00	7	16.3%
\$1,500.00-\$1,999.00	36	83.7%
\$2,000.00-\$2,499.00	0	0%
\$2,500.00-\$2,999.00	0	0%
\$3,000 or more	0	0%
No cash rent	8	--

*Source: US Census Bureau
2023 American Community Survey 5-Year Estimates
2020 Census Data*

The median gross rent in the Borough of Folsom was \$1,701.00 in 2023. The median rent is higher than that of the Atlantic County and New Jersey average.

Table 9
Borough of Folsom, Atlantic County and New Jersey
Median Rents: 2000, 2010, 2020 & 2023

Median Rent	2000	2010	2020	2023	% Change 2020-2023
Folsom Borough	\$883.00	\$1,383.00	\$1,063.00	\$1,701.00	60.0%
Atlantic County	\$677.00	\$955.00	\$1,129.00	\$1,325.00	17.4%
New Jersey	\$751.00	\$1,092.00	\$1,368.00	\$1,667.00	21.9%

*Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates
2020 Census Data
2010 Census Data
2000 Census Data*

Single-family detached homes remain the dominant housing structure in the Borough, representing 97.1% of total housing units. In addition, single unit attached homes make up 1.3% of the total housing units, with 2-unit homes making up the remaining 1.6%. While the majority of the total housing units are single-family detached homes, the average price of \$247,900 shows that there are affordable dwellings in the Borough of Folsom.

Table 10
Borough of Folsom
Types of Dwelling Units: 2023

Type of Unit	Number of Units	Percent of Total
1- Unit; detached	666	97.1%
1- Unit; attached	9	1.3%
2 Units	11	1.6%
3 or 4 Units	0	0%
5 to 9 Units	0	0%
10 to 19 Units	0	0%
20 or more Units	0	0%
Mobile Homes	0	0%
Boat, RV, Van, etc.	0	0%
Total	686	100%

*Source: US Census Bureau
2023 American Community Survey 5-Year Estimates*

Table 11 provides Census data regarding the condition of housing and whether units are overcrowded:

Table 11
Borough of Folsom
Condition of Housing: 2023

Characteristic	Number of Units
Overcrowded (> 1 person per room)	0
Total Units lacking complete plumbing	0
Total Units lacking complete kitchen	0

Source: US Census Bureau, 2023 American Community Survey 5-Year Estimates

According to the 2023 American Community Survey, the 2023 median household income in Folsom was \$112,857. Additionally, 8.2% percent of the Borough's population identified as living below the poverty level.

Units Affordable to Low- and Moderate-Income Households

Units are affordable to low and moderate-income households if the maximum sales price or rent is set within a specified formula as per UHAC regulations. A moderate-income household is a household whose gross family income is more than fifty percent (50%) of the median income, but less than eight percent (80%) of median income for households of the same size within the housing region. A low-income household is a household whose gross family income is equal to or less than fifty percent (50%) of median gross household income for a household and a very-low-income household is classified as earning less than thirty percent (30%) of the median area income of the same size within the housing region for the Borough of Folsom. Folsom is in Region 6, which encompasses Atlantic, Cape

May, Cumberland and Salem counties. The median household income in Folsom in 2023 was \$112,857.00.

Table 12
2024 Affordable Housing Regional Income Limits
By Household Size

	1 Person	1.5 Person	2 Person	3 Person	4 Person
Median	\$68,852	\$73,770	\$78,688	\$88,524	\$98,360
Moderate	\$55,081	\$59,016	\$62,950	\$70,819	\$78,688
Low	\$34,426	\$36,885	\$39,344	\$44,262	\$49,180
Very Low	\$20,655	\$22,131	\$23,606	\$26,557	\$29,508

	4.5 Person	5 Person	6 Person	7 Person	8 Person
Median	\$102,294	\$106,228	\$114,097	\$121,966	\$129,835
Moderate	\$81,835	\$84,983	\$91,278	\$97,573	\$103,868
Low	\$51,147	\$53,114	\$57,049	\$60,983	\$64,917
Very Low	\$30,688	\$31,868	\$34,229	\$36,590	\$38,950

Source: AHPNJ, April 12, 2024

Based on the qualifying formula in N.J.A.C. 5:80-26, the monthly cost of shelter, which includes mortgage (principal and interest), taxes, insurance and homeowners or condominium association fees, may not exceed twenty-eight percent (28%) of gross monthly household income based on a five percent (5%) down payment. In addition, moderate-income sales units must be available for at least three different prices and low-income sales units available for at least two different prices. The maximum sales prices must now be affordable to households earning no more than seventy percent (70%) of median income. The sales prices must average fifty-five percent (55%) of median income.

Under UHAC regulations, rents including utilities may not exceed thirty percent (30%) of gross monthly income. The average rent must now be affordable to households earning fifty-two percent (52%) of median income. The maximum rents must be affordable to households earning no more than sixty percent (60%) of median income. In averaging fifty-two percent (52%), one rent may be established for a low-income unit and one rent for a moderate-income unit for each bedroom distribution. The utility allowance must be consistent with the utility allowance approved by HUD and utilized in New Jersey. In addition, thirteen percent (13%) of all restricted rental units must be affordable to households earning no more than thirty-percent (30%) of median income.

Based upon the average household size of 2.58 in the Borough of Folsom in 2023 and the regional limits, the median income for three person households in Region 6 is used. The median household income that is used for Folsom in 2024 is \$88,524. At a minimum, 86 owner occupied units, and 7 renter occupied units could be considered affordable to three

person very-low-, low- and moderate-income households as indicated in Table 13. Of the 611 owner occupied units, 4 units could be considered affordable to three person very low income households, 17 units could be considered affordable to three person very low income and low income households, and 66 units could be considered affordable to a three-person low income and moderate income households. Of the 51 renter occupied units, 0 units could be considered affordable to three person very-low-income and low-income households and 7 units could be considered affordable to three person low-income and moderate-income households. Based upon these numbers a minimum of approximately 14.2% of the 662 occupied units in the Borough in 2023 are potentially affordable. Of these, a minimum of 4 units representing approximately 0.6% could be affordable to very low income households, 17 units representing approximately 2.6% to very low and low income households with the remaining 73 units representing approximately 11.0% could be affordable to low-income and moderate-income households. Although these figures are estimates and assumptions regarding household size have been made, it appears that the Borough has significant numbers of affordable units, some of which are naturally affordable, and some of which can be counted as affordable housing credits. This is without including the number of potentially affordable housing in the 24 vacant dwellings, 197 owner occupied units without a mortgage, 8 renter occupied units without a cash rent, 149 owner occupied units that fall between moderate income and not affordable, and 36 renter occupied units that fall between moderate income and not affordable.

Table 13
Borough of Folsom
Estimate of 2023 Housing Units Affordable to Low & Moderate Income Households
Information for Median Income, Mortgage and Rental Information

Income Level	Annual Income	
Median Household Income	\$88,524	
Moderate Income	\$44,262.00 - \$70,819.20	
Low Income	\$26,557.20 - \$44,262.00	
Very Low Income	< \$26,557.20	
Income Level	Affordable Monthly Rent	Affordable Monthly Mortgage
Moderate Income	\$1,106.55 - \$1,770.48	\$1,032.78 - \$1,652.44
Low Income	\$663.93 - \$1,106.55	\$619.66 - \$1,032.78
Very Low Income	< \$663.93	< \$619.66
Mortgage Status and Selected Owner Costs	Number of Units	Affordability
Owner Occupied Units with a Mortgage		
Less than \$500.00	4	Very Low Income
\$500.00-\$999.00	17	Very-Low Income – Low Income
\$1,000.00-\$1,499.00	66	Low Income – Moderate Income
\$1,500.00-\$1,999.00	149	Moderate Income – Not Affordable
\$2,000.00-\$2,499.00	135	Not Affordable
\$2,500.00-\$2,999.00	28	Not Affordable
\$3,000.00 or more	15	Not Affordable
Not Mortgaged	197	N/A
Renter Occupied Housing Units		
Less than \$500.00	0	Very Low Income
\$500.00-\$999.00	0	Very Low Income – Low Income
\$1,000.00-\$1,499.00	7	Low Income – Moderate Income
\$1,500.00-\$1,999.00	36	Moderate Income – Not Affordable
\$2,000.00-\$2,499.00	0	Not Affordable
\$2,500.00-\$2,999.00	0	Not Affordable
\$3,000.00 or more	0	Not Affordable
No Rent Paid	8	N/A

Source: 2020 Census Data
2023 American Community Survey 5-Year Estimates

Housing Stock, Population & Employment Projections

Housing Unit Projections

The FHA requires that housing plans include a 10-year projection of new housing units based on the number of building permits, development applications approved, and probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). Table 14 shows the balance of Certificates of Occupancy and Demolition Permits issued between 2013 and 2023. According to NJDCA permit data, 16 new units were certified, and 6 units were demolished. There is an annual average of two (2) Certificates of Occupancy and one (1) Demolition Permit issued per year. This creates an average of one (1) net dwelling added per year. If this rate were to remain relatively constant, the Borough could see a net increase of around 9 to 10 units over the next 10 years.

Table 14
Borough of Folsom
Residential Construction Certificate of Occupancy
and Demolition Permits Issued: 2013-2023

Year	Certificates of Occupancy	Demolitions	Net New Dwellings
2013	2	3	-1
2014	1	0	1
2015	1	0	1
2016	1	0	1
2017	2	0	2
2018	2	1	1
2019	1	0	1
2020	1	1	0
2021	1	1	0
2022	3	0	3
2023	1	0	1
Total	16	6	10
Annual Average	2	1	1

Source: New Jersey Department of Community Affairs, Division of Codes & Standards, Construction Reporter

Analysis of Existing Employment:

The 2023 American Community Survey data indicates that the civilian labor force (16 years and older) for the Borough of Folsom and Atlantic County in 2023 were 1,011 and 144,112 respectfully. The Folsom civilian labor force represents 0.7% of the County civilian labor force. In 2023, the percent of the persons age 16 and over in the civilian labor force in Folsom was 69.0%. This average is higher than the County average of 64.1%. The Borough had a higher unemployment rate than the County, rates were 6.3% (92 persons) and 4.1% (9,185 persons) respectfully.

The Census data distribution of occupational positions in the Borough of Folsom generally reflects that of Atlantic County and the State. The largest difference, at the State level,

comes in the natural resources, construction and maintenance occupations. Approximately 9.6% of Folsom's labor force works in the natural resources, construction and maintenance occupations compared to 6.9% of the State.

Table 15
Borough of Folsom and Atlantic County
Civilian Labor Force Characteristics: 2023

	Borough of Folsom		Atlantic County	
	Number of Persons	Percent of Total	Number of Persons	Percent of Total
Labor Force	1,011	69.0%	144,112	64.1%
Employed	919	62.7%	134,927	60.1%
Unemployed	92	6.3%	9,185	4.1%

Source: US Census, 2023 American Community Survey 5-Year Estimates

Table 16
Borough of Folsom, Atlantic County and New Jersey
Occupation Distribution: 2023

Occupation	Borough of Folsom	Atlantic County	New Jersey
Management, business, science and arts occupations	43.6%	38.6%	47.4%
Service Occupations	16.6%	27.0%	15.5%
Sales and Office Occupations	18.3%	16.8%	19.0%
Natural resources, construction and maintenance occupations	9.6%	7.5%	6.9%
Production, transportation and material moving occupations	11.9%	10.1%	11.2%

Source: US Census, 2023 American Community Survey 5-Year Estimates

In 2023, the median household income in the Borough of Folsom was \$112,857. However, there is a wide range of income levels, as 54.7% of the population make over \$100,000 and 7.4% make under \$25,000. The distribution of household income is indicated in Table 17.

Table 17
Borough of Folsom
Household Income: 2023

Household Income	Number	Percent
Less than \$10,000	17	2.6%
\$10,000- \$14,999	7	1.1%
\$15,000- \$24,999	25	3.8%
\$25,000- \$34,999	28	4.2%
\$35,000-\$49,999	53	8.0%
\$50,000- \$74,999	75	11.3%
\$75,000- \$99,999	95	14.4%
\$100,000- \$149,999	174	26.3%
\$150,000 or more	188	28.4%

Source: US Census, 2023 American Community Survey 5-Year Estimates

As mentioned in the 'Analysis of Existing Employment' section, data from the 2023 American Community Survey data indicates a civilian labor force (those in the population above the age of 16) of 1,011, of which 919 were employed. Classifications of workers by occupation distribution can be referenced in Table 18 which lists occupation by industry of workers in the Borough.

Table 18
Borough of Folsom
Employment Classification: 2023

Industry	Number of Employees	% of Total Employed
Agriculture, forestry, fishing, hunting and mining	15	1.6%
Construction	134	14.6%
Manufacturing	47	5.1%
Wholesale Trade	13	1.4%
Retail Trade	104	11.3%
Transportation, warehousing and utilities	49	5.3%
Information	0	0.0%
Finance, Insurance, Real Estate and Rental/Leasing	59	6.4%
Professional, scientific, management, administrative and waste management services	66	7.2%
Educational services, health care and social assistance	254	27.6%
Arts entertainment, recreation, accommodation and food services	94	10.2%
Other services except public administration	32	3.5%
Public Administration	52	5.7%

Source: US Census, 2017-2023 American Community Survey 5-Year Estimates

Population and Employment Projections

The South Jersey Transportation Planning Organization (“SJTPO”) is the Metropolitan Planning Organization for the southern New Jersey region, which contains all municipalities in the Counties of Salem, Atlantic, Cape May, and Cumberland. The SJTPO publishes population and employment forecasts for each county and municipality in the region. Between 2020 and 2060, the SJTPO projects slight population increase and significant employment growth throughout the region. In the Borough of Folsom, the SJTPO projects local employment growth of 541 jobs (+38.4%) with a slight decrease in population of 162 people (-8.9%). As shown in Table 19, the Borough is expected to experience an employment increase (+38.4%) higher than what is projected to occur throughout the County (+25.1%).

Table 19
Borough of Folsom
Population and Employment Projections: 2020-2060

Location	Population			Employment		
	Estimate 2020	Projected 2060	Percent Change	Estimate 2020	Projected 2060	Percent Change
Borough of Folsom	1,811	1,649	-8.9%	1,410	1,951	+38.4%
Atlantic County	274,534	266,014	- 3.1%	150,987	188,855	+ 25.1%
SJTPO Region	588,786	557,050	- 5.4%	310,002	378,855	+ 22.2%

Source: SJTPO Population and Employment Projections 2020-2060

Lands Most Appropriate for Affordable Housing

In general, sites that are most appropriate for affordable housing are those that have the necessary infrastructure and are not encumbered by environmental constraints. Within the Borough, the land located in the Pinelands towns and villages would be appropriate locations for affordable housing. These are the areas that the State has, for the most part, encouraged growth.

The Borough of Folsom is completely located within the Pinelands Protection Area and the Pinelands Comprehensive Management Plan (CMP) regulates development in the Borough. More than 88.3% of the total land area in the Borough is within the Pinelands Agricultural Production, Forest Area or Rural Development Area. The mandated minimum lot sizes in these areas range from 2 acres to 40 acres. (One-acre lot sizes are permitted in the Rural area however the density must still maintain the larger lot size for total development area.) Only 11.7% of the Borough land area is within a Pinelands Village area. In addition to the Pinelands CMP constraints, the entire Borough is without public sewer and public water infrastructure. Without changes to the Pinelands CMP regulations and public infrastructure the development intensity cannot occur.

Multigenerational Family Housing Continuity

The FHA requires the Housing Element and Fair Share Plan to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20). To date, no recommendations have been published.

A review of the Borough's ordinance indicates that there are no ordinances that would specifically create a detraction from meeting the Commission's goal of allowing senior citizens to reside at the homes of their extended families. The ordinances in the Borough of Folsom do not detract from the multigenerational family continuity goal. The Borough should update its land use ordinance to expand the areas where accessory apartments and in-law suites are permitted uses.

FAIR SHARE PLAN

Affordable Housing and Fair Share Plan

In 1975, in the case Southern Burlington County NAACP v. Township of Mt. Laurel (Hereinafter "Mt. Laurel I"), CITE. the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide for the construction of low- and moderate-income housing. The court's 1983 decision in FULL TITLE AND CITE ("Mt. Laurel II") expanded the obligation in ruling that all municipalities share in this constitutional obligation to provide a realistic means for addressing a fair share of the regional present and prospective need for housing affordable to low- and moderate-income families provided that any portion of the municipality is located in a "growth area" as set forth in the SDGP. As such, through a municipality's zoning and land use regulations, it is to be realistically possible, through provision of a variety of housing choices, for all categories of people within Housing Region 6 (including Salem, Cumberland, Cape May and Atlantic counties) to live if they choose in the Borough of Folsom.

Borough of Folsom Fair Share Obligations

In accordance with the Amended Fair Housing Act, this Fourth Round Housing Element and Fair Share Plan will set forth how the Borough has addressed prior obligations as well as how it intends to address its Fourth Round affordable housing obligations. The Borough of Folsom has not received certification on Prior Round or Third Round.

A. Present Need (Rehabilitation) Obligation

The Present Need Obligation, also known as the rehabilitation obligation, can be defined as an estimate of the number of substandard existing deficient housing units currently occupied by low- and moderate-income households. Folsom Borough has a Present Need Obligation of 0 units.

B. Prior Round Obligation (1987-1999)

Folsom Borough has a Prior Round Obligation of 20 units.

C. Third Round Obligation (1999-2025)

Folsom Borough has a Third Round Obligation of 25 units.

D. Fourth Round Prospective Obligation (2025-2035)

Folsom Borough has a Fourth Round Obligation of 11 units.



Housing Strategy:

Affordable Housing Caps and Requirements

In accordance with the requirements set forth in the Amended FHA, the Borough of Folsom will address the following:

- A. This plan requires that thirteen percent (13%) of all the affordable units referenced in the Agreement, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval as of July 1, 2008, will be very low income units (defined as units affordable to households earning thirty percent (30%) or less of the regional median income by household size), with half of the very low income units being available to families.
- B. No more than twenty-five percent (25%) of a municipality's obligation can be satisfied with rental bonus credits.
- C. This plan will ensure that at least fifty percent (50%) of the units addressing the Fourth Round Prospective Need Obligation will be affordable to a combination of very-low-income and low-income households, while the remaining affordable units will be affordable to moderate-income households.
- D. This plan will ensure that a minimum of twenty-five percent (25%) of the Fourth Round Prospective Need Obligation, exclusive of rental bonus credits, will be met through rental units, including at least half in rental units available to families.
- E. This plan will ensure that at least half of these units, exclusive of any bonus credits, addressing the Borough's Fourth Round Prospective Need Obligation will be available to families.
- F. This plan complies with the Fourth Round age-restricted cap of thirty percent (30%), exclusive of rental bonus credits.

The housing strategy outlined herein addresses the Borough's 0-unit Fourth Round Rehabilitation Obligation, 20-unit Prior Round Obligation, 25-unit Third Round Obligation, and the 11-unit Fourth Round Obligation. Below are the mechanisms the Borough has put in place to address the affordable housing obligations.

Addressing the Present Need Obligation:

The purpose of a rehabilitation program is to rehabilitate substandard housing units occupied by low- and moderate-income households. A substandard housing unit is defined as a unit with health and safety violations that require the repair or replacement of a major system. A major system includes a roof, plumbing, heat, electricity, sanitary plumbing

and/or a load bearing structural system. Upon rehabilitation, housing deficiencies are corrected and the unit is brought up to New Jersey Uniform Construction Code standards.

Based on the DCA's calculation for the municipality's present need, a rehabilitation component of zero (0) units was accepted by the Borough. Even though the obligation is zero, Folsom Borough plans to continue its participation in the Atlantic County Improvement Authority's rehabilitation program.

Addressing the Prior Round Obligation:

The Borough has a Prior Round (1987-1999) obligation of 20 units.

Addressing the Third Round Obligation

The Borough of Folsom has a Third Round (1999-2025) Obligation of 25 units based on the Jacobson calculation.

Addressing the Fourth Round Obligation

Folsom Borough has a Fourth Round (2025-2035) Obligation of 11 units. To date, the Borough has not certified its Prior Round or Third Round Plan.

Vacant Land Analysis

The Borough has not received certification on the previous rounds. The vacant land analysis supports an RDP of zero (0) units.

The Borough is located completely within the Pinelands Management Area, and the minimum permitted lot area is 1 acre with a septic system, and a maximum density of 1 dwelling unit per 5 acres. The Village Residential zoning district requires a minimum lot area of 2 acres with septic. There is no public sewer or water infrastructure in the Borough of Folsom.

The area of Collings Lakes in the Borough of Folsom is located in the RD Rural Development zoning district. This higher density area was developed prior to the enactment of the Pinelands Comprehensive Management Plan which served to limit and restrict development throughout the entire Borough.

After the Borough ordinances were certified as consistent with the Pinelands CMP, the Borough realized the homes developed in the Collings Lakes area were on lots that were less than one-acre in size, and even less than the required 5 acres in size. This development included the construction of homes that were approved prior to the effective date of the

CMP, essentially grandfathered approvals. The Pinelands CMP and local ordinances provided for exceptions for development on undersized lots where either the lot was part of a family estate (cultural housing), a density transfer program was utilized and not recorded in the total lot size or the lot development approval pre-dated the Pinelands CMP certification.

The Borough's lack of sewer and water infrastructure and the Pinelands Commission regulations creates a situation for the Borough where there is no realistic development potential. Below is a summary of the Borough's Fair Share Obligation and the combined Prior Round, Third Round and Fourth Round RDP and Unmet Need Obligation:

Table 20
Summary of Fair Share Obligation

Rehabilitation Share	0
Prior Round Obligation	20
Third Round Obligation	25
Fourth Round Obligation	11
Total Credits	56
Realistic Development Potential for Prior Round and Third Round	0
Realistic Development Potential for Fourth Round	0
Unmet Need for the Prior and Third Rounds	45
Unmet Need for the Fourth Round	11
Unmet Need Obligation Remaining	56

The Borough is proposing a mandatory set aside ordinance for developments of five or more lots in a Pinelands regional growth area, village or town. A majority of the Borough is located within the Forest Area and Rural Development Area. In addition to the Pinelands CMP constraints, the entire Borough is without public sewer and public water infrastructure. Without changes to the Pinelands CMP regulations and public infrastructure, the development intensity cannot occur.

Affordable Housing Mechanisms

Supportive and Special Needs Housing

The Borough has worked with supportive housing groups and non-profit affordable housing developers in the past. The Borough agrees to support these entities in terms of providing affordable housing opportunities on single-lot development throughout the municipality through taking affirmative measures to support proposed developments by them, including support for requests for funding from county, state, and federal sources. Currently, there are five (5) group homes located within the Borough of Folsom. There are no deed restrictions in place for the group homes, and no income reporting has been completed. The Borough will contract with an Administrative Agent to begin the process of securing deed restrictions on the properties and qualifying the units as credit worthy units to apply to the Borough's Unmet Need obligation.

Mandatory Set Aside Ordinance

Although such a development is not contemplated to occur, in the event a development of five or more units is developed in the Borough of Folsom, the municipality agrees to require compliance with N.J.S.A. 52:27D-329.9a, which requires developments consisting of newly-constructed residential units located, or to be located, in the Pinelands to reserve for occupancy by low or moderate income households at least 20 percent of the residential units constructed, to the extent this is economically feasible. A draft of the proposed mandatory set aside ordinance is included in Appendix C.

Very Low-Income Units

Pursuant to the amended FHA (P.L. 2008, c.46), the Borough must ensure that at least 13% of affordable housing units approved and constructed (or to be constructed) after July 17, 2008, are available to very low-income households. The Borough will meet the requirement that 13% of units be available to very low-income households in both the Third Round and Fourth Round.

Per the more recently amended FHA (P.L. 2024, c.2) at N.J.S.A. 52:27D-329.1, at least half of very low-income units addressing the Fourth Round Prospective Need must be “available for families with children.”

Income and Bedroom Distribution

The Borough will follow the UHAC rules and regulations and ensure that the new affordable housing developments will comply with N.J.A.C. 5:93-7.2 through 7.3.

Affordable Housing Administration and Affirmative Marketing

The Borough of Folsom has prepared a draft Affordable Housing Ordinance. See Appendix D. The Affordable Housing Ordinance governs the establishment and occupancy of the affordable units in the Borough, including, but not limited to, the phasing of affordable units, the mix of very-low-, low- and moderate-income units, bedroom distribution, occupancy standards, affordability controls, rents and sales prices, affirmative marketing, and income qualification. The Borough also prepared a draft Development Fees ordinance, which will also establish the Borough’s Affordable Housing Trust Fund. See Appendix E.

The Borough will prepare an updated Affordable Housing Ordinance in accordance with the DCA’s proposed new regulations (N.J.A.C. 5:99), and UHAC’s new 2025 regulations, once the DCA and HMFA finalize their rule proposals.

The Borough shall adopt by resolution an updated Affirmative Marketing Plan once the once the DCA and HMFA finalize their rule proposals. The Borough’s Administrative

Agent designated by the Borough of Folsom, or any Administrative Agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

The Borough has appointed a Municipal Housing Liaison by resolution. See Appendix F. The Borough will contract with an Administrative Agent to conduct the administration and affirmative marketing of its affordable housing sites. The affirmative marketing plans are 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 the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region, Region 6, consisting of Atlantic, Cape May, Cumberland, and Salem counties.

The Affirmative Marketing Plan lays out the random-selection and income qualification procedure of the administrative agent, which is consistent with COAH's rules and N.J.A.C. 5:80-26.1. All newly created affordable units will comply with the minimum 30-year (or 40-year for rentals) affordability control required by UHAC, N.J.A.C. 5:80-26.1 *et seq.* This plan must be adhered to by all private, nonprofit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

State Development and Redevelopment Plan

This Housing Element and Fair Share Plan is consistent with the 2001 State Development and Redevelopment Plan (SRDP) and the draft proposed SRDP as the proposed zoning mechanisms will provide the realistic opportunity for the construction of affordable housing.

The SDRP has accepted the Pinelands Management Areas and incorporated them into the State Plan Policy Map. Since the entire Borough of Folsom is situated within the Pinelands Areas, the SDRP "acknowledges the special statutory treatment accorded to the New Jersey Pinelands under the Pinelands Protection Act" and relies exclusively on the adopted plans and regulations of the Pinelands Commission to implement statewide goals and objectives in those Pinelands Management Areas.

Cost Generation

The Borough's Subdivision and Land Development and Zoning ordinances have been reviewed to eliminate unnecessary cost generating standards. The Borough will amend, if needed, the Planning Board rules for expediting the review of development applications for affordable housing projects, including, but not limited to, scheduling special monthly public hearings. All development applications containing affordable housing shall be reviewed for consistency with the Borough's ordinances, Residential Site Improvement Standards (N.J.A.C. 5:21-1 *et seq.*) and the FHA regarding unnecessary cost-generating

requirements. The Borough will comply with all requirements for unnecessary cost-generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing, N.J.A.C.5:93-10.3.

Once the DCA and HMFA finalize their rule proposes, the Borough will revise its Subdivision and Land Development and Zoning ordinances, if needed, in accordance with the DCA's proposed new regulations (N.J.A.C. 5:99), and UHAC's new 2025 regulations in order to comply with the new requirements to address cost-generative issues.

Spending Plan

The Borough will prepare a Fourth Round Spending Plan which discusses anticipated revenues, collection of revenues, and the use of revenues, in accordance with N.J.A.C. 5:93-5.1(c). All collected revenues are placed in the Borough's Affordable Housing Trust Fund and will be dispensed for the use of affordable housing activities as indicated in the Fourth Round Spending Plan. Once DCA and HMFA finalize their rule proposals (anticipated after June 30, 2025), the Borough will prepare an updated spending plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules as well as to address any terms of the court-approved Third Round FSHC agreement.

The Borough may, in the future, seek to amend its Spending Plan and obtain court approval to use its affordable housing trust funds for the following additional permitted affordable housing activities, including new, emergent affordable housing activities, subject to applicable limitations and minimum expenditures. N.J.S.A. 52:27D-329.2 permits the use of revenues generated by a development fee ordinance for activities that address the municipal fair share obligation including, but not limited to, rehabilitation, new construction, improvement to land, roads and infrastructure for affordable housing, assistance to render units more affordable, and administrative costs of housing plan implementation.

A minimum of 30% of the collected development fees must be used to provide affordability assistance to low- and moderate-income households in affordable housing units included in the Borough's Fair Share Plan. A minimum of one-third (1/3) of the affordability assistance must be utilized for very-low-income units.

No more than 20% of the revenues collected each year from development fees shall be spent on administrative fees, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.

The adoption of the Borough's Spending Plan will constitute a commitment for expenditure pursuant to N.J.S.A. 52:27D-329.2. The four-year deadline to commit and expend collected fees for emerging compliance mechanisms shall commence upon the entry of the Superior Court's Fourth Round Judgment of Compliance and Repose and/or Compliance Certification.

Summary

There are limited opportunities to create affordable housing in the Borough given the lack of infrastructure and the regulations from the Pinelands Comprehensive Management Plan. The table that follows summarizes the Borough's Housing Plan and reflects an unmet need obligation of 56 units.

**APPENDIX A: Fourth Round Declaratory Judgment Complaint with
Borough Resolution Committing to Fourth Round Obligation**

COSTIGAN AND COSTIGAN, LLC
By: Angela Maione Costigan, Esquire
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Attorney for Petitioner, Borough of Folsom, Atlantic County
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IN THE MATTER OF THE BOROUGH : SUPERIOR COURT OF NEW JERSEY
OF FOLSOM, ATLANTIC COUNTY : LAW DIVISION

: ATLANTIC COUNTY

: DOCKET NO.: ATL-L

CIVIL ACTION

:
**COMPLAINT FOR DECLARATORY
RELIEF PURSUANT TO THE FAIR
HOUSING ACT, N.J.S.A 52:27d-301, et
seq. AND THE MOUNT LAUREL
DOCTRINE**

Petitioner, the Borough of Folsom, a Municipal Corporation of the State of New Jersey with its principal place of business at 1700 Route 54, Folsom, NJ 08037 in the County of Atlantic, by way of Complaint for declaratory judgment pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq and the Mount Laurel doctrine states as follows:

BACKGROUND

1. Folsom is a body corporate and politic organized under the laws of the State of New Jersey.

2. The Mayor and Borough Council are the governing body of Folsom and are responsible, inter alia, to ensure that Folsom takes the actions necessary to achieve and maintain compliance with its obligations under the laws collectively known as the “Mount Laurel Doctrine”.

3. The Mount Laurel Doctrine refers to the affordable housing laws of New Jersey resulting from the landmark cases commonly referred to as “Mount Laurel I”, *Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel*, 67 N.J. 151 (1975), cert. denied. 423 U.S. 808, 96 S. Ct 18, 46 L. Ed. 2d 28 (1975), “Mount Laurel II”, *Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel*, 92 N.J. 158 (1983), the New Jersey Fair Housing Act or “FHA” N.J.S.A. 40:55D-1 et seq. and related laws.

4. The Land Use Board of Folsom is a municipal agency responsible under the Municipal Land Use Law, N.J.S.A 40: 55D-1 et seq. for formulating the Housing Element of the Folsom Master Plan in a manner that complies with its obligations under the Mount Laurel doctrine.

5. Folsom brings the within action seeking declaratory judgment pursuant to the FHA and P.L. 2024, c.2 seeking a certification of compliance, repose and immunity from exclusionary zoning lawsuits for its Fourth Round Mount Laurel affordable housing obligation for a period of ten (10) years based upon its present need or rehabilitation share of 0 units and its prospective need share of 10 units.

6. Jurisdiction properly rests with the Superior Court, Law Division, Atlantic County, before the designated Mount Laurel judge for Vicinage 1 pursuant to Administrative Directive 14-24 of the Administrative Office of the Courts, dated January

15, 2025.

7. On January 14, 2025, the Borough of Folsom memorialized a Resolution adopting its Fourth Round Fair Share Affordable Housing obligations and other actions. (Exhibit “A”.

8. The Borough of Folsom’s Resolution has accepted the Fourth Round Affordable Housing obligations as established by the FHA and the Department of Community Affairs.

9. Administrative Directive 14-24 provides that “A municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint and Civil Case Information Statement (“CIS”) in the County in which the municipality is located.

10. The Borough of Folsom also seeks by way of this declaratory judgment action voluntary admission into the Affordable Housing Dispute Resolution Program.

11. To the extent that the FHA and amendments thereto are construed and interpreted differently than Administrative Directive 14-24, the Borough of Folsom hereby reserves all of its rights and interests under the FHA and any amendments thereto and this declaratory judgment action is being filed in accordance with Administrative Directive 14-24 and voluntary admission into the Program.

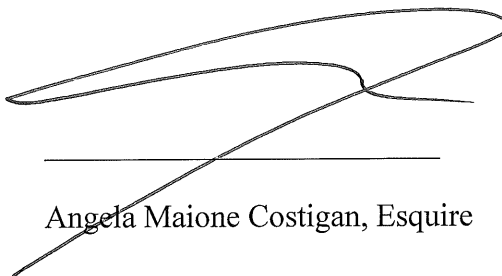
WHEREFORE, Petitioner, the Borough of Folsom respectfully requests that the Court enter judgment as follows:

- a. Voluntarily admitting the Borough of Folsom in the Program and.
- b. Declaring and establishing Folsom’s Fourth Round Mount Laurel Affordable Housing obligation as provided for in the FHA and any amendments thereto; and

- c. Upon the adoption and approval of the Borough's Housing Element and Fair Share Plan and other requirements, granting Folsom a Judgment of Fourth Round compliance and repose, certification of compliance with the FHA and any amendments thereto and granting immunity from exclusionary zoning lawsuits for its Fourth Round Mount Laurel affordable housing obligations based upon its present need or rehabilitation share of 0 units and its prospective need share of 10 units for the period 2025 to 2035; and
- d. Awarding such other further relief as the Court may deem equitable and just and necessary.

1/15/25

Date:

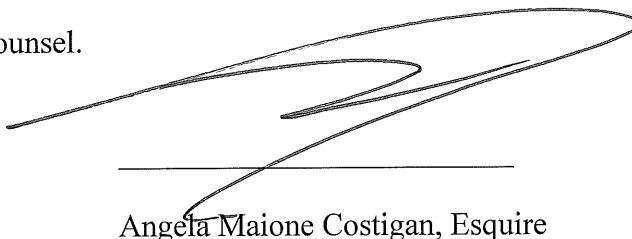

Angela Maione Costigan, Esquire

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that pursuant to R.4:25-4, Angela Maione Costigan, Esquire is hereby designated trial counsel.

1/15/25

Date:

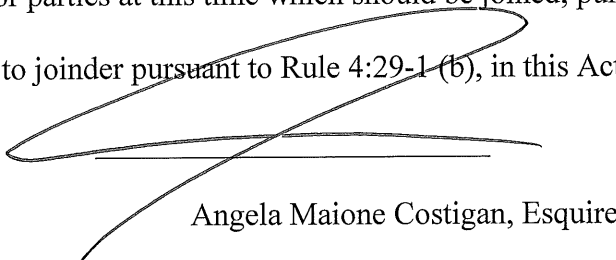

Angela Maione Costigan, Esquire

RULE 4:5-1 CERTIFICATION

Pursuant to New Jersey Court Rule 4:5-1, I hereby certify that to the best of my knowledge, information and belief, the matter in controversy is not the subject of any other action currently pending or contemplated in any court or arbitration proceeding, and that I know of no other party or parties at this time which should be joined, pursuant to Rule 4:28, or who are subject to joinder pursuant to Rule 4:29-1 (b), in this Action.

1/15/25

Date:


Angela Maione Costigan, Esquire

CERTIFICATION OF COMPLIANCE WITH ADMINISTRATIVE DIRECTIVE
14-24

I hereby certify that I caused the within the Complaint for Declaratory Judgment to be filed within 48 hours after the adoption of the Municipal Resolution of Fourth Round Fair Share obligation.

1/15/25

Date:

[Signature]

Angela Maione Costigan, Esquire

RULE 4:6-1 CERTIFICATION

I hereby certify that I caused or will cause the within Complaint for Declaratory Judgment to be served on all parties within the time period allowed by Rule 4:6-1.

1/15/25

Date:

[Signature]

Angela Maione Costigan, Esquire

EXHIBIT “A”

BOROUGH OF FOLSOM

Resolution # 2025-38

**A Resolution of the Borough of Folsom,
County of Atlantic and State of New Jersey Accepting the
New Jersey Department of Community Affairs Affordable
Housing Obligations for the Fourth Round**

WHEREAS, the New Jersey Legislature passed into law amendments to the Affordable Housing Act N.J.S.A. 52:27D-304.1 et seq.; and

WHEREAS, pursuant thereto the New Jersey Department of Community Affairs ("DCA") was to adopt the fourth round affordable housing fair share obligations for all municipalities within the State of New Jersey in October of 2024; and

WHEREAS, the regulations require that municipalities must decide whether to accept its affordable housing fair share obligations promulgated by DCA by resolution adopted on or before January 31, 2025 or risk losing its immunity from exclusionary zoning litigation; and

WHEREAS, the Borough of Folsom has received its DCA fair share housing obligation for the fourth round which indicates the Borough has a present need of 0 affordable housing units and a prospective need of 11 affordable housing units; and

WHEREAS, the Borough is desirous to accept the DCAs fourth round fair

share methodology numbers.

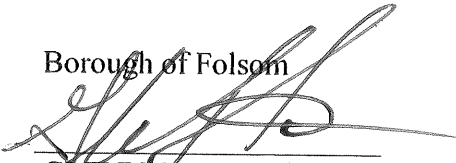
NOW THEREFORE BE IT RESOLVED by the Council of the Borough of Folsom, County of Atlantic, and State of New Jersey as follows:

1. The Borough hereby adopts the fourth round methodology for fair share housing obligations determined by the New Jersey Department of Community Affairs which sets forth the Borough's present need is 0 units, and its prospective need is 11 units.

2. A certified copy of this Resolution shall be forwarded by the Borough Clerk to the Department of Community Affairs.

Dated: 1-14-2025

Borough of Folsom


GLENN SMITH, Mayor

ATTEST:


Patricia M. Gatto, Municipal Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of the foregoing Resolution which was adopted by the Council of the Borough of Folsom at the meeting held on January 14, 2025

APPENDIX B: Court Order setting the Borough's Fourth Round Obligation

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE BOROUGH
OF FOLSOM, ATLANTIC
COUNTY PURSUANT TO P.L.
2024, CHAPTER 2**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
ATLANTIC COUNTY
DOCKET NO. ATL-L-84-25

Civil Action

**ORDER FIXING MUNICIPAL
OBLIGATIONS FOR “PRESENT NEED”
AND “PROSPECTIVE NEED” FOR THE
FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 15, 2025 (“DJ Complaint”) by the Petitioner, **BOROUGH OF FOLSOM** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

AND IT APPEARING, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)*,¹ therein setting forth the present need and prospective need obligations of all New Jersey municipalities for the Fourth Round housing cycle (the “DCA’s Fourth Round Report”);

¹ See https://nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf

AND IT APPEARING that, pursuant to the DCA's Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported as 0 affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as 11 affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

AND THE COURT, having determined that no interested party has filed a challenge to the Petitioner's DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program;

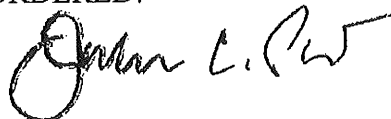
AND THE COURT, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA's Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown:

IT IS, THEREFORE, on this 27th day of **MARCH 2025 ORDERED AND ADJUDGED** as follows:

1. That the present need obligation of the Municipality, be, and hereby is fixed as 0 affordable units for the Fourth Round housing cycle.
2. That the prospective need obligation of the Municipality, be, and hereby is fixed as 11 affordable units for the Fourth Round Housing cycle; and
3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner and Petitioner's counsel.

SO ORDERED:

A handwritten signature in black ink, appearing to read "John C. Porto", is written over a horizontal line.

Hon. John C. Porto, P.J.Cv.

(X) Uncontested.

APPENDIX C: Mandatory Set Aside Ordinance

§ XXX-XX. Development regulations.

A. Housing.

- (1) Purpose. In order to provide for Folsom Borough's fair share of the region's low- and moderate-income housing, the following standards are provided.
- (2) Procedure.
 - (a) The developer of a residential development project in the Pinelands Management areas containing five or more dwelling units or the residential component of a mixed-use development project containing five or more dwelling units ("qualifying development project") shall construct, either within such qualifying development project or as a separate project thereto, a minimum of 20% of the total number of residential units to be constructed as affordable housing units.
 - (b) Pursuant to N.J.A.C. 5:93-5.6(f) and Mount Laurel II guidelines, if constructed within a qualifying development project, the affordable housing units shall be disbursed throughout the site plan and shall, to the extent practicable, have an exterior design which is compatible with the surrounding market-rate units. Similarly, affordable units constructed separate from a qualifying development project shall, to the extent practicable, have an exterior design which is compatible with the surrounding housing in the neighborhood.
 - (c) The requirement to construct said 20% affordable housing units shall apply to all qualifying development projects in a Pinelands village.
 - (d) Where said 20% affordable housing units are to be constructed as part of the qualifying development project, all land use approvals and permits required to construct such units, including, but not limited to, Folsom Borough Planning/Zoning Board, County Planning Board, Pinelands, NJDEP and local building permits, shall be obtained under a single series of applications. Where said 20% affordable housing units are to be constructed separately from the qualifying development project, all land use approvals and permits required to construct the qualifying development project and the affordable units shall be obtained by the filing of separate but simultaneous applications.
 - (e) Regardless of whether constructed as part of a qualifying development project or as separate units, no certificate of occupancy for the market-rate units shall be issued unless a proportionate number of certificates of occupancy are issued for the affordable units. Similarly, where a qualifying development project is proposed to be constructed in phases, the developer shall provide a phasing plan which provides for the affordable housing to be developed proportionately with the market-rate units.
 - (f) In accordance with N.J.A.C. 5:93-5.6(d), the proportion of affordable to market- rate units to be issued certificate of occupancy shall be as follows:

Maximum % of Market-Rate Housing Units Completed	Minimum % of Affordable Units Completed
25+1%	10%
50%	50%
75%	75%
90%	100%
100%	

- (g) All to-be-constructed affordable housing units shall be specifically identified on the site plan for the qualifying development project, along with the support services required to sustain such affordable housing units. It is the intent herein to not only encourage but to sustain a quality of life for affordable housing residents within prescribed residential developments.
- (h) In pursuing the development of affordable housing as part of a qualifying development project, the Planning/Zoning Board, as applicable, may grant such bulk (c) variances and/or design waivers as may be necessary to assist in adjusting the site plan configuration to provide for such units, thereby allowing the placement of disbursed affordable housing units throughout the qualifying development project. Notwithstanding this requirement, the lot area standards set forth on Table I: Use, Area, Yard and Bulk Regulations for the AG, F-20, F-30, FC, RD, RDC, VR, VI Zones and the standards, application procedures or other provisions contained in Article X, Pinelands Area

APPENDIX D: Affordable Housing Ordinance

Section 1. AFFORDABLE HOUSING REGULATIONS

A. Monitoring and Reporting Requirements

The Borough of Folsom shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Housing Element and Fair Share Plan:

1. On each anniversary of a final judgment of repose, and on every anniversary of that date, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Committee 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), 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.
2. On each anniversary of a final judgment of repose, and on every anniversary of that date, the Borough of Folsom shall provide annual reporting of the status of all affordable housing activity within the Borough 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.
3. As required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any 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 FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
4. Every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low-income requirements, including its family very low-income requirements. Such posting shall invite any interested party to submit comments to the Borough and FSHC on the issue of whether the Borough has complied with its very low-income and family very low-income housing obligations.

B. Definitions

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

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

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

“Administrative agent” means the entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

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

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

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, 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 housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

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

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

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

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

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

“Assisted living residence” means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to

the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

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

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

“Deficient housing unit” means a housing unit with health and safety code violations that requires 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” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

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

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

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

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

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

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

“Median income” means the median income by household size for the applicable housing region, as adopted annually by the Court or a Court approved entity.

“Municipal Housing Liaison” means the employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Borough of Folsom.

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

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

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

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

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

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

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

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

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

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

C. Applicability

1. The provisions of this Ordinance 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 Folsom pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

2. Moreover, this Ordinance 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, and also including projects funded with Low-income Housing Tax Credits.

D. Alternative Living Arrangements

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

E. Phasing Schedule for Inclusionary Zoning

To ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing within the Borough inclusionary zoning shall permit minimum presumptive densities and presumptive maximum affordable housing set-asides as follows:

1. All new residential development or mixed commercial/residential development producing five or more residential units shall be required to be set aside a minimum of 20% of all units as affordable for low- and moderate-income households. In addition projects where 100% of the residential units are made affordable for low- and moderate-income households shall be credited toward that obligation.
2. Thirteen percent of all constructed restricted units shall be very-low-income units, with half of the very-low-income units available to families.
3. Additional incentives to subsidize the creation of affordable housing available to very-low-income households may be included in the zoning section of this chapter or specified in a Developer's or Redeveloper's Agreement.
4. Phasing. In inclusionary developments the following schedule shall be followed:

Maximum % of Market-Rate Units Completed in Any Development	Minimum % of Total Planned Units Which Must Be Completed and Available as Very-Low, Low- and Moderate-Income Units
10	3
20	5
30	8
40	10
50	13
60	15
70	18
80	20
90	23

5. Design. In inclusionary developments, to the extent possible, very-low, low-, and moderate-income units shall be integrated with the market units.
6. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

F. New Construction

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - a. 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.
 - b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or very low-income units and low income households with the remainder to affordable moderate-income households. At least 25% shall be rental units with half of those units available to families.
 - c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - 1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - 2) At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - 3) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

- 4) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
 - d. 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.
2. Accessibility Requirements:
- a. 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 SubCode, N.J.A.C. 5:23-7 and the following:
 - b. 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:
 - 1) An adaptable toilet and bathing facility on the first floor; and
 - 2) An adaptable kitchen on the first floor; and
 - 3) An interior accessible route of travel on the first floor; and
 - 4) 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
 - 5) If not all of the foregoing requirements in b.1) through b.4) can 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 b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - 6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Folsom has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - a) 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.
 - b) To this end, the builder of restricted units shall deposit funds within the Borough of Folsom's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - c) The funds deposited under paragraph 6)b) above shall be used by

the Borough of Folsom 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.

- d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Folsom for the conversion of adaptable to accessible entrances.
- e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough CFO who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

- 7) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

3. Design:

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

4. Maximum Rents and Sales Prices:

- a. 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 and using calculation procedures approved by the Court. 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 UHAC 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 the Department of Housing and Urban Development ("HUD") as follows:
 - 1) Regional income limits shall be established for the region that the Borough is located within based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the

most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- 2) The income limits are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the fiscal year 2025, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - 3) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3) shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- b. 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.
 - c. 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.
 - d. 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.

- e. 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:
 - 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one and one-half person household;
 - 3) A two-bedroom unit shall be affordable to a three-person household;
 - 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - 5) A four-bedroom unit shall be affordable to a six-person household.
- f. 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:
 - 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- g. 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.
- h. 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.
- i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

- j. 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 Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

G. Utilities

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. 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 HUD for the Section 8 program.

H. 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:

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

I. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for newly constructed restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, except as may be modified by the terms of the settlement agreement between the Borough of Folsom and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented, and each newly constructed restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least fifty (50) years, until Folsom 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, except as modified by the terms of the settlement agreement between the Borough of Folsom and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. 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 Administrative Agent 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.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent 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.
5. 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.
6. 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.

J. 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:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. 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.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of approved capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

K. Buyer Income Eligibility

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 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.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit a moderate-income purchaser

to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. 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.

L. Limitations on Indebtedness Secured by Ownership Unit; Subordination

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
2. 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 Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

M. Capital Improvements To Ownership Units

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements 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.
2. 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 Administrative Agent 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 Administrative Agent. Unless otherwise approved by the Administrative Agent, 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.

N. Control Periods for Restricted Rental Units

1. Control periods for newly constructed restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, except as may be modified by the terms of a settlement agreement between the Borough of Folsom and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented, and each newly constructed restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until the Borough 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, except as may be modified by the terms of a settlement agreement between the Borough of Folsom and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented.
2. 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 Atlantic. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - a. Sublease or assignment of the lease of the unit;
 - b. Sale or other voluntary transfer of the ownership of the unit; or
 - c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

O. Rent Restrictions for Rental Units; Leases

1. 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 Administrative Agent.
2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the

Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

4. 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% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

P. 100% Affordable Projects

1. All 100% affordable projects, including projects funded through Low-income Housing Tax Credits, shall comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et. seq., except as may be modified by the terms of a settlement agreement executed between the Borough of Folsom and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented. All such projects shall be required to have an initial thirty (30) year affordability control period plus a fifteen (15) year extended use period.

Q. Tenant Income Eligibility

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
 - b. 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.
 - c. 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.
2. The Administrative Agent 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:
 - a. 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;
 - b. 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;

- c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. The household documents 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.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

R. Establishment of Municipal Housing Liaison position and compensation; powers and duties.

- 1. Establishment of position of Municipal Housing Liaison Officer. There is hereby established the position of Municipal Housing Liaison Officer for the Borough of Folsom.
- 2. Subject to the approval of the Court, the Municipal Housing Liaison Officer shall be appointed by the governing body and may be a full- or part-time municipal employee.
- 3. The Municipal Housing Liaison Officer shall be responsible for oversight and administration of the affordable housing program for the Borough of Folsom, including the following responsibilities which may not be contracted out, exclusive of Subsection 3.f below, which may be contracted out:
 - a. Serving as the Borough of Folsom's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents, and interested households;
 - b. Monitoring the status of all restricted units in the Borough of Folsom's Fair Share Plan;
 - c. Compiling, verifying, and submitting annual reports as required by Court;
 - d. Coordinating meetings with affordable housing providers and administrative agents, as applicable;
 - e. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved;
 - f. If applicable, serving as the administrative agent for some or all of the restricted units in the Borough of Folsom as described in Subsection 6 below.
- 4. Subject to approval by Court, the Borough of Folsom may contract with or authorize a consultant, authority, government or any agency charged by the governing body, which entity shall have the responsibility of administering the affordable housing program of the

Borough of Folsom, except for those responsibilities which may not be contracted out pursuant to Subsection C above. If the Borough of Folsom contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and affirmative marketing plan, the Municipal Housing Liaison Officer shall supervise the contracting administrative agent.

5. Compensation. Compensation shall be fixed by the governing body at the time of the appointment of the Municipal Housing Liaison Officer.
6. Administrative powers and duties assigned to the Municipal Housing Liaison Officer:
 - a. Affirmative marketing.
 - 1) Conducting an outreach process to ensure affirmative marketing of affordable housing units in accordance with the affirmative marketing plan of the Borough of Folsom 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 Appendixes 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; and
 - 6) Employing the random selection process as provided in the affirmative marketing plan of the Borough of Folsom when referring households for certification to affordable units.
 - 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 appropriate county's register of deeds or 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. Resale and rental.

- 1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental upon availability of the information to the Municipal Housing Liaison Officer; and
- 2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental upon availability of the information to the Municipal Housing Liaison Officer.

e. Processing request from unit owners.

- 1) Reviewing and approving, in conjunction with the Borough Attorney, requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
- 2) Reviewing and approving, in conjunction with the Borough Attorney, 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 cost of central air-conditioning systems; and
- 3) Processing requests and making determinations, in conjunction with the Borough Attorney, on requests by owners of restricted units for hardship waivers.

f. Enforcement.

- 1) The posting annually in all rental properties when the information becomes available to the Municipal Housing Liaison, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made;
 - 2) Creating and publishing a written operating manual, as approved by Court, setting forth procedures for administering such affordability controls; and
 - 3) Providing annual reports to Court as required.
- g. The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

S. Administrative Agent

An Administrative Agent shall be an independent entity serving under contract to and reporting to the Borough. 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 Administrative Agent 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:

1. Affirmative Marketing:
 - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Folsom and the provisions of N.J.A.C. 5:80-26.15; and
 - b. 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.
2. Household Certification:
 - a. Soliciting, scheduling, conducting and following up on interviews with interested households;
 - b. 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;
 - c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - d. 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.;
 - e. 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;
 - f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Folsom when referring households for certification to

affordable units; and

- g. Notifying the following entities of the availability of affordable housing units in the Borough of Folsom: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Atlantic County and Southern Burlington County Branches of the NAACP, the Supportive Housing Association of New Jersey, and the New Jersey Housing Resource Center.

3. Affordability Controls:

- a. 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;
- b. 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;
- c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Atlantic County Clerk and Register of Deeds office after the termination of the affordability controls for each restricted unit;
- d. Communicating with lenders regarding foreclosures; and
- e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resales and Re-rentals:

- a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
- b. 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.

5. Processing Requests from Unit Owners:

- a. 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;
- b. 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;

- c. Notifying the Borough of an owner's intent to sell a restricted unit; and
- d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

- a. Securing annually from the Borough 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;
- b. 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 Administrative Agent;
- c. 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 Administrative Agent where complaints of excess rent or other charges can be made;
- d. 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;
- e. Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and
- f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

- a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- b. The 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.
- c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

T. Affirmative Marketing Requirements

1. The Borough of Folsom shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is 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 marketing activities toward Housing Region and is required to be followed throughout the period of restriction.
3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Burlington, Atlantic and Gloucester Counties.
4. The Borough has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Borough of Folsom shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and, if one, the municipal library in the Borough in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in the Borough, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Atlantic County Branch of the NAACP, the Supportive Housing Association of New Jersey, STEPS, Senior Citizens United Community Services, and the New Jersey Housing

Resource Center.

10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

U. Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the Borough shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any 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.
2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Borough may take the following action(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:
 - a. The Borough may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is 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:
 - 1) A fine of not more than \$500.00 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;
 - 2) 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 Folsom Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - 3) 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.
 - b. 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.
 - 1) The judgment shall be enforceable, at the option of the Borough , by means of an execution sale by the Sheriff, at which time the low- and moderate-

income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the Borough, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

- 2) 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 Borough for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Borough in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Borough in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Borough for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the Borough for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the Owner or forfeited to the Borough.
- 3) Foreclosure by the Borough due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- 4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the Borough may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- 5) Failure of the low- and moderate-income unit to be either sold at the

Sheriff's sale or acquired by the Borough shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Borough , with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

- 6) 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.

V. Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

APPENDIX E: Development Fee Ordinance

Development Fee Ordinance.

A. Residential development fees.

- (1) Imposition of fees. Within the Borough of Folsom, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee in accordance with the following:
 - (a) For each new residential dwelling unit that is constructed pursuant to an application for development before the Land Use Board, except for isolated lot variances pursuant to N.J.S.A. 40:55D-70c on an existing lot of record, a fee of 1% of the equalized assessed value of the residential development fee imposed for the purposes of funding the Borough's Affordable Housing Program.
 - (b) For each new residential dwelling unit that is constructed on an existing lot of record which was not created as a result of an application for development before the Land Use Board, a fee of 0.5% of the equalized assessed value of the residential development fee imposed for the purposes of funding the Borough's Affordable Housing Program.
 - (c) When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.
- (2) Eligible exactions, ineligible exactions and exemptions for residential developments.
 - (a) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by ordinance or by agreement with the Borough of Folsom, shall be exempt from the payment of development fees.
 - (b) Developments that have received preliminary or final site plan approval prior to the adoption of this article shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a zoning permit and/or construction permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
 - (c) Improvements or additions to existing one- and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared

to the previous structure.

- (d) Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

B. Nonresidential development fees.

- (1) Developers of nonresidential development, as the term is defined in N.J.S.A. 40:55D-8.3, shall be obligated to comply with the requirements of the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq., and pay the nonresidential development fee, as the term is defined in N.J.S.A. 40:55D-8.3, calculated pursuant to the Statewide Non-Residential Development Fee Act.
- (2) Developers of mixed-use development, as the term is defined in N.J.S.A. 40:55D-8.3, shall be required to comply with the requirements of the Statewide Non-Residential Development Fee Act for the portion of the development consisting of nonresidential development, as the term is defined in N.J.S.A. 40:55D-8.3, and with the requirements of § 233-97D and F, for the portion of the development consisting of residential development, provided that no affordable housing obligation shall be imposed which would result in an affordable housing obligation greater than that which would have been imposed if the residential development portion of the mixed-use development would have been development independently of the nonresidential portion of the mixed-use development.

C. Collection procedures.

- (1) Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a construction permit.
- (2) For nonresidential 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 nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential 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.
- (3) The Construction Official responsible for the issuance of a construction permit shall notify the Borough Tax Assessor of the issuance of the first construction permit for a development which is subject to a development fee.
- (4) Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- (5) The Construction Official responsible for the issuance of a final certificate of occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- (6) Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

- (7) Should the Borough of Folsom 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 § 37 of P.L. 2008, c.46 (N.J.S.A. 40:55D-8.6).
- (8) For any residential development fee imposed pursuant to § 233-97D, including any residential development fee imposed on the residential development portion of a mixed-use development (as the term is defined in N.J.S.A. 40:55D-8.3), 50% of the initially calculated residential development fee shall be collected at the time of issuance of the first construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of the certificate of occupancy.
- (9) For any nonresidential development fee, as the term is defined in N.J.S.A. 40:55D-8.3, imposed pursuant to the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq., including any nonresidential development fee imposed on the nonresidential development portion of a mixed-use development, as those terms are defined in N.J.S.A. 40:55D-8.3, the entire nonresidential development fee shall be collected at the time of the issuance of the certificate of occupancy.
- (10) Appeal of development fees.
 - (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Folsom. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, 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.
 - (b) A developer may challenge nonresidential 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 Folsom. 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.

D. Affordable Housing Trust Fund.

- (1) There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Folsom for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- (2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- (a) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by ordinance or by agreement with the Borough of Folsom;
 - (b) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with Absecon's affordable housing program.
- (3) In the event of a failure by the Borough of Folsom to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved spending plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Folsom, or, if not practicable, then within the county or the housing region. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.
- (4) Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

E. Ongoing collection of fees.

- (1) The ability for the Borough of Folsom to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Borough of Folsom has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for a Judgment of Compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- (2) If the Borough of Folsom fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to § 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320).

- (3) The Borough of Folsom shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Borough of Folsom retroactively impose a development fee on such a development. The Borough of Folsom also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

APPENDIX F: Resolution Appointing Municipal Housing Liaison

BOROUGH OF FOLSOM


RESOLUTION # 2024-94

Resolution Appointing a Municipal Housing Liaison


WHEREAS, pursuant to P.L. 2024, c.2, the Borough of Folsom is required to appoint a Municipal Housing Liaison for the oversight of administration of the Borough of Folsom's affordable housing program to enforce the requirements of the law and N.J.A.C. 5:80-26.1 et seq.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Folsom in the County of Atlantic and the State of New Jersey that Patricia Gatto is hereby appointed by the Governing Body of the Borough of Folsom as the Municipal Housing Liaison for the administration of the affordable housing program.

11-22-24
Date:


Glenn Smith, Mayor

11-12-24
Date:


Patricia Gatto, Municipal Clerk

