

CITY OF LINWOOD
ATLANTIC COUNTY, NEW JERSEY



Amended 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 City of Linwood Planning Board.

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Executive Summary:

As Linwood 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 City promotes provision of a variety of housing types over a range of affordability, encourages the ongoing maintenance of the City'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.

The Fourth Round Housing Element and Fair Share Plan continues to rely on the existing accessory apartment ordinance and the mixed use overlay zoning ordinances to provide the affordable housing opportunities to meet the City's unmet need obligation. The City was granted a vacant land adjustment by the Court for the Prior and Third Rounds. Since no conditions have changed that would provide additional lands for development, the City's realistic development potential for the Fourth Round is zero (0).

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

Introduction:

The City 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"). This plan is an update to the 2018 Amended Third Round Housing Element and Fair Share Plan, adopted by the Planning Board on July 16, 2018, and endorsed by City Council on August 8, 2018. 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 II”. 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 City of Linwood adopted a resolution on January 29, 2025 committing to a Fourth Round Present Need Obligation of 49 and a Fourth Round Prospective Need Obligation of 25. See Appendix A. The City filed a Declaratory Judgment Complaint on January 30, 2025 with the Program and the Court, along with the City's Fourth Round numbers resolution. See Appendix A.

The Court entered an Amended Order on June 5, 2025 setting the City's Fourth Round Present Need Obligation at 49 and the City's Fourth Round Prospective Need Obligation at 25. 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 2023 US Census population estimates are the most recent available comprehensive database of this type of information for Linwood.

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

Table 1
City of Linwood, Atlantic County and New Jersey
Population Changes: 1940-2023

Year	City of Linwood		Atlantic County		New Jersey	
	Number	Change	Number	Change	Number	Change
1940	1,479	-----	124,066	-----	4,160,165	-----
1950	1,925	30.2%	132,399	6.7%	4,835,329	16.2%
1960	3,847	99.8%	160,880	21.5%	6,066,782	25.5%
1970	6,159	60.1%	175,043	8.8%	7,168,164	18.2%
1980	6,144	-0.2%	194,119	10.9%	7,365,011	2.7%
1990	6,866	11.8%	224,327	15.6%	7,730,188	5.0%
2000	7,172	4.5%	252,552	12.6%	8,414,350	8.9%
2010	7,092	-1.1%	274,549	8.7%	8,791,894	4.5%
2020	6,971	-1.7%	274,534	- < 0.0%	9,288,994	5.7%
2023	6,954	-0.2%	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 Linwood indicates a slightly older population than both Atlantic County and the State. This can be attributed to the slow rate of growth in the population over the last 30 years. Approximately 39.0% of the population was over 55 years of age in 2023. The distribution of ages of persons in the City is indicated in Table 2.

**Table 2
City of Linwood
Population by Age Group: 2000-2023**

	2000		2010		2020		2023	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total Population	7,172	100%	7,092	100%	6,971	100%	6,954	100%
Sex	-----	-----	-----	-----	-----	-----	-----	-----
- Male	3,343	46.6%	3,361	47.4%	3,395	48.7%	3,184	45.8%
-Female	3,829	53.4%	3,731	52.6%	3,576	51.3%	3,770	54.2%
Age	-----	-----	-----	-----	-----	-----	-----	-----
Under 5	375	5.2%	323	4.6%	318	4.6%	393	5.7%
5-9 Years	563	7.8%	465	6.6%	437	6.3%	514	7.4%
10-14 Years	628	8.8%	570	8.0%	502	7.2%	418	6.0%
15-19 Years	410	5.7%	577	8.1%	480	6.9%	478	6.9%
20-24 Years	174	2.4%	250	3.5%	360	5.2%	280	4.0%
25-34 Years	547	7.6%	401	5.7%	545	7.8%	482	6.9%
35-44 Years	1,195	16.7%	876	12.4%	733	10.5%	834	12.0%
45-54 Years	1,190	16.6%	1,319	18.6%	963	13.8%	840	12.1%
55-59 Years	411	5.7%	543	7.7%	542	7.8%	541	7.8%
60-64 Years	334	4.7%	483	6.8%	551	7.9%	485	7.0%
65-74 Years	610	8.5%	561	7.9%	821	11.8%	869	12.5%
75-84 Years	504	7.0%	447	6.3%	470	6.7%	607	8.7%
85+ Years	231	3.2%	277	3.9%	249	3.6%	213	3.1%

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 25.8% of the households in Linwood. This is lower than the County rate of 34.0% and State average of 32.3%. In 2023, the average household size in Linwood is 2.62 persons/dwelling unit, while the County average is 2.42 and the State average is 2.58, making the average household in Linwood larger than that of the County and State.

Education:

Within Linwood’s adult population (25 and over) 94.4% have received a high school diploma and 58.6% received a bachelor's degree or higher giving the City a higher percentage of high-school graduate adults and adults who have a bachelor’s degree compared to the County. In 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 2000 and 2020 for the City, County, and State.

Table 3
City of Linwood, 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
City of Linwood	2,751	2,798	2,813	62	2.3%
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 64.8% of the City's current housing stock was constructed prior to 1980, with 12.7% constructed prior to 1940. The City therefore has what can be considered a housing stock of older age. This is due to the large number of old homes built over 45 years ago when the population was rapidly growing. 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 City of Linwood, a large percentage of homes are expected to have endured the "wear and tear" that typically happens to buildings over long periods of time.

Housing Tenure:

The 2020 Census data indicates that 2,643 housing units (94.0%) in the City were occupied, and 170 units (6%) were vacant. A total of 2,324 units (87.9%) of the occupied units are owner occupied with the additional 319 units (12.1%) occupied by renters.

**Table 4
City of Linwood
Housing Tenure: 2000, 2010 & 2020**

City of Linwood	2000 Units	2000 % of Total	2010 Units	2010 % of Total	2020 Units	2020 % of Total
Total Housing Units	2,751	100%	2,798	100%	2,813	100%
Occupied Housing Units						
-Owner Occupied	2,370	86.2%	2,342	83.7%	2324	82.6%
-Renter Occupied	277	10.1%	311	11.1%	319	11.3%
-Total	2,647	96.2%	2,653	94.8%	2643	94.0%
Vacant Housing Units	104	3.8%	145	5.2%	170	6.0%
Seasonal, Recreational Use	39	1.4%	43	1.5%	69	2.5%
Rental Vacancy Rate	3.1%	-----	0.0%	-----	4.8%	-----
Household Size						
-Owner Occupied	2.74	-----	2.76	-----	2.61	-----
-Renter Occupied	1.86	-----	2.70	-----	2.54	-----

*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 City Housing Stock

Table 5 provides an inventory of the age of the housing stock in the City of Linwood.

**Table 5
City of Linwood
Inventory of Housing Age: 2023**

Year(s) Constructed	Number	Percent of Total
2020 or later	0	0.0%
2010-2019	60	2.1%
2000-2009	172	6.0%
1990-1999	325	11.4%
1980-1989	448	15.7%
1970-1979	297	10.4%
1960-1969	522	18.3%
1950-1959	487	17.0%
1940-1949	184	6.4%
1939 or earlier	364	12.7%

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

In 2023, the median value of the owner-occupied units in the City of Linwood was \$351,100. The median home value has increased since the release of the 2020 Census,

which was \$283,200. The City of Linwood average median home value is about 15.6% more than that of Atlantic County, and about 17.9% less than the average in New Jersey.

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

Median Home Value	2000	2010	2020	2023	Percent Increase 2020-2023
City of Linwood	\$165,100	\$356,300	\$283,200	\$351,100	24.0%
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 2,352 owner occupied units reported in the 2023 American Community Survey, 79.5% were valued at less than \$500,000.

Table 7
City of Linwood
Home Value of Specified Owner-Occupied Units: 2023

Value of Specified Owner Occupied Units	Number of Units	Percent of Total
Less than \$50,000	26	1.1%
\$50,000- \$99,999	17	0.7%
\$100,000- \$149,999	29	1.2%
\$150,000- \$199,999	135	5.7%
\$200,000- \$299,999	648	27.6%
\$300,000- \$499,999	1,015	43.2%
\$500,000- \$999,999	302	12.8%
Over \$1,000,000	180	7.7%

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

As noted in Table 8, the majority of the gross rents charged were less than \$2,500 per month. Of the 241 rental units reported in the 2023 American Community Survey, 74.3% of the units were rented at less than \$2,500.

**Table 8
City of Linwood
Gross Rent of Specified Renter Occupied Units: 2023**

Value of Occupied Rental Specified Units	Number of Units	Percent of Total
Less than \$500.00	21	8.7%
\$500.00-\$999.00	4	1.7%
\$1,000.00-\$1,499.00	8	3.3%
\$1,500.00-\$1,999.00	78	32.4%
\$2,000.00-\$2,499.00	68	28.2%
\$2,500.00-\$2,999.00	35	14.5%
\$3,000 or more	27	11.2%
No cash rent	19	-----

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

The median gross rent in Linwood was \$2,070.00 in 2023. The median rent is higher than that of the Atlantic County and New Jersey averages.

**Table 9
City of Linwood, Atlantic County and New Jersey
Median Rents: 2000, 2010, 2020 & 2023**

Median Rent	2000	2010	2020	2023	% Change 2020-2023
Linwood	\$714.00	\$1,195.00	\$1,640.00	\$2,070.00	26.2%
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 unit detached homes remain the dominant housing structure in Linwood, representing 88.0% of total housing units. In addition, mobile homes account for 0.3% of the housing structures in the City. Even though mobile homes are not deed restricted for affordable housing, they often help provide more affordable housing. This is not the case in the City, due to the lack of mobile homes. The rent prices in Linwood are much higher in relation to the cost of owning a home when comparing it to the County and State averages.

Table 10
City of Linwood
Types of Dwelling Units: 2023

Type of Unit	Number of Units	Percent of Total
1- Unit; detached	2,516	88.0%
1- Unit; attached	142	5.0%
2 Units	23	0.8%
3 or 4 Units	73	2.6%
5 to 9 Units	16	0.6%
10 to 19 Units	14	0.5%
20 or more Units	65	2.3%
Mobile Homes	10	0.3%
Boat, RV, Van, etc.	0	0.0%
Total	2,859	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
City of Linwood
Condition of Housing: 2023

Characteristic	Number of Units
Overcrowded (> 1 person per room)	23
Total Units lacking complete plumbing	15
Total Units lacking complete kitchen	42

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

According to the 2023 American Community Survey, the 2023 median household income in the City of Linwood was \$135,904. Additionally, 2.4% of the City's population (166 people) 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 City of Linwood. Linwood is in Region 6, which encompasses Atlantic, Cape May,

Cumberland and Salem counties. The median household income in the City of Linwood in 2023 was \$135,904.

Table 12
2024 Affordable Housing Regional Income Limits
By Household Size Region 6

	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 for 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 for households earning fifty-two percent (52%) of median income. The maximum rents must be affordable for 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 2.62 in Linwood City in 2023 and the regional limits, the median income in Region 6 for the City of Linwood used for 2024 is \$88,524. At a minimum, 58 owner occupied units and 33 renter occupied units could be considered affordable to three-person very-low-, low- and moderate-income households as indicated

in Table 13. Of the owner occupied units, 6 units could be considered affordable to a three-person very-low-income household or three-person low-income household and 52 units could be considered affordable to a three-person low-income household or three-person moderate income household. There are also 250 owner occupied units that fall somewhere between moderate income three-person households and unaffordable. Of the renter occupied units, 21 units could be considered affordable to very-low-income households. 4 more units could be considered affordable for a three-person very-low-income or low-income household and 8 more units could be considered affordable to a three-person low-income or moderate-income household. 78 renter occupied units also fall between moderate-income and unaffordable. Based upon these numbers a minimum of approximately 3.2% of the 2,859 total housing units in the City in 2023 are potentially affordable. Of these, a minimum of 31 units representing approximately 1.1% could be affordable to very low- and low-income households with the remaining 60 units representing approximately 2.1% could be affordable to low-income and moderate-income households. Although these figures are estimates using assumptions regarding household size, it appears that the City of Linwood has a small number of affordable units, some of which are naturally affordable, and some of which can be counted as affordable housing credits. Even when factoring in the number of houses that fall in the moderate-income-unaffordable range and houses without rent/mortgages, there is a very high percentage of unaffordable houses in Linwood.

Table 13
City of Linwood
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	1,512	
Less than \$500.00	0	Very Low Income
\$500.00-\$999.00	6	Very-Low Income – Low Income
\$1,000.00-\$1,499.00	52	Low Income – Moderate Income
\$1,500.00-\$1,999.00	250	Moderate Income – Not Affordable
\$2,000.00-\$2,499.00	242	Not Affordable
\$2,500.00-\$2,999.00	361	Not Affordable
\$3,000.00 or more	601	Not Affordable
Not Mortgaged	840	N/A
Renter Occupied Housing Units	241	Affordability
Less than \$500.00	21	Very Low Income
\$500.00-\$999.00	4	Very Low Income – Low Income
\$1,000.00-\$1,499.00	8	Low Income – Moderate Income
\$1,500.00-\$1,999.00	78	Moderate Income – Not Affordable
\$2,000.00-\$2,499.00	68	Not Affordable
\$2,500.00-\$2,999.00	35	Not Affordable
\$3,000.00 or more	27	Not Affordable
No Rent Paid	19	N/A

*Source: 2020 Census Data
 2023 American Community Survey 5-Year Estimates
 AHPNJ, April 12, 2024*

Housing Stock, Population & Employment Projections

According to the New Jersey Department of Labor, Residential Building Permits Issued, 106 new building permits were issued in the City of Linwood from 2013 through 2022.

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 19 shows the balance of Certificates of Occupancy and Demolition Permits issued between 2013 and 2023. According to NJDCA permit data, 32 new units were certified, and 27 units were demolished. There is an annual average of 3 Certificates of Occupancy issued per year, and 2 demolitions per year. This means that an average of 1 new net dwelling occur per year over this time frame. If this rate were to remain relatively constant, the City could see a net increase of 9 to 10 more units over the next 10 years.

Table 14
City of Linwood
Residential Construction Certificate of Occupancy
and Demolition Permits Issued: 2013-2023

Year	Certificates of Occupancy	Demolitions	Net New Dwellings
2013	2	5	-3
2014	2	4	-2
2015	5	4	1
2016	4	2	2
2017	4	5	-1
2018	1	2	-1
2019	1	0	1
2020	2	2	0
2021	1	3	-2
2022	3	0	3
2023	7	0	7
Total	32	27	5
Annual Average	3	2	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 City of Linwood and Atlantic County in 2023 were 3,625 and 144,112 respectfully. The Linwood civilian labor force represents 2.5% of the County civilian labor force. In 2023, the percent of the persons age 16 and over in the civilian labor force in the City of Linwood was 65.4%. This average is slightly higher than the County average of 64.1%. The City also had unemployment rates that were slightly higher

than the County, with rates that were 4.7% (262 persons) and 4.1% (9,185 persons) respectfully.

The Census data distribution of occupational positions in the City of Linwood generally reflects that of Atlantic County and the State. The largest difference, at the State level, comes in the management, business, science, and arts occupations. Approximately 53.9% of Linwood’s labor force works in the management, business, science, and arts occupations compared to 47.4% of the State.

**Table 15
City of Linwood and Atlantic County
Civilian Labor Force Characteristics: 2023**

	City of Linwood		Atlantic County	
	Number of Persons	Percent of Total	Number of Persons	Percent of Total
Labor Force	3,625	65.4%	144,112	64.1%
Employed	3,363	60.6%	134,927	60.1%
Unemployed	262	4.7%	9,185	4.1%

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

**Table 16
City of Linwood, Atlantic County and New Jersey
Occupation Distribution: 2023**

Occupation	City of Linwood	Atlantic County	New Jersey
Management, business, science and arts occupations	53.9%	38.6%	47.4%
Service Occupations	15.6%	27.0%	15.5%
Sales and Office Occupations	19.5%	16.8%	19.0%
Natural resources, construction and maintenance occupations	4.8%	7.5%	6.9%
Production, transportation and material moving occupations	6.2%	10.1%	11.2%

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

In 2023, the median household income in Linwood was \$135,904. However, there is a wide range of income levels, as 46.2% of households make over \$150,000 and 15.7% make under \$50,000. The distribution of household income is indicated in Table 17.

Table 17
City of Linwood
Household Income: 2023

Household Income	Number	Percent
Less than \$10,000	59	2.1%
\$10,000- \$14,999	31	1.2%
\$15,000- \$24,999	65	2.5%
\$25,000- \$34,999	86	3.3%
\$35,000-\$49,999	172	6.6%
\$50,000- \$74,999	209	8.0%
\$75,000- \$99,999	324	12.4%
\$100,000- \$149,999	457	17.5%
\$150,000 or more	1,207	46.2%

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 3,625, of which 3,363 were employed. Classifications of workers by occupation distribution can be referenced in Table 18 which lists occupation by industry of workers in the City.

Table 18
City of Linwood
Employment Classification: 2023

Industry	Number of Employees	% of Total Employed
Agriculture, forestry, fishing, hunting and mining	1	0.0%
Construction	190	5.6%
Manufacturing	239	7.1%
Wholesale Trade	39	1.2%
Retail Trade	233	6.9%
Transportation, warehousing and utilities	112	3.3%
Information	53	1.6%
Finance, Insurance, Real Estate and Rental/Leasing	297	8.8%
Professional, scientific, management, administrative and waste management services	631	18.8%
Educational services, health care and social assistance	874	26.0%
Arts entertainment, recreation, accommodation and food services	302	9.0%
Other services except public administration	80	2.4%
Public Administration	312	9.3%

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 population decrease and significant employment growth throughout the region. In the City of Linwood, the SJTPO projects local employment growth of 1,198 jobs (+35.2%) with an ample decrease in population of 347 people (-5.0%). As shown in Table 18, the City is expected to experience an employment increase (+35.2%) higher than what is expected to occur throughout the County (+25.1%). However, the population is expected to decrease more significantly in Linwood (-5.0%) when compared to the County (-3.1%). This increase of jobs will provide more opportunities for the slightly smaller number of people who will live there in the future

**Table 19
City of Linwood
Population and Employment Projections: 2020-2060**

Location	Population			Employment		
	Estimate 2020	Projected 2060	Percent Change	Estimate 2020	Projected 2060	Percent Change
City of Linwood	6,971	6,624	- 5.0%	3,408	4,606	+ 35.2%
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. Lands within Planning Area 1 Metropolitan Area in the City, are appropriate locations for affordable housing. These are the areas that the State has, for the most part, encouraged growth. The City also has land area within the Planning Area 5 Environmentally Sensitive Area along Patcong Creek to the west and along the bay and marshlands to the east; these areas are not appropriate for development. The areas of the City within the PA1 Metropolitan Area are also within the NJDEP Sewer Service Area. The entire City is served by public sanitary sewer and public water.

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 City'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 City of Linwood do not detract from the multigenerational family continuity goal. The City should update its land use ordinance to expand the areas where accessory apartments and in-law suites are permitted uses.

Consideration of Affordable Housing Options

The City did not receive proposals from developers of affordable housing projects to satisfy the City's Fourth Round Prospective Need Obligation. The City believes that the projects that exist and are proposed in this Housing Element and Fair Share Plan represent the best options for affordable housing in the City. While the City recognizes that developers may, in the future, present sites that possess characteristics that could lend themselves to affordable housing development, additional sites are not needed to satisfy the obligation at this time.

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"), 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 Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158, 456 A.2d 390 (1983) ("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 City of Linwood.

City of Linwood 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 City has addressed prior obligations as well as how it intends to address its Fourth Round affordable housing obligations:

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. Linwood has a Present Need Obligation of **49** units.

B. Prior Round Obligation (1987-1999)

The City of Linwood has a Prior Round Obligation of **140** units.

C. Third Round Obligation (1999-2025)

The City of Linwood has a Third Round Obligation of **112** units.

D. Vacant Land Adjustment of Prior Round and Third Round Obligations

The City's Prior Round and Third Round new construction obligations of 140 and 112, respectively, leaves Linwood with a new construction obligation of 252. Due to those new construction obligations being outsized as compared to the availability of developable land in Linwood, the City received an initial vacant land adjustment that reflects a Realistic Development Potential (RDP) and an unmet need. For the

Prior Round, this resulted in an RDP of three (3) and an unmet need of 137. The Third Round Court-approved Vacant Land Adjustment resulted in an RDP of 12 and an unmet need of 100.

E. Fourth Round Prospective Obligation (2025-2035)

The City of Linwood has a Fourth Round Prospective Need Obligation of **25** units.

Housing Strategy:

Affordable Housing Caps and Requirements

In accordance with the requirements set forth in the Amended FHA, the City of Linwood 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 City'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 City's 49-unit Fourth Round Rehabilitation Obligation, 140-unit Prior Round Obligation, 112-unit Third Round

Obligation, and the 25-unit Fourth Round Obligation. Below are the mechanisms the City 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 forty-nine (49) units was accepted by the City. The City plans to satisfy this obligation by continuing its participation in the Atlantic County Improvement Authority's rehabilitation program and/or through other rehabilitation programs selected by the City as may become available.

Addressing the Prior Round Obligation

The City has a Prior Round obligation of 140 units.

The City received a Pre-Meditation Report from COAH that concluded the RDP for the Prior Round was 3 units. In accordance with the Court-approved Settlement agreement, 2 bedrooms in an existing three-bedroom group home facility operated by Delta Community Supports and located at 115 Carol Road, and one bonus credit. The third bedroom will go towards the Prior Round Unmet Need of 138, resulting in an Unmet Need of 137 for the Prior Round.

Addressing the Third Round Obligation

Linwood has a Third Round (1999-2025) Obligation of 112 units.

A vacant land analysis was conducted and in accordance with the Court-approved Settlement Agreement and the Consent Order of Compliance and Repose (See Appendix C), the municipality has a Third Round RDP of 12 units. This RDP will be satisfied as follows:

ARC of Atlantic County:

As per the Court-approved Settlement Agreement and Consent Order of Compliance and Repose, the City of Linwood would provide funding to the ARC of Atlantic County for the construction of a three-bedroom group home. The City agreed to contribute \$40,000 per bedroom, or \$120,000 for the group home. In the Court-approved Settlement Agreement, the City was anticipating to apply 3 credits and 3 bonus credits for a three-bedroom group home. The ARC of Atlantic County purchased 1717 Dianne Court, which was a four-

bedroom home, and the City provided \$160,000 from the City’s Affordable Housing Trust Fund. This provided the City with 4 credits and 4 bonus credits.

Accessory Apartment Program:

The City has contracted with Triad Associates to administer the six-unit Accessory Apartment Program. See Appendix D. The Linwood program will be a mix of illegal, existing apartments and new accessory apartments. Only the new accessory apartments will be the focus of a monetary contribution. The City also will be adopting an updated Accessory Apartment ordinance. See Appendix F. The program will be funded via development fees, the municipal budget, by bonding or a combination of the above. Linwood will provide one very-low-income accessory apartment with the balance being two, low-income and three moderate- income accessory apartments.

**Table 20
Third Round Affordable Housing Unit Crediting**

Development	VLI	Rentals	Units	Bonus Credits	Total Credits	Status
ARC of Atlantic County – 1717 Dianne Court	4	4	4	4	8	Constructed & Occupied
Accessory Apartment Program		6	6		6	Ordinance in full effect
Total Credits	4	10	10	4	14	

The City has two surplus credits as a result of the extra bedroom in the ARC of Atlantic County group home that will be applied to the Unmet Need for the Third Round, reducing it from 100 units to 98 units.

Addressing the Fourth Round Obligation

Linwood has a Fourth Round (2025-2035) Obligation of 25.

Caring, Inc. - 1803 Shore Road

Caring, Inc. is currently constructing a five (5) bedroom group home on Lot 10 in Block 28.10. The group home will be rented to low- to very-low-income individuals. Once construction is completed, a 40-year deed restriction will be required.

As per N.J.A.C. 5:93-1.3, the site for the proposed project is Approvable, Available, Developable and Suitable. The site is considered to be an approvable site due to its ability to be developed with affordable housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The site has a clear title and is free of encumbrances which would preclude the development of affordable housing, making it an available site. The site is also developable, meaning that it has appropriate water and sewer infrastructure available. It is also considered suitable, meaning that it is adjacent to

compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.

Transitional Living:

Surfside Recovery is an existing transitional living house with a total of 5 bedrooms and is located at 8 Marvin Avenue (Block 177, Lot 7.01). The property is licensed by the State of New Jersey as a Rooming and Boarding House. Annual inspections are conducted by the DCA. In accordance with the new legislation, in the Fourth Round, municipalities can count credits for transitional housing for up to 10% of the fair share obligation. The City is applying two (2) credits towards the Fourth Round obligation for this facility.

**Table 22
Fourth Round Affordable Housing Unit Crediting**

Development	Special Needs	Family	Senior	Rentals	Units	Bonus Credits	Total Credits
Caring, Inc. 1803 Shore Road	5			5	5	5	10
Transitional Living Surfside Recovery				2	2		2
Total Credits	5	0	0	7	7	5	12

The total of 12 units generated from the bedrooms in the Caring, Inc. group home and the Surfside Recovery transitional living facility will be applied to the Fourth Round Unmet Need reducing the Unmet Need to 13 units.

Vacant Land Analysis

Pursuant to N.J.A.C. 5:97-5.1(d) and the City’s 2018 Settlement Agreement with FSHC and the Consent Order, the City is entitled to rely on the previous Vacant Land Adjustments which established its RDP and that said RDP shall not be revisited absent any substantial “changed circumstances”.

Due to limited vacant and developable land that is within the City’s land use jurisdiction, the City qualifies for a vacant land adjustment. The City performed a vacant land analysis and because the Realistic Development Potential associated with the qualifying vacant parcels is addressed in the Third Round Fair Share Plan, the Fourth Round RDP is zero (0).

In the time since the Court-approved Settlement Agreement and Final Judgment of Compliance and Repose, several lots identified as vacant and developable have been developed with single-family dwellings. The following table is an update of the status of the developable parcels identified in the Third Round’s vacant land analysis:

**Table 21
Developable Vacant Lots Greater than 0.5 Acres**

Vacant Lands Identified in the 2018 Vacant Land Analysis				
Block	Lot	Property Location	Developable Acreage	Current (2026) Condition of Property
6	38.01	495 Oak Lane	0.96	Vacant
12	20	Wabash & Cleveland Avenues	0.8523	City purchased property using County Open Space Funds in 2020
16.01	31.07	18 Seagarden Drive	1.33	Consolidated with adjacent existing single-family lot
16.01	31.08	16 Seagarden Drive	0.97	Vacant
27	16	1925 Shore Road	0.5671	Lot consolidated with adj. lot and no longer vacant
33	6	100 E. Seaview Avenue	0.5267	New dwelling constructed
33	12.01	1807 Franklin Boulevard	1.3897	Vacant
102	5.01	321 Murphy's Way	0.65	New dwelling constructed
110	3	1145 Woodlynne Boulevard	0.5528	New dwelling constructed
184	1	750 Shore Road	1.8885	Parcel subdivided; 3 new dwellings constructed
TOTAL DEVELOPABLE LAND = 9.6871 acres				
Vacant Lands Identified in the 2026 Vacant Land Analysis				
Block	Lot	Property Location	Developable Acreage	Current Condition of Property
6	38.01	495 Oak Lane	0.96	Vacant
16.01	31.08	16 Seagarden Drive	0.97	Vacant
27	11.03	1902 W. Burwick Lane	0.54	Vacant
33	12.01	1807 Franklin Boulevard	1.3897	Vacant
TOTAL DEVELOPABLE LAND = 3.8597 acres				

Based on an analysis of property tax records, approvals and aerial imagery, the City has determined that there have been no substantial changed circumstances that would generate new realistic development potential since the vacant land analysis contained in the Court-approved 2018 Third Round Housing Element and Fair Share Plan, Court-approved 2018 Settlement Agreement and Consent Order of Compliance and Repose.

In 2018, it was determined that there were 9.8671 acres of developable land available in the City. Since 2018, most of the vacant parcels have been developed with single-family dwellings, the City purchased a large parcel of land with open space funds, one vacant lot was subdivided into three lots for single-family dwellings and one parcel was consolidated with an adjacent lot with an existing single-family dwelling.

This latest analysis confirmed that there were no properties representing a substantial changed circumstance requiring a Fourth Round RDP obligation. This is largely due to the fact that the City lacks developable land as demonstrated by the vacant land adjustment and the significant decrease in the number of available, developable parcels from 2018. There were three lots which remain vacant since 2018 and one lot which was created by a

lot line adjustment. There has been no increase in available developable land. As such, the City’s RDP is zero (0).

The Amended FHA requires a municipality that receives an adjustment of the prospective need to identify sufficient parcels that are likely to redevelop during the fourth round to address 25 percent of the “adjusted number” with realistic or meaningful zoning. While the plain reading of the Amended FHA could mean that the “adjusted number” is RDP then the City would have a zero (0) obligation toward this requirement because the Fourth Round RDP is zero (0). If, however, a Court determines that the “adjusted number” is unmet need, the City is complying through the compliance mechanisms already approved by the Court in the Consent Order of Compliance and Repose.

The conditions remain substantially unchanged from the vacant land analysis done for the Third Round. The RDP from the Third Round was 12 units. The vacant land analysis continues to support an RDP of zero (0) units. Supporting maps and vacant land data is included in Appendix I.

The City’s vacant land analysis resulted in a combined Prior Round, Third Round and Fourth Round RDP and unmet need as follows:

**Table 23
Summary of Fair Share Obligation**

Rehabilitation Share	0
Prior Round Obligation	140
Third Round Obligation	112
Fourth Round Obligation	25
City Obligation After Vacant Land Adjustment	
Realistic Development Potential for Prior Round and Third Round	15
Realistic Development Potential for Fourth Round	0
Unmet Need	272

The City is implementing a comprehensive plan that provides for a mix of housing types including accessory apartments and overlay zoning to address the unmet need obligation.

Addressing the Unmet Need

Linwood has an existing Assisted Living Facility called Brandall Estates. Located at 432 Central Avenue, Brandall Estates contains 90 bedrooms. As per statute, 10 percent of all assisted living bedrooms must be available to Medicaid Waiver recipients. As a result, nine of the bedrooms qualify for credit and will address a portion of unmet need.

The balance of unmet need will be addressed by the City’s adopted overlay zoning in several locations. This overlay zoning falls into two categories (a) **Mixed-use zoning**, defined as overlay zoning for mixed- use development with the first floor required to be commercial, and up to two stories of residential over commercial and (b) **Mixed-use/residential zoning**, defined as overlay zoning that permits either mixed-use

development with the first floor commercial and up to two stories of residential over commercial or residential-only development with up to three stories of residential uses and no commercial use required. Both of these zones will allow up to 15 units per acre, with a 20 percent set-aside for rental units or a 20 percent set-aside for for-sale units. See Appendix E. The blocks and lots in each category of overlay zoning are listed below:

Table 24
Lots within Affordable Overlay Zone I

Mixed-use zoning	Location
7- Eleven	1413 New Road (Block 1, Lot 46.02)
The Exchange	2110 New Road (Block 6, Lot 24)
Clay’s Climate Control	501 W. Patcong (Block 1, Lot 43.01)

Table 25
Lots within Affordable Overlay Zone II

Mixed-use/residential zoning	Location
Overlay Zones- West Side of New Road	Block 1, Lots 29.01, 29.02, 32.01, 32.02, 33, 34, 35, 36, 37, 38, 39, 43.02, 46.01, 47, 48
Overlay Zones in southern part of New Road	Block 1, Lot 24 Block 6, Lots 25, 26, 36, 40 Block 19, Lots 5,6 and 7

As another provision to address unmet need, the City adopted an Ordinance requiring mandatory affordable housing set aside for all new multifamily residential developments of five units or more. The set aside for for-sale developments is 20 percent and 20 percent for rental units. The provisions of the ordinance will not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. See Appendix F for the City’s set-aside ordinance.

The City will amend the current set-aside ordinance to require a 20 percent set-aside for both for-sale units and rental units. The City maintains and will maintain in full effect for the duration of the forthcoming round, an affordable housing ordinance which includes provisions establishing a mandatory affordable housing set-aside requirement and has established two affordable housing overlay zones which require the development of additional low- and moderate-income housing opportunities.

Very Low-Income Units

Pursuant to the amended FHA (P.L. 2008, c.46), the City 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 City will exceed 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.” To meet this requirement, the City will continue to pursue affordable housing opportunities for family rental units.

Income and Bedroom Distribution

The City will continue to 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

Linwood currently has an Affordable Housing Ordinance, Chapter 78 of the City Code (See Appendix F). The Affordable Housing Ordinance governs the establishment and occupancy of the affordable units in the City, 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 Affordable Housing Development Fees are contained in the City's Code in Chapter 124 Development Fees. See Appendix G.

The City has prepared 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. See Appendix F.

The City shall adopt by resolution an updated Affirmative Marketing Plan. The City's Administrative Agent designated by the City of Linwood, 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 City has appointed a Municipal Housing Liaison by resolution. See Appendix H. The City does have a contract with Triad Associates 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 City. 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 City'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 SDRP as the proposed projects and zoning mechanisms will provide the opportunity for the construction of affordable housing.

The City of Linwood is located in the PA-1 Metropolitan Planning Area. Per the SDRP, the intent for PA-1 is to:

- provide for much of the State’s future redevelopment;
- revitalize cities and towns;
- promote growth in compact forms;
- stabilize older suburbs;
- redesign areas of sprawl; and
- protect the character of existing stable communities.

Areas of the City that are situated in the PA-5 Environmentally Sensitive areas are not suitable for development and per the SDRP, the intent for PA-5 is to:

- protect environmental resources through the protection of large contiguous areas of land;
- accommodate growth in Centers;
- protect the character of existing stable communities;
- confine programmed sewers and public water services to Centers; and
- revitalize cities and towns.

The City continues to encourage the development of affordable housing in the PA-1. This is consistent with the overall SDRP goal to direct redevelopment and growth into areas where infrastructure can support the development and support services such as open space, retail shopping and public transportation are within walking distance.

Cost Generation

The City’s Subdivision of Land and Site Plan Review and Zoning ordinances have been reviewed to eliminate unnecessary cost generating standards. The City will amend, if needed, the Land Use 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 City’s ordinances, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the FHA regarding unnecessary cost-generating requirements.

Once the DCA and HMFA finalize their rule proposes, the City will revise its Subdivision of Land and Site Plan Review 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 City 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 City'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 City 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 and Consent Order of Compliance and Repose.

The City 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 City'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 City'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

Through the proposed mechanisms addressed in this Housing Element and Fair Share Plan, the City will be able to satisfy its Rehabilitation, Prior Round, Third Round and Fourth Round Prospective Need affordable housing obligations by 2035 providing for a realistic opportunity for the production of very low-, low- and moderate-income units within the City.

**APPENDIX A – Fourth Round Declaratory Judgment Complaint with City
Resolution Committing to Fourth Round Obligations**

Joseph L. Youngblood, Jr., Esquire
Attorney ID: 271931971
YOUNGBLOOD, FRANKLIN & SAMPOLI, P.A.
1201 New Road, Suite 215
Linwood, New Jersey 08221
(609) 601-6600

Attorney for Declaratory Plaintiff, City of Linwood

	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
	:	ATLANTIC COUNTY
	:	
IN THE MATTER OF THE	:	DOCKET NO. ATL-L-
APPLICATION OF THE CITY OF	:	
LINWOOD, COUNTY OF ATLANTIC,	:	<u>CIVIL ACTION</u>
STATE OF NEW JERSEY	:	AFFORDABLE HOUSING
	:	PER DIRECTIVE #14-24
	:	
	:	COMPLAINT FOR DECLARATORY
	:	RELIEF PURSUANT TO DIRECTIVE
	:	#14-24

Declaratory Plaintiff, the City of Linwood, County of Atlantic, State of New Jersey, a Municipal Corporation of the State of New Jersey, with principal offices located at 400 Poplar Avenue, Linwood, New Jersey 08221, by way of this Declaratory Judgment Action (“DJ Action”) as authorized under Directive #14-24 of the Administrative Office of the Courts, alleges and says:

BACKGROUND

1. The City of Linwood is a Municipal Corporation of the State of New Jersey.
2. The Planning Board of the City of Linwood (hereinafter “Planning Board”) is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq. (“MLUL”) and, among other duties and obligations, is responsible for adopting the Housing Element and Fair Share Plan (“HEFSP”) of the City of Linwood’s Master Plan.

3. Through this Declaratory Judgment Complaint, the City of Linwood seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Alternative Dispute Resolution Program (the “Program”) pursuant to P.L. 2024, c.2 (hereinafter the “Act”) and the Court, pursuant to Directive #14-24; (b) to have the Program and the Court approve the City of Linwood’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the City, attached hereto as **Exhibit 1**; (c) to have the Program and the Court approve a HEFSP to be adopted by the Planning Board and endorsed by the Council and issue a conditional or unconditional “Compliance Certification” pursuant to the Act or other similar declaration; (d) to the extent it is not automatically granted pursuant to the Act, through the filing of this Declaratory Judgment Complaint and binding resolution, to have the Program and the Court confirm the City of Linwood’s immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of Fourth Round, i.e., through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the City of Linwood receives and obtains all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

COUNT I

ESTABLISHMENT OF JURISDICTION UNDER P.L. 2024, C.2

1. The City of Linwood repeats and realleges each and every allegation as set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

2. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq.

3. Among other things, the Act abolished the Council on Affordable Housing (hereinafter “COAH”) and replaced it with seven retired, on recall judges designated as the Program. Among other things, the Act authorized the Director of the Administrative Office of the Courts (hereinafter, respectively, “Director” and “AOC”) to create a framework to process applications for a Compliance Certification.

4. On or about December 13, 2024, the Director issued a Directive #14-24, which among other things, required municipalities seeking a Compliance Certification to file an action in the form of a Declaratory Judgment Complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality’s adoption of a binding resolution, confirming and establishing the City’s Fourth Round numbers as determined by the New Jersey Department of Community Affairs and as authorized under the Act, with an attached copy of said binding resolution to the Declaratory Judgment Complaint.

5. In order to achieve compliance, the City of Linwood adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this Declaratory Judgment Complaint as **Exhibit 1**.

6. Based on the foregoing, the City of Linwood has established the jurisdiction of the Program and the Court in regard to this Declaratory Judgment Complaint for a Compliance Certification as set forth hereinafter.

WHEREFORE, the City of Linwood seeks a declaratory judgment for the following relief:

a. Declaring that the City of Linwood has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as Exhibit 1 to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;

b. Declaring the present and prospective affordable housing obligations of the City of Linwood under the Act;

c. Declaring the approval of the City of Linwood's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the City Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (iii) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (iv) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (v) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vi) any other applicable adjustment permitted in accordance with the Act and/or applicable Affordable Housing Regulations;

d. Declaring that the City of Linwood has and will continue to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program and commencing with the filing of this Complaint in accordance with the terms and conditions of the Act;

e. Declaring and issuing Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Linwood for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act, as well as all applicable Affordable Housing Regulations in the State of New Jersey.

COUNT II

**DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED
OF THE CITY OF LINWOOD**

1. The City of Linwood repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

2. The Act adopted the methodology to calculate every municipality’s present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

3. The Act directed the Department of Community Affairs (“DCA”) to apply the methodology and to render a non-binding calculation of each municipality’s present and prospective affordable housing obligations to be contained in a report to be issued not later than October 20, 2024.

4. The DCA issued its report on October 18, 2024.

5. Pursuant to the October 18, 2024 report, the DCA calculated the City of Linwood’s present and prospective affordable housing obligations as follows:

Present Need (Rehabilitation Obligation)	49
Fourth Round Prospective Need Obligation (2025-2035)	25

6. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.

7. The City of Linwood adopted a binding resolution, a copy of which resolution is attached hereto and made a part hereof as Exhibit 1 to this Declaratory Judgment Complaint.

8. The binding resolution maintains that the Present (“Rehabilitation”) Need Obligation of the City of Linwood is 49 and its Prospective (“New Construction”) Need Obligation is 25.

9. The City of Linwood seeks the approval of and confirmation by the Program and the Court of the Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as Exhibit 1 or the adjustment of those obligations consistent with the Act and the applicable Affordable Housing Regulations.

10. Pursuant to the binding resolution, the City of Linwood reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.

11. Pursuant to the binding resolution, the City of Linwood specifically reserves the right to seek and obtain (1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (3) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (4) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (5) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (6)

any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the City of Linwood seeks a declaratory judgment for the following relief:

a. Declaring that the City of Linwood has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;

b. Declaring the present and prospective affordable housing obligations of the City of Linwood under the Act;

c. Declaring the approval of the City of Linwood's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (iii) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (iv) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (v) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vi) any other applicable adjustment permitted in accordance with the Act and/or all applicable Affordable Housing Regulations;

d. Declaring that the City of Linwood has and will continue to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Linwood for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable Affordable Housing Regulations of the State of New Jersey.

COUNT III

HOUSING ELEMENT AND FAIR SHARE PLAN

1. The City of Linwood repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

2. Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, "HEFSP") must be prepared, adopted by the Planning Board and endorsed, by June 30, 2025.

3. The City of Linwood hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, (1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (3) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (4) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (5) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (6) any other applicable adjustment permitted in accordance with the Act and/or applicable Affordable Housing Regulations.

WHEREFORE, the City of Linwood seeks a declaratory judgment for the following relief:

a. Declaring that the City of Linwood has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the Act;

b. Declaring the present and prospective affordable housing obligations of the City of Linwood under the Act;

c. Declaring the approval of the City of Linwood's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate, and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (iii) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (iv) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (v) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vi) any other applicable adjustment permitted in accordance with the Act and/or applicable Affordable Housing Regulation;

d. Declaring that the City of Linwood has and will continue to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Linwood for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable Affordable Housing Regulations of the State of New Jersey.

COUNT IV

CONFIRMATION OF IMMUNITY

1. The City of Linwood repeats and realleges each and every allegation set forth in the previous paragraphs of this Declaratory Judgment Complaint as if set forth herein in full.

2. Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

3. The City of Linwood has met the deadline for the adoption and filing of its binding resolution (and the filing of this Declaratory Judgment Complaint in accordance with Directive #14-24) not later than January 31, 2025, by adopting the binding resolution attached to this Declaratory Judgment Complaint as **Exhibit 1**, and has committed to the adoption of its HEFSP by June 30, 2025. Therefore, in accordance with the terms and conditions of the Act, the City is entitled to immunity from all exclusionary zoning lawsuits from the time the Complaint was filed, through June 30, 2035, once a Compliance Certification is issued or a Judgment of Compliance and Repose is granted.

WHEREFORE, the City of Linwood seeks a declaratory judgment for the following relief:

a. Declaring that the City of Linwood has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this Declaratory Judgment Complaint or to adjust such determination consistent with the terms and conditions of the Act;

b. Declaring the present and prospective affordable housing obligations of the City of Linwood under the Act;

c. Declaring the approval of the City of Linwood's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate, and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); and/or (iii) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (iv) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (v) an adjustment based upon any ruling in litigation involving affordable housing obligations; and (vi) any other applicable adjustment permitted in accordance with the Act and/or applicable Affordable Housing Regulations;

d. Declaring that the City of Linwood has and will continue to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;

e. Declaring and issuing Compliance Certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the City of Linwood for the period beginning July 1, 2025 and ending June 30, 2035; and

f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable Affordable Housing Regulations of the State of New Jersey.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that Joseph L. Youngblood, Jr., Esquire, attorney for the Declaratory Plaintiff, City of Linwood, is designated as trial counsel in the above captioned matter.

CERTIFICATION PURSUANT TO R. 4:5-1

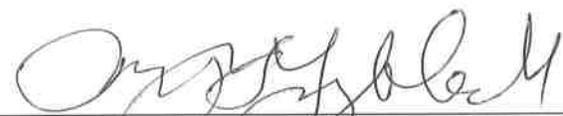
Joseph L. Youngblood, Jr., Esquire, hereby certifies as follows:

1. I am a member of the firm of Youngblood, Franklin & Sampoli, P.A., attorneys for the Declaratory Plaintiff, City of Linwood.
2. To the best of my knowledge, there is no other action pending in any court or any pending arbitration proceeding of which the matter in controversy herein is the subject and no such other action or arbitration proceeding is contemplated. To the best of my knowledge, there are no other parties who should be joined in this action.
3. The within Complaint was filed and served within the time prescribed by the Rules of Court.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

YOUNGBLOOD, FRANKLIN & SAMPOLI, P.A.

BY:



Joseph L. Youngblood, Jr., Esquire
Attorney for the Declaratory Plaintiff,
City of Linwood

Dated: January 30, 2025

CERTIFICATION PURSUANT TO R. 1:38-7(b)

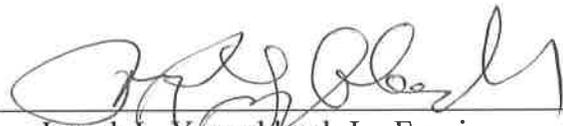
Joseph L. Youngblood, Jr., Esquire, hereby certifies as follows:

1. I am a member of the firm of Youngblood, Franklin & Sampoli, P.A., attorneys for the Declaratory Plaintiff, City of Linwood.

2. I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

YOUNGBLOOD, FRANKLIN & SAMPOLI, P.A.

BY: 
Joseph L. Youngblood, Jr., Esquire
Attorney for the Declaratory Plaintiff,
City of Linwood

Dated: January 30, 2025

RESOLUTION NO. 33, 2025

**A RESOLUTION SETTING 4TH ROUND AFFORDABLE HOUSING OBLIGATIONS
FOR THE CITY OF LINWOOD, COUNTY OF ATLANTIC**

WHEREAS, on March 20, 2024, the New Jersey Legislature adopted legislation known as P.L.2024, c.2, which set forth a procedure for calculating the 4th Round affordable housing obligation for municipalities, and which required this calculation to be adopted by the governing body of a municipality by way of Resolution; and

WHEREAS, N.J.S.A. 52:27D-304.1(a) allows the municipality to take into consideration the calculations published by the New Jersey Department of Community Affairs (“DCA”) when determining the municipal Present Need and Prospective Need obligations and requires the basis for the municipality’s determination to be set forth in a Resolution; and

WHEREAS, in October 2024, DCA released its proposed calculations for municipal Present Need and municipal Prospective Need and determined that Linwood City’s Present Need is 49 units and its Prospective Need is 25 units; and

WHEREAS, the City’s affordable housing professionals have reviewed the Present Need calculations and Prospective Need calculations published by the DCA appear to conform to the standards established under the Fair Housing Act, and have recommended that the City adopt these calculations as the City of Linwood’s 4th Round affordable housing obligations; and

WHEREAS, the City of Linwood has determined that it is in the best interests of Linwood City to accept the Present Need and Prospective Need obligations as calculated by the DCA for the 4th Round.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Linwood, as follows:

1. The City hereby adopts the fourth-round methodology for fair share housing obligations determined by the New Jersey Department of Community Affairs which sets forth the City’s present need is 49 units, and its prospective need is 25 units.
2. Youngblood, Franklin & Sampoli, P.A. is directed to file a Complaint for Declaratory Judgment and to file a copy of this Resolution with the Affordable Housing Alternative Dispute Resolution Program as required by the Amended FHA.
3. A certified copy of this Resolution shall be forwarded by the City Clerk within forty-eight (48) hours to the following:

(a) Department of Community Affairs

EXHIBIT 1

- (b) A copy shall be posted on the City's website
- (c) Jennifer Heller, PP, AICP, City Planner
- (d) Joseph L. Youngblood, Esq., City Solicitor

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

Certified to be a true copy of a Resolution adopted by the Common Council of the City of Linwood, County of Atlantic, State of New Jersey on the 29th day of January, 2025.

ATTEST:

CITY OF LINWOOD


 Leigh Ann Napoli, RMC, Municipal Clerk


 Darren Matik, Mayor

I CERTIFY THE FOREGOING TO BE A
 CERTIFIED TRUE COPY OF A
 Resolution 33, 2025 ACCEPTED BY
 THE MAYOR & COUNCIL OF THE CITY OF
 LINWOOD ON THE 29 DAY OF Jan. 2025
 CLERK Leigh Ann Napoli

APPENDIX B - Court Order setting the City's Fourth Round obligations

PREPARED BY THE COURT:

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

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
ATLANTIC COUNTY
DOCKET NO. ATL-L-206-25

Civil Action

**AMENDED 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 30, 2025 (“DJ Complaint”) by the Petitioner, **CITY OF LINWOOD** (“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 **49** affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as **25** 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 5th day of **JUNE 2025 ORDERED AND ADJUDGED** as follows:

1. That the present need obligation of the Municipality, be, and hereby is fixed as **49** affordable units for the Fourth Round housing cycle.
2. That the prospective need obligation of the Municipality, be, and hereby is fixed as **25** 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", written over a horizontal line.

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

Uncontested.

**APPENDIX C - Final Third Round Consent Order of Compliance and
Repose**

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SAMPOLI & COOMBS, P.A.
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Linwood, New Jersey 08221-1159
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Attorneys for: Petitioner, City of Linwood

IN THE MATTER OF THE
APPLICATION OF THE CITY OF
LINWOOD, a municipal corporation of the
State of New Jersey,

Plaintiff/Petitioner,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

Docket No. L-1539-15

CIVIL ACTION
(Mount Laurel)

**CONSENT ORDER OF
COMPLIANCE AND REPOSE**

THIS MATTER having been opened to the Court by Joseph L. Youngblood, Jr., Esq. of Youngblood, Franklin, Sampoli & Coombs, P.A., on behalf of the declaratory plaintiff, City of Linwood, and in the presence of Adam Gordon, Esq. of Fair Share Housing Center (hereinafter "FSHC"); and the Court being in receipt of the findings and recommendations of the Honorable Steven P. Perskie, J.S.C. (Ret'd.), the Court-appointed Special Master ("the Master") in this litigation;

AND the City having filed this Declaratory Judgment proceeding in which the Court has held several hearings, inclusive of a Fairness Hearing held on June 1, 2018, as a result of which the Court entered an Order of Fairness and Compliance on June 1, 2018;

AND the within litigation raises issues with regard to the compliance of the City with the requirements of the New Jersey Fair Housing Act, *N.J.S.A. 52:27D-301*, et seq., ("NJFHA"), and, more particularly, with the mandates of the New Jersey Supreme Court's decision of January 18, 2017, supplementing its ruling in the matter of *In Re: Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015)* (hereinafter *Mount Laurel*), which decision and prior rulings issued by the Supreme Court articulate what is known as "The Mount Laurel Doctrine";

AND the City and FSHC having negotiated a settlement agreement dated April 20, 2018 and executed April 23, 2018, (the "Settlement Agreement"), wherein the City has agreed, and committed to adopting the requisite Ordinances, including applicable zoning overlay Ordinances and municipal planning documents, subject to all procedural due process requirements set forth in the "New Jersey Municipal Land Use Law," *N..J.S.A. 40:55D-1 et. seq.* (MLUL), and taking such other actions as are necessary to ensure that the City has removed all legal or regulatory impediments to the satisfaction of the City's fair share of affordable housing;

AND the Court having ordered or before August 28, 2018, now extended to August 30, 2018, the following actions shall be completed in fulfillment of the City's responsibilities hereunder:

- a. Implementation of all the terms contained in the Settlement Agreement;
- b. Adoption of the requisite amendments to the City's Affordable Housing and Zoning Ordinance, including applicable zoning overlay Ordinances, to implement the terms of the Settlement Agreement between FSHC and the City;
- c. Adoption of any amendments to the City's Affordable Housing Spending Plan, as may be necessary to accommodate the terms of the Settlement Agreement;
- d. Adoption of an amended Housing Element and Fair Share Plan by the City Planning Board and ratification, through the adoption of a Resolution, by the City's governing body consistent with the Settlement Agreement, the terms set forth at N.J.S.A. 40:55D-1 et. seq., and Mount Laurel IV;
- e. Submission of a Consent Order to the Court, the Master and Counsel for FSHC supported by a certification, along with all supporting documents, of the City's Affordable Housing Consultant that the aforesaid measures have been duly completed;

AND the City having adopted all requisite Resolutions and Ordinances and having taken all other necessary actions in order to fully comply with the terms and conditions of the Settlement Agreement and the Order of Fairness and Compliance;

And the City having provided to the Court proof of publication of the City's Public Notice regarding the "Compliance Hearing" dated July 30, 2018 and no objections having been received; and for good cause shown;

IT IS on this 29th day of August, 2018, ORDERED AND ADJUDGED as follows:

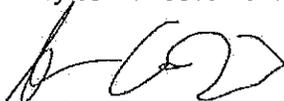
1. The Court finds that the City provided adequate notice to the public and all interested parties prior to the scheduled Compliance Hearing on August 30, 2018 and given that no objections were received and FSHC has consented to the terms of this Order it is appropriate to proceed by form of this order without necessity for holding a hearing;
2. The City has implemented all of the terms and conditions contained in the Settlement Agreement;
3. The City has adopted all of the requisite amendments to the City's Affordable Housing and Zoning Ordinances, including applicable zoning overlay Ordinances, to implement the terms of the Settlement Agreement between FSHC and the City
4. The City has adopted all necessary amendments to the City's Affordable Housing Spending Plan, as may be necessary to accommodate the terms of the Settlement Agreement;
5. The City Planning Board has adopted an amended Housing Element and Fair Share Plan which has been ratified, through the adoption of a Resolution, by the City's governing body consistent with the Settlement Agreement, the terms set forth at N.J.S.A. 40:55D-1 et seq., and Mount Laurel IV;
6. The City has submitted a Certification from Shirley Bishop, the City's Affordable Housing Consultant, confirming that all of said actions have been taken, along with copies of all adopted Resolutions, Ordinances and other related documents confirming that all required measures have been completed;
7. The City has submitted this Consent Order, confirming all actions taken, to the Court, the Master and to Counsel for FSHC.

IT IS FURTHER ORDERED AND ADJUDGED that the City of Linwood shall be granted a Declaratory Judgment of Compliance and Repose pursuant to East/West Venture v. Borough of Fort Lee and the Mount Laurel line of cases; and the Court declares the City of Linwood to be in compliance with its obligation to have provided and to provide a realistic opportunity for the development of housing affordable to low and moderate income households as defined in what are commonly known as the Mount Laurel cases, and in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq., as amended. Entry of this Judgment of Compliance and Repose will bar through July 1, 2025 any claim that the City of Linwood is failing to provide a sufficient realistic opportunity for the development of housing for low and moderate income households other than enforcement of the terms of the Settlement Agreement or this Order.

IT IS FURTHER ORDERED that a copy of this Order shall be served upon all parties within seven (7) days of its receipt.


HONORABLE NELSON C. JOHNSON, J.S.C.

I hereby consent to the form
and entry of the above Order


Adam Gordon, Esquire
Attorney for Fair Share Housing Center

I hereby consent to the form

and entry of the above Order



Joseph L. Youngblood, Jr., Esquire
Attorney for City of Linwood

**APPENDIX D - Resolution Appointing Triad Associates as the
Administrative Agent**

RESOLUTION No. 38, 2025

A RESOLUTION AWARDING A NON-COMPETITIVE CONTRACT FOR PROFESSIONAL SERVICES TO TRIAD ASSOCIATES FOR ACCESSORY APARTMENT IMPLEMENTATION SERVICES FOR THE CITY OF LINWOOD

WHEREAS, there exists within the City of Linwood, New Jersey, the need to engage a professional for accessory apartment implementation services and technical assistance on Affordable Housing Requirements to comply with an Order of Fairness and Compliance; and

WHEREAS, the Local Public Contracts Law (N.J.S. 40A:11.1 et. seq.) requires that a Resolution authorizing the award of Contracts for "Professional Services" without competitive bids must be advertised;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Linwood that Triad Associates, 1301 W. Forest Grove Road, Vineland, NJ 08360, is hereby hired for an amount as set forth in the proposal submitted, which is attached hereto and incorporated herein;

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and are hereby duly authorized, empowered and directed to execute a Contract or Agreement with Triad Associates with regard to the aforesaid. This Contract is awarded without competitive bidding as a "Professional Service" under the provision of the Local Public Contracts Law because the Local Public Contracts Law permits professional services to be awarded without the necessity of competitive bidding.

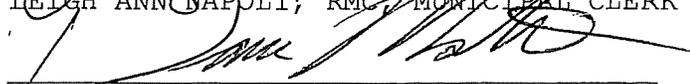
A copy of this Resolution shall be published in an official newspaper of the City of Linwood as required by law within ten (10) days of its passage.

BE IT FURTHER RESOLVED, that this Resolution is contingent upon a certification of availability of funds from the Chief Financial Officer of the City of Linwood.

I, Leigh Ann Napoli, RMC, Municipal Clerk of the City of Linwood, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the City Council of Linwood, held this 29th day of January, 2025.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 29th day of January, 2025.


LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK


DARREN MATIK, MAYOR

APPROVED: January 29, 2025

APPENDIX E - Overlay Zoning Ordinance

§ 277-40.3. Affordable housing.¹

- A. Affordable Overlay Zone I. This zone shall be mixed-use overlay zoning, which will permit mixed-use development with the first floor required to be commercial, with up to two stories of residential over commercial.
- B. Affordable Overlay Zone II. This zone shall be mixed-use/residential zoning, which will permit either mixed-use development with the first floor commercial and up to two stories of residential over commercial or residential-only development with up to three stories of residential uses and no commercial use required.
- C. Both affordable overlay zones will allow development of up to 15 residential units per acre and up to a maximum of up to three stories to accommodate residential units.
- D. Approval shall be required for the erection or enlargement of all related accessory structures and prior to issuance of certificates of occupancy for a change of use. Permitted uses are as follows:
 - (1) Residential market rate and affordable dwelling units specifically including multifamily buildings shall be at the density, height and bulk prescribed herein or in Linwood's Zoning Ordinance and all amendments thereto. Affordable housing units shall be constructed, marketed and deed restricted in strict conformance to Linwood's Affordable Housing Ordinance,² Council on Affordable Housing regulations and all requirements contained within the Uniform Housing Affordability Controls as these documents may be amended, revised and supplemented.
 - (2) Commercial uses as may be permitted under Linwood's Zoning Ordinance and all amendments thereto.
- E. Storage permitted. No person in the affordable housing site zone shall store, place, deposit, or permit the continuation of storage, placement, or deposit of, upon any premises, any unregistered motor vehicle or any machinery, equipment, lumber, building materials or supplies or parts thereof; provided, however, that unless otherwise prohibited, it shall not be unlawful to store, place or deposit the foregoing items in a fully enclosed structure upon such premises. Nothing herein contained shall be deemed to authorize the erection of a structure or structures not otherwise authorized to be so erected. All other provisions of § 277-18, Storage restrictions, shall apply.
- F. Prohibited uses. All uses listed in § 277-11 are prohibited.
- G. Performance standards. All uses are subject to performance standards as set forth in Chapter 277, Zoning, and all other provisions contained in the Linwood Municipal Code.
- H. Site development plan approval. Site development plan approval, in accordance with Chapter 41, Land Use Procedures, shall be required prior to the issuance of construction permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

1. Editor's Note: See also § 277-40.2 and Ch. 78, Affordable Housing.

2. Editor's Note: See Ch. 78, Affordable Housing.

I. The following area and bulk standards are applicable in the Affordable Overlay Zone I and in the Affordable Overlay Zone II:

(1) Regulations: inclusionary developments.

Lot area	10,000 square feet
Lot frontage	100 feet
Lot depth	100 feet
Minimum required:	
Front yard	15 feet
Side yard	6 feet
Rear yard	15 feet
Parking	Not permitted in front yard
Maximum permitted building height	
Stories	3
Feet	41
Building coverage (%)	40

(2) Additional regulations.

(a) In recognition of the requirement to minimize or remove unnecessary development cost-generating requirements, the following minimum parking standards are applicable in the affordable overlay zones.

[1] Affordable dwelling unit: 1.25 parking spaces per dwelling.

[2] Market-rate dwelling unit: RSIS requirements apply.

(b) All developments constructed within the affordable overlay zones shall be structured so that no less than 20% of the entire development are COAH creditworthy units if these units are to be offered for sale. A rental community shall be required to have a fifteen-percent affordable housing set-aside. No less than 50% of all COAH creditworthy units shall be affordable to low-income households, with 13% of all affordable units available to very-low-income family households. The balance can be affordable to moderate-income households.

(c) Affordable housing in the zones shall be structured so no more than 20% of the units are studio or one-bedroom units and no fewer than 20% are three-bedroom units. Bedroom count for the remainder of the affordable units is at the discretion of the developer.

(d) Density for the affordable overlay zones shall be no greater than 15 units per acre.

(e) All affordable dwelling units shall be constructed and maintained in compliance

City of Linwood, NJ

§ 277-40.3

§ 277-40.3

with the requirements of the New Jersey Council on Affordable Housing, and the Uniform Housing Affordability Controls before certificates of occupancy will be issued. The developer shall include all facilities required by law which are necessary to be maintained by a COAH certifiable rental or sales unit included as part of an inclusionary development so that COAH restrictions are legally enforceable. Furthermore, all such developments shall conform to the Development Fee Ordinance³ for Affordable Housing as set forth in the City of Linwood Municipal Code.

3. Editor's Note: See Ch. 124, Development Fees.

APPENDIX F - Affordable Housing Ordinance

AN ORDINANCE OF THE CITY OF LINWOOD REPEALING AND REPLACING CHAPTER 78 OF THE CITY CODE ENTITLED “AFFORDABLE HOUSING”

WHEREAS, Chapter 78, Affordable Housing of the Land Development Ordinance of the City of Linwood has to be repealed and replaced in its entirety to comply with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (“FHA”), as was amended in 2024, the newly adopted Uniform Housing Affordability Controls (“UHAC”) regulations, N.J.A.C. 5:80-26.1 et seq., and newly adopted N.J.A.C. 5:99-1 et seq; and

WHEREAS, this Ordinance establishes City wide regulations and standards to govern the development of very low, low and moderate-income affordable units for multifamily for-sale and rental residential developments that may be approved by the City or the City Land Use Board, and is designed to regulate these very low, low- and moderate-income units in a manner consistent with the FHA, UHAC, N.J.A.C. 5:99-1 et seq., and applicable New Jersey Council on Affordable Housing (COAH) regulations; and

BE IT ORDAINED by the Mayor and Council of the City of Linwood, in the County of Atlantic and State of New Jersey that Chapter 78, Affordable Housing of the Land Development Ordinance of the General Ordinances of the City of Linwood is hereby repealed and replaced as follows:

Section 1. Chapter 78, Affordable Housing, of the Land Development Ordinance of the City of Linwood, shall be repealed and replaced as follows:

§78-1 Introduction & Applicability.

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in City of Linwood consistent with the provisions outlined in P.L. 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
2. This Ordinance is intended to ensure that very low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The City of Linwood Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the

municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.

4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. Applicability
 - a. 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 pursuant to the municipality's most recently adopted HEFSP, excluding those affordable housing units that were subject to a written agreement, rezoning or approval prior to the end of the Third Round on June 30, 2025.
 - b. This Ordinance shall also apply to any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
 - c. Projects receiving federal Low Income Housing Tax Credit financing and are proposed for credit shall comply with the low/moderate split and bedroom distribution requirements, maximum initial rents and sales prices requirements, affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

§78-2 Definitions.

As used herein the following terms shall have the following meanings:

“Accessory apartments” means a residential dwelling unit that provides complete independent living facilities with a private entrance for one or more persons, consisting of provisions for living, sleeping, eating, sanitation, and cooking, including a stove and refrigerator, and is located within a proposed preexisting primary dwelling, within an existing or proposed structure that is an accessory to a dwelling on the same lot, constructed in whole or part as an extension to a proposed or existing primary dwelling, or constructed as a separate detached structure on the same lot as the existing or proposed primary dwelling. Accessory apartments are also referred to as “accessory dwelling units”.

“Act” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

“Adaptable” means constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) and in accordance with the provisions of section 5 of P.L.2005, c. 350 (C.52:27D-123.15).

“Administrative agent” means the entity approved by the Division responsible for the administration of affordable units, in accordance with N.J.A.C. 5:99-7, and UHAC at N.J.A.C. 5:80-26.15.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.16.

“Affirmative Marketing Plan” means the municipally adopted plan of strategies from which the administrative agent will choose to implement as part of the Affirmative Marketing requirements.

“Affirmative Marketing Process” or “Program” means the actual undertaking of Affirmative Marketing activities in furtherance of each project with very low- low- and moderate-income units.

“Affordability assistance” means the use of funds to render housing units more affordable to low- and moderate-income households and includes, but is not limited to, down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner’s association or condominium fees and special assessments, common maintenance expenses, and assistance with emergency repairs and rehabilitation to bring deed-restricted units up to code, pursuant to N.J.A.C. 5:99-2.5.

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

“Affordable” means, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.7 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.13.

“Affordable housing development” means a development included in a municipality’s housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored affordable housing project, or a 100 percent affordable development. This includes developments with affordable units on-site, off-site, or provided as a payment in-lieu of construction only if such a payment-in-lieu option has been previously approved by the Program or Superior Court as part of the HEFSP. Payments in lieu of construction were invalidated per P.L. 2024, c.2.

“Affordable Housing Dispute Resolution Program” or “the Program” refers to the dispute resolution program established pursuant to N.J.S.A. 52:27D-313.2.

“Affordable Housing Monitoring System” or “AHMS” means the Department’s cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

“Affordable Housing Trust Fund” or “AHTF” means that non-lapsing, revolving trust fund established in DCA pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes. All references to the “Neighborhood Preservation Nonlapsing Revolving Fund” and “Balanced Housing” mean the AHTF.

“Affordable unit” means a housing unit proposed or developed pursuant to the Act, including units created with municipal affordable housing trust funds.

“Age-restricted housing” means a housing unit that is designed to meet the needs of, and is exclusively for, an age-restricted segment of the population such that: 1. All the residents of the development where the unit is situated are 62 years or older; 2. At least 80 percent of the

units are occupied by one person that is 55 years or older; or 3. The development has been designated by the Secretary of HUD as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

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

“Assisted living residence” means a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to ensure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units must offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

“Barrier-free escrow” means the holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

“Builder’s remedy” means court-imposed site-specific relief for a litigant who seeks to build affordable housing for which the court requires a municipality to utilize zoning techniques, such as mandatory set-asides or density bonuses, including techniques which provide for the economic viability of a residential development by including housing that is not for low- and moderate-income households.

“Certified household” means a household that has been certified by an administrative agent as a very-low-income household, a low-income household, or a moderate-income household.

“CHOICE” means the no-longer-active Choices in Homeownership Incentives for Everyone Program, as it was authorized by the Agency.

“COAH” or the “Council” means the Council on Affordable Housing established in, but not of, DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).

“Commissioner” means the Commissioner of the Department of Community Affairs.

“Compliance certification” means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a “judgment of compliance” or “judgment of repose.” The term “compliance certification” shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c. 222 (C.52:27D-313).

“Construction” means new construction and additions, but does not include alterations, reconstruction, renovations, conversion, relocation, or repairs, as those terms are defined in the State Uniform Construction Code promulgated pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217(N.J.S.A. 52:27D-119 et seq.).

“County-level housing judge” means a judge appointed pursuant to section 5 at P.L. 2024, c. 2, to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal Fair Share plans and housing elements with the Act.

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

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

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

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

“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 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 the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

“Development fee” means money paid by a developer for the improvement of residential and non-residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3.

“Dispute Resolution Program” means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2).

“Division” means the Division of Local Planning Services within the Department of Community Affairs.

“Emergent opportunity” means a circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of a compliance certification.

“Equalized assessed value” or “EAV” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 at P.L. 1973, c. 123 (N.J.S.A. 54:1-35a, 54:1-35b, and 54:1-35c). Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

“Equity share amount” means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

“Exit sale” means the first authorized non-exempt sale of a restricted unit following the end of the control period, which sale terminates the affordability controls on the unit.

“Exclusionary zoning litigation” means litigation challenging the fair share plan, housing element, ordinances, or resolutions that implement the fair share plan or housing element of a municipality based on alleged noncompliance with the Act or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder’s remedy.

“Extension of expiring controls” means extending the deed restriction period on units where the controls will expire in the current round of a housing obligation, so that the total years of a deed restriction is at least 60 years.

“Fair share obligation” means the total of the present need and prospective need, including prior rounds, as determined by the Affordable Housing Dispute Resolution Program, or a court of competent jurisdiction.

“Fair share plan” means the plan or proposal, with accompanying ordinances and resolutions, by which a municipality proposes to satisfy its constitutional obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of very low-, low- and moderate-income housing, as provided in the municipal housing element, and which addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

“FHA” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

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

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

“Household income” means a household’s gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

“Housing element” means the portion of a municipality’s master plan adopted in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28.b(3) and the Act consisting of reports, statements proposals, maps, diagrams, and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to low- and moderate-income housing, which shall include the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. at N.J.S.A. 52:27D-304.1.

“Housing region” means a geographic area established pursuant to N.J.S.A. 52:27D-304.2b.

“Inclusionary development” means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of very low-, low- and moderate- income households.

“Judgment of compliance” or “judgment for repose” means a determination issued by the Superior Court approving a municipality’s fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

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

“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, electrical, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Mixed use development” means any development that includes both a non-residential development component and a residential development component, and shall include developments for which: (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

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

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

“MONI” means the no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

“Municipal housing liaison” or “MHL” means an appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

“Municipal affordable housing trust fund” means a separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing previously approved prior to March 20, 2024 (per P.L. 2024, c.2), barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

“Municipal development fee ordinance” means an ordinance adopted by the governing body of a municipality that authorizes the collection of development fees.

“New construction” means the creation of a new housing unit under regulation by a code enforcement official regardless of the means by which the unit is created. Newly constructed units are evidenced by the issuance of a certificate of occupancy and may include new residences created through additions and alterations, adaptive reuse, subdivision, or conversion of existing space, and moving a structure from one location to another.

“New Jersey Affordable Housing Trust Fund” means an account established pursuant to N.J.S.A. 52:27D-320.

“New Jersey Housing Resource Center” or “Housing Resource Center” means the online affordable housing listing portal, or its successor, overseen by the Agency pursuant to N.J.S.A. 52:27D-321.3 et seq.

“95/5 restriction” means a deed restriction governing a restricted ownership unit that is part of a housing element that received substantive certification from COAH pursuant to N.J.A.C. 5:93, as it was in effect at the time of the receipt of substantive certification, before October 1, 2001, or any other deed restriction governing a restricted ownership unit with a seller repayment option requiring 95 percent of the price differential to be paid to the municipality or an instrument of the municipality at the closing of a sale at market price.

“Non-exempt sale” means any sale or transfer of ownership of a restricted unit to one’s self or to another individual other than the transfer of ownership between spouses or civil union partners; the transfer of ownership between former spouses or civil union partners 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.

“Nonprofit” means an organization granted nonprofit status in accordance with section 501(c)(3) of the Internal Revenue Code.

“Non-residential development” means:

Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;

Hotels, motels, vacation timeshares, and child-care facilities; and

The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A.52:27D-330 et seq.

“Non-residential development fee” means the fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

“Order for repose” means the protection a municipality has from a builder’s remedy lawsuit for a period of time from the entry of a judgment of compliance by the Superior Court. A judgment of compliance often results in an order for repose.

“Payment in lieu of constructing affordable units” means the prior approval of the payment of funds to the municipality by a developer when affordable units were not produced on a site zoned for an inclusionary development. The statutory permission for payments in lieu of constructing affordable units was eliminated per P.L. 2024, c.2.

“Prospective need” means a projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result

of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations.

“Qualified Urban Aid Municipality” means a municipality that meets the criteria established pursuant to N.J.S.A. 52:27D-304.3.c(1).

“Person with a disability” means a person with a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, aging, or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, the inability to speak or a speech impairment, or physical reliance on a service animal, wheelchair, or other remedial appliance or device.

“Price differential” means the difference between the controlled sale price of a restricted unit and the contract price at the exit sale of the unit, determined as of the date of a proposed contract of sale for the unit. If there is no proposed contract of sale, the price differential is the difference between the controlled sale price of a restricted unit and the appraised value of the unit as if it were not subject to UHAC, determined as of the date of the appraisal. If the controlled sale price exceeds the contract price or, in the absence of a contract price, the appraised value, the price differential is zero dollars.

“Prior round unit” means a housing unit that addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that was adopted and/or having received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

“Program” means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.2024, c. 2 (C.52:27D-313.2).

“Random selection process” means a lottery process by which currently income-eligible applicant-households are selected, at random, for placement in affordable housing units such that no preference is given to one applicant over another, except in the case of a veterans’ preference where such an agreement exists; for purposes of matching household income and size with an appropriately priced and sized affordable unit; or another purpose allowed pursuant to N.J.A.C. 5:80-26.7(k)3. This definition excludes any practices that would allow affordable housing units to be leased or sold on a first-come, first-served basis.

“RCA administrator” means an appointed municipal employee who is responsible for oversight and/or administration of affordable units and associated revenues and expenditures within the municipality that were funded through regional contribution agreements.

“RCA project plan” means a past application, submitted by a receiving municipality in an RCA, delineating the manner in which the receiving municipality intended to create or rehabilitate low- and moderate-income housing.

“Receiving municipality” means, for the purposes of an RCA, a municipality that contractually agreed to assume a portion of another municipality’s fair share obligation.

“Reconstruction” means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied, pursuant to the Rehabilitation Subcode of the uniform Construction Code, N.J.A.C. 5:23-6. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

“Recreational facilities and community centers” means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including, but not limited to, ballfields, meeting halls, and classrooms, accommodating either organized or informal activity.

“Regional contribution agreement” or “RCA” means a contractual agreement, pursuant to the Act, into which two municipalities voluntarily entered into and was approved by COAH and/or Superior Court prior to July 18, 2008, to transfer a portion of a municipality’s affordable housing obligation to another municipality within its housing region.

“Regional median income” means the median income by household size for an applicable housing region, as calculated annually in accordance with N.J.A.C. 5:80-26.3.

“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. With respect to units in assisted living residences, rent does not include charges for food and services.

“Residential development fee” means money paid by a developer for the improvement of residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and N.J.A.C. 5:99-3.2.

“Restricted unit” means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of this subchapter but does not include a market-rate unit that was financed pursuant to UHORP, MONI, or CHOICE.

“Spending plan” means a method of allocating funds contained in an affordable housing trust fund account, which includes, but is not limited to, development fees collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to N.J.S.A. 52:27D-329.1 et seq., for the purpose of meeting the housing needs of low- and moderate-income individuals.

“State Development and Redevelopment Plan” or “State Plan” means the plan prepared pursuant to sections 1 through 12 of the “State Planning Act,” P.L.1985, c. 398 (C.52:18A-196 et al.), designed to represent a balance of development and conservation objectives best suited to meet the needs of the State, and for the purpose of coordinating planning activities and establishing Statewide planning objectives in the areas of land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination pursuant to subsection f. of section 5 of P.L.1985, c. 398 (C.52:18A-200).

“Supportive housing household” means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or program guidance as eligible for supportive or special needs housing. Such populations include, but are not limited to: persons with intellectual or developmental disabilities, persons with serious mental illness, person with head injuries (as defined in Section 2 of P.L. 1977), persons with physical disabilities or chronic health conditions, persons who are homeless as defined by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 578, survivors of domestic violence, youth aging out of foster care, and other special needs populations recognized under programs administered by the U.S. Department of Housing and Urban Development, the Low-Income Housing Tax Credit Program, the McKinney–Vento Act, or the New Jersey Department of Human Services. A supportive housing household may include family members, unrelated individuals, or live-in aides, provided that the household meets the income eligibility requirements of this subchapter, except that in the case of unrelated individuals not operating as a family unit, income eligibility shall be tested on an individual basis rather than in the aggregate; the unit is leased or sold subject to the affordability controls established herein; and the supportive services available to the household are designed to promote housing stability, independent living, and community integration. The determination of whether unrelated individuals are operating as a family unit shall be made based on the applicant’s self-identification of household members on the affordable housing application.

“Supportive housing sponsoring program” means grant or loan program which provided financial assistance to the development of the unit.

“Supportive housing unit” means a restricted rental unit, as defined by N.J.S.A. 34:1B-21.24, that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. Supportive housing units are also referred to as permanent supportive housing units.

“Transitional housing” means temporary housing that: (1) includes, but is not limited to, single-room occupancy housing or shared living and supportive living arrangements; (2) provides access to on-site or off-site supportive services for very low-income households who have recently been homeless or lack stable housing; (3) is licensed by the department; and (4) allows households to remain for a minimum of six months.

“Treasurer” means the Treasurer of the State of New Jersey.

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

“UHORP” means the Agency’s Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

“Unit type” means type of dwelling unit with various building standards including but not limited to single-family detached, single-family attached/townhouse, stacked townhouse (attached building containing 2 units each with separate entrances), duplex (detached building containing 2 units each with separate entrances), triplex (3 units each with separate entrance), quadplex (4 units each with separate entrance), multifamily / flat (2 or more units with a shared entrance). Inclusion of a garage, or not, shall not define the unit type.

“Very-low-income household” means a household with a household income less than or equal to 30 percent of the regional median income.

“Very-low-income housing” means housing affordable according to the Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

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

“Veteran” means a veteran as defined at N.J.S.A. 54:4-8.10.

“Veterans’ preference” means the agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given preference for up to 50 percent of rental units in relevant projects, as provided for at N.J.S.A. 52:27D-311.j.

“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 rehabilitation.

§78-3 Monitoring and Reporting Requirements.

1. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:
 - a. The municipality shall provide electronic monitoring data with the Department pursuant to P.L 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department’s website at <https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml>.
 - b. On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.

- c. On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

§78-4 Municipality-wide Mandatory Set-Aside.

1. This Section 30-1104 amends the City's land use ordinances by establishing regulations to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the City, the City's Land Use Board, or the City's Zoning Board of Adjustment that results in multifamily residential development of five dwelling units or more produces affordable housing at a set-aside rate of 20% for for-sale affordable units and at a set-aside rate of 20% for rental affordable units, in accordance with the City's Fourth Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center ("FSHC") regarding compliance with the City's affordable housing obligations. This Section 78-4 will not apply to the City's Affordable Overlay Zone I or Affordable Overlay Zone II, as said zone already have affordable housing set-aside requirements.
2. A development, other than single-family detached, providing a minimum of five new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six units per acre, is required to include an affordable housing set-aside of 20%.
3. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
4. All such affordable units shall be governed by this ordinance the controls on affordability, including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.
5. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.
6. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.
7. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.
8. In the event that the inclusionary set-aside of 20% of the total number of residential units does not result in a full integer, the developer shall choose one of two options for addressing the fractional unit:
 - a. The developer may round the set-aside upward to construct a whole additional affordable unit; or
 - b. If the set-aside includes a fractional unit equal to 0.49 or less, the developer may round the set-aside downward and construct the lesser whole number of affordable units and

shall also contribute the fractional subsidy payment (“fractional subsidy payment”) to be made to the municipality and deposited in the municipal Affordable Housing Trust Fund. The fractional subsidy payment amount shall be calculated as the fractional unit multiplied by the base subsidy payment amount currently established by the municipality as the average subsidy reflected in financial pro formas for 100% affordable housing or subsidized developments in the municipality or region on file with the municipality. For example, if seven total units are developed at an inclusionary site, a 20% set-aside would require 1.4 affordable units. Per the requirements above:

The developer shall round up the 0.4 unit to one whole affordable unit so as to construct a total of two (2) affordable housing units; or The developer shall round the set-aside downward so as to construct only one affordable unit AND shall pay into the municipal affordable housing trust fund a fractional subsidy payment equal to the dollar amount established by the municipality multiplied by 0.4.

§78-5 New Construction (per N.J.A.C. 5:93 as may be updated per various sections in N.J.A.C. 5:97 and N.J.S.A. 52:27D-301 et seq.).

Per the definition of “New Construction,” this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

1. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units. To the extent possible, details related to the adherence to the requirements below shall be outlined in the resolution granting municipal subdivision or site plan approval of the project to assist municipal representatives, developers and Administrative Agents.
2. Completion Schedule (previously known as phasing). Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following completion schedule for very low-, low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units Issued a Temporary or Final Certificate of Occupancy	Minimum Percentage of Affordable Units Issued a Temporary or Final Certificate of Occupancy
25+1	10
50	50
75	75
90	100

3. Design. The following design requirements apply to affordable housing developments, excluding prior round units.
 - a. Design of 100 percent affordable developments:
 - i. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required

- for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- ii. Each bedroom in each restricted unit must have at least one window.
 - iii. Restricted units must include adequate air conditioning and heating.
- b. Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.
- i. Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - ii. Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations.
 - iii. Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iv. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - v. Restricted units must include adequate air conditioning and heating and must use the same type of cooling and heating sources as market-rate units of the same unit type. This shall apply to prior round units.
 - vi. Each bedroom in each restricted unit must have at least one window.
 - vii. Restricted units must be of the same unit type as market-rate units within the same building.
 - viii. Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
- c. Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted sale units shall comply with the below:
- i. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.

- ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.
 - iv. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
 - v. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
 - vi. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - vii. Each bedroom in each restricted unit must have at least one window; and
 - viii. Restricted units must include adequate air conditioning and heating.
4. Utilities.
- a. Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
 - b. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.AC 5:80-26.13(e).
5. Low/moderate split and bedroom distribution.
- a. Affordable units 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.
 - b. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units.

- c. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
 - d. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
 - i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down, of the total number of low- and moderate-income units.
 - iv. At least 30% of all low- and moderate-income units, rounded up shall be two-bedroom units.
 - v. At least 20% of all low- and moderate-income units, rounded up shall be three-bedroom units.
 - vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
 - e. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.
6. Accessibility requirements.
- a. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.
 - b. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to

the technical design standards of the barrier free subcode and shall include the following features:

- i. An adaptable toilet and bathing facility on the first floor;
- ii. An adaptable kitchen on the first floor;
- iii. An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
- iv. An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
- v. If not all of the foregoing requirements in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
- vi. An accessible entranceway as set forth in 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 the municipality has collected funds from the developer sufficient to make 10% 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 Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (c) The funds deposited shall be expended 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 to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
 - (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets 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 Affordable Housing Trust Fund and earmarked appropriately.
- vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site-impracticable" to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

§78-6 Affordable Housing Programs/Compliance Techniques.

1. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, “All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions.” The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.
2. Extension of Controls Program (for ownership units per N.J.A.C. 5:97-6.14 and UHAC at N.J.A.C. 5:80-26.6(h) through (k) and (m); and for rental units per N.J.A.C. 5:97-6.14 and N.J.A.C. 5:80-26.12(h) through (k)).
 - a. An extension of affordability controls program is established to maintain and extend the affordability of deed restricted units scheduled to come out of their affordability control period, subject to N.J.A.C. 5:97-6.14 and UHAC, including the following:
 - i. The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits set forth in N.J.A.C. 5:97.
 - ii. The affordability controls for the unit are scheduled to expire in the current round; or in the next round of housing obligations if the municipal election to extend controls is made no earlier than one year before the end of the current round;
 - iii. The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.
 - iv. If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.
 - v. The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100% affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.
3. Assisted Living Residence (per N.J.A.C. 5:97-6.11).
 - a. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.
 - b. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
 - c. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.

- d. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
 - e. Low- and moderate-income residents cannot be charged any upfront fees.
 - f. The units shall comply with UHAC with the following exceptions:
 - i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
 - ii. The deed restriction may be on the facility, rather than individual apartments or rooms;
 - iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
 - g. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.
4. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
- a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - i. Units are subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968).
 - ii. Units may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services.
 - iii. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - iv. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - v. Occupancy shall not be restricted to youth under 18 years of age.
 - vi. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.

- vii. The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing, and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
- viii. 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, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.
- ix. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.
- x. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
 - (a) An Affirmative Marketing Plan in accordance with §30-1109 above; and
 - (b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.
- xi. The sponsor/owner shall complete annual monitoring as directed by the MHL.
- 5. Accessory Apartment program (per N.J.A.C. 5:93-5.9 as may be updated per various sections in N.J.A.C. 5:97-6.8).
 - a. An accessory apartment program shall provide low- and moderate-income units or may be limited to only low- or only moderate-income units.
 - b. Per N.J.A.C. 5:97-6.8(c)1, at the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to income eligible households consistent with the income category and rent structure of the unit.
 - c. Rents of accessory apartments shall be established using the same methodology of affordable rental units discussed herein. Rents of accessory apartments shall be established for moderate-income units to be affordable to households earning no more 60 percent of median income.

- d. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental for the duration of the control period.
- e. The municipal accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
- f. Per N.J.A.C. 5:97-6.8(b)2, the municipality shall provide a minimum of \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.

§78-7 Regional Income Limits.

- 1. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
- 2. Regional income limits are based on regional median income, which is established by a regional weighted average of the “median family incomes” published by HUD. The procedure for computing the regional median income is detailed in N.J.A.C. 5:80-26.3.
- 3. Updated regional income limits are effective as of the effective date of the regional Section 8 income limits for the year, as published by HUD, or 45 days after HUD publishes the regional Section 8 income limits for the year, whichever comes later. The new income limits may not be less than those of the previous year.

§78-8 Maximum Initial Rents And Sales Prices.

- 1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
- 2. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
- 3. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income. The maximum rent may be increased to no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units; however, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent (rounded up) of the restricted units.
- 4. 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% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.

5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
6. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
7. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
8. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.
9. 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 Freddie Mac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be

subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.

10. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.
11. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." 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.

§78-9 Affirmative Marketing.

1. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, 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 all marketing activities toward Housing Region 2 and is required to be followed throughout the period of deed restriction.
3. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
 - a. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 - b. There shall be a regional preference for all households that live and/or work in Housing Region 6 comprising Atlantic, Cape May, Salem and Cumberland Counties.

- c. Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
 - d. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.
 5. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.
 6. Applications for affordable housing or notices thereof, if offered online, 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 municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
 7. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph. The affirmative marketing plan shall include the following community and regional organizations: FSHC; the Latino Action Network; the New Jersey State Conference of the NAACP; East Orange NAACP; Newark NAACP; Morris County NAACP; Elizabeth NAACP; and the Supportive Housing Association.
 8. In implementing the Affirmative Marketing Process, 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.
 9. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
 10. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.

§78-10 Selection of Occupants of Affordable Housing Units.

1. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
2. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.

§78-11 Occupancy Standards.

1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - a. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
 - b. Provide a bedroom for every two adult occupants;
 - c. With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
 - d. Avoid placing a one-person household into a unit with more than one bedroom.

§78-12 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.
2. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).
3. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction.
4. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.
5. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
 - a. If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
 - b. If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
6. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.

7. 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 nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
8. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging 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.
9. 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 price-restricted ownership units.

§78-13 Price Restrictions for Restricted Ownership Units and Resale Prices.

1. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, including:
 - a. The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.
 - b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C 5:80-26.7.
 - i. If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.
 - ii. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3
 - c. 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 anticipated capital improvements. Eligible capital improvements shall be:
 - i. those that render the unit suitable for a larger household or the addition of a bathroom.
 - ii. The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d);
 - d. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the

- unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.
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 but shall be separate and apart from any contract of sale for the underlying real estate. 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 of the air conditioning equipment, 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 seller 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.

§78-14 Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division'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. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the 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, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; 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% (40% for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;
 - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments

§78-15 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 original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.7(c).

§78-16 Control Periods for Restricted Rental Units.

1. Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432, and amended December 20, 2004, 36 N.J.R. 5713 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.
2. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.

3. The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.
4. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.
5. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
6. 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. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.
7. 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;
 - c. The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
 - d. The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

§78-17 Rent Restrictions for Rental Units; Leases and Fees.

1. The initial rent for a restricted rental unit shall be set by the Administrative Agent.
2. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, 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 retained on file by the Administrative Agent.
3. No additional fees, operating costs, 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.
 - a. Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.
4. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

5. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.
6. Pet fees may not exceed \$30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
7. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
8. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

§78-18 Tenant Income Eligibility.

1. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, 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% of the regional median 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% of the regional median income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median 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, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, 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% (40% 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% (40% 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 any of the circumstances in 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

§78-19 Municipal Housing Liaison.

1. The Municipal Housing Liaison shall be approved by municipal resolution.
2. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.
3. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:
 - a. Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.
 - b. The oversight of the Affirmative Marketing Plan and affordability controls.
 - c. When applicable, overseeing and monitoring any contracting Administrative Agent.
 - d. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
 - e. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
 - f. Coordinating meetings with affordable housing providers and administrative agents, as needed.
 - g. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.
 - h. Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.
 - i. Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.
 - j. Listing on the municipal website contact information for the MHL and Administrative Agents.

§78-20 Administrative Agent.

1. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
2. The fees for administrative agents shall be paid as follows:
 - a. Administrative agent fees related to rental units shall be paid by the developer/owner.

- b. Administrative agent fees related to initial sale of units shall be paid by the developer.
 - c. Administrative agent fees related to resales shall be paid by the seller of the affordable home.
 - d. Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.
3. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
4. Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
- a. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
 - b. Affirmative marketing:
 - i. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
 - ii. 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.
 - c. Household certification.
 - i. Soliciting, scheduling, conducting and following up on interviews with interested households.
 - ii. 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;
 - iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
 - iv. 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 the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - v. 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.
 - vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
 - d. Affordability controls.

- i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
 - ii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.
 - iii. Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
 - iv. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
- e. Records retention.
- i. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
 - ii. Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
- f. Resales and re-rentals.
- i. 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.
 - ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
- g. Processing requests from unit owners.
- i. Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this ordinance.
 - ii. 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.
 - iii. Notifying the municipality of an owner's intent to sell a restricted unit.
 - iv. Making determinations on requests by owners of restricted units for hardship waivers.
- h. Enforcement.

- i. Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - ii. 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;
 - iii. Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
 - iv. Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
 - v. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.
- i. The Administrative Agent(s) shall, as delegated by the municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

§78-21 Responsibilities of The Owner of a development containing affordable units.

1. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
 - a. Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - b. The total number of units in the project and the number of affordable units.
 - c. The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - d. Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
 - e. A projected construction schedule.
 - f. The location of any common areas and elevators.
 - g. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.

2. In addition to 1 above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
 - a. Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
 - b. Provide to the administrative agent a description of any applicable fees.
 - c. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
 - d. Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
 - e. Provide to the administrative agent a proposed form of lease for any rental units.
 - f. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
 - g. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.

3. In addition to 1, above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
 - a. Proposed pricing for all units, including any purchaser options and add-on items.
 - b. Condominium or homeowner association fees and any other applicable fees.
 - c. Estimated real property taxes.
 - d. Sewer, water, trash disposal, and any other utility assessments.
 - e. Flood insurance requirement, if applicable.
 - f. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

§78-22 Enforcement of Affordable Housing Regulations.

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the 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 an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action 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 municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found 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:
 - i. A fine of not more than \$500 per day or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, 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;
 - ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.
4. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - a. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
 - b. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency.

- In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- c. Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
 - d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable 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 affordable 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 that would have been realized from an actual sale as previously described.
 - e. Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.
 - f. The affordable unit 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.
5. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable

affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.

- 6. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
- 7. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.

§78-23 Appeals.

- 1. Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent’s decision is a final administrative action.

Section 2. Invalidity.

If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 3. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. Effective Date.

This ordinance shall take effect immediately upon its final passage, publication and adoption in the manner prescribed by law.

Introduced: _____.

Passed and Approved: _____.

Attest:

Attest:

Leigh Ann Napoli, RMC, CMR, MPA, QPA
City Clerk

Darren Matik
Mayor

APPENDIX G - Development Fee Ordinance

AN ORDINANCE OF THE CITY OF LINWOOD REPEALING AND REPLACING CHAPTER 124 OF THE LAND DEVELOPMENT ORDINANCE ENTITLED “DEVELOPMENT FEES”

WHEREAS, Chapter 124, Development Fees of the Land Development Ordinance of the City of Linwood has to be repealed and replaced in its entirety to comply with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (“FHA”), as was amended in 2024, the newly adopted Uniform Housing Affordability Controls (“UHAC”) regulations, N.J.A.C. 5:80-26.1 et seq., and newly adopted N.J.A.C. 5:99-1 et seq; and

WHEREAS, this chapter establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with regulations set forth in P.L. 2024, c. 2, N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:99-1 et seq. and as previously established in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this chapter shall be used for the sole purpose of providing very-low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan;

BE IT ORDAINED by the Mayor and Council of the City of Linwood, in the County of Atlantic and State of New Jersey that Chapter 124, Development Fees of the Land Development Ordinance of the City of Linwood is hereby repealed and replaced as follows:

Section 1. Chapter 124, Development Fees, of the Land Development Ordinance of the City of Linwood, shall be repealed and replaced as follows:

§ 124-1 Purpose.

- A. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

§ 124-2 Basic Requirements.

- A. The municipality previously adopted a Development Fee Ordinance, which established the Municipal Affordable Housing Trust Fund.
- B. The municipality shall not spend development fees until the court has approved a Spending Plan for spending such fees.

§ 124-3 Definitions.

As used herein the following terms shall have the following meanings:

“Act” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

“Adaptable” means constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) and in accordance with the provisions of section 5 of P.L.2005, c. 350 (C.52:27D-123.15).

“Administrative Agent” means the entity approved by the Division responsible for the administration of affordable units, in accordance with N.J.A.C. 5:99-7, and UHAC at N.J.A.C. 5:80-26.15.

“Affordability assistance” means the use of funds to render housing units more affordable to low- and moderate-income households and includes, but is not limited to, down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner’s association or condominium fees and special assessments, common maintenance expenses, and assistance with emergency repairs and rehabilitation to bring deed-restricted units up to code, pursuant to N.J.A.C. 5:99-2.5.

“Affordable housing development” means a development included in a municipality’s housing element and fair share plan, and includes, but is not limited to, an inclusionary development, a municipally sponsored affordable housing project, or a 100 percent affordable development. This includes developments with affordable units on-site, off-site, or provided as a payment in-lieu of construction only if such a payment-in-lieu option has been previously approved by the Program or Superior Court as part of the HEFSP. Payments in lieu of construction were invalidated per P.L. 2024, c.2.

“Affordable Housing Monitoring System” or “AHMS” means the Department’s cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

“Affordable Housing Trust Fund” or “AHTF” means that non-lapsing, revolving trust fund established in DCA pursuant to N.J.S.A. 52:27D-320 and N.J.A.C. 5:43 to be the repository of all State funds appropriated for affordable housing purposes. All references to the “Neighborhood Preservation Nonlapsing Revolving Fund” and “Balanced Housing” mean the AHTF.

“Barrier-free escrow” means the holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

“Construction” means new construction and additions, but does not include alterations, reconstruction, renovations, conversion, relocation, or repairs, as those terms are defined in the State Uniform Construction Code promulgated pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217(N.J.S.A. 52:27D-119 et seq.).

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

“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 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 the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

“Development fee” means money paid by a developer for the improvement of residential and non-residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3.

“Division” means the Division of Local Planning Services within the Department of Community Affairs.

“Emergent opportunity” means a circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of a compliance certification.

“Equalized assessed value” or “EAV” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 at P.L. 1973, c. 123 (N.J.S.A. 54:1-35a, 54:1-35b, and 54:1-35c). Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

“FHA” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

“Inclusionary development” means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate- income households.

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

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

“Mixed use development” means any development that includes both a non-residential development component and a residential development component, and shall include developments for which: (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities maybe considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

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

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

“Municipal Housing Liaison” or “MHL” means an appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality.

“Municipal affordable housing trust fund” means a separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable

units on sites zoned for affordable housing previously approved prior to March 20, 2024 (per P.L. 2024, c.2), barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

“Municipal development fee ordinance” means an ordinance adopted by the governing body of a municipality that authorizes the collection of development fees.

“New construction” means the creation of a new housing unit under regulation by a code enforcement official regardless of the means by which the unit is created. Newly constructed units are evidenced by the issuance of a certificate of occupancy and may include new residences created through additions and alterations, adaptive reuse, subdivision, or conversion of existing space, and moving a structure from one location to another.

“New Jersey Affordable Housing Trust Fund” means an account established pursuant to N.J.S.A. 52:27D-320.

“Non-residential development” means:

Any building or structure, or portion thereof, including, but not limited to, any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code, N.J.A.C. 5:23, promulgated to effectuate the State uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;

Hotels, motels, vacation timeshares, and child-care facilities; and

The entirety of all continuing care facilities within a continuing care retirement community which is subject to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A.52:27D-330 et seq.

“Non-residential development fee” means the fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

“Payment in lieu of constructing affordable units” means the prior approval of the payment of funds to the municipality by a developer when affordable units were not produced on a site zoned for an inclusionary development. The statutory permission for payments in lieu of constructing affordable units was eliminated per P.L. 2024, c.2.

“Recreational facilities and community centers” means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including, but not limited to, ballfields, meeting halls, and classrooms, accommodating either organized or informal activity.

“Residential development fee” means money paid by a developer for the improvement of residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and N.J.A.C. 5:99-3.2.

“Spending plan” means a method of allocating funds contained in an affordable housing trust fund account, which includes, but is not limited to, development fees collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to

N.J.S.A. 52:27D-329.1 et seq., for the purpose of meeting the housing needs of low- and moderate-income individuals.

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

“Very-low-income household” means a household with a household income less than or equal to 30 percent of the regional median income.

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

§ 124-4 Residential Development Fees.

A. Imposed fees

1. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
2. 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 6.0% 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.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan

approval does not apply, the issuance of a zoning and/or building 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 building permit is issued.

3. The expansion or improvement of an existing residential structure shall be exempt from any development fee requirement.
4. Other development shall be exempt from any development fee required to the extent provided by the terms of any order entered by the Superior Court of New Jersey.
5. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire, flood, or a natural disaster.

§ 124-5 Non-Residential Development Fees.

A. Imposition of fees

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
2. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

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

1. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
2. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential

Development Certification/Exemption.” Any exemption claimed by a developer shall be substantiated by that developer.

4. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
5. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.
6. Other development shall be exempt from any development fee required to the extent provided by the terms of any order entered by the Superior Court of New Jersey.

§ 124-6 Collection Procedures.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, “State of New Jersey Non-Residential Development Certification/Exemption,” to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
- D. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the 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.
- G. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the

developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).

- H. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the 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 certificate of occupancy.

§ 124-7 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 that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- B. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 124-8 Affordable Housing Trust Fund.

- A. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
1. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 2. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 3. Rental income from municipally operated units;
 4. Repayments from affordable housing program loans;
 5. Recapture funds;
 6. Proceeds from the sale of affordable units; and

7. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
- C. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
- D. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
1. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 2. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
 3. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 4. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 5. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 6. Revocation of compliance certification or a judgment of compliance and repose;
 7. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
 8. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- E. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

§ 124-9 Use of Funds.

- A. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share

- Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
 - C. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
 - 1. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - 2. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
 - D. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

§ 124-10 Monitoring.

- A. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

§ 124-11 Ongoing Collection of Fees.

- A. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification, or a Judgment of Compliance and Repose, or the good faith effort to obtain either one.
- B. If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Compliance Certification or its Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).

§ 124-12 Emergent Affordable Housing Opportunities.

Requests to expend affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent with N.J.A.C. 5:99-4.1.

Section 2. Invalidation.

If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 3. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. Effective Date.

This ordinance shall take effect immediately upon its final passage, publication and adoption in the manner prescribed by law.

Introduced: _____.

Passed and Approved: _____.

Attest:

Attest:

Leigh Ann Napoli, RMC, CMR, MPA, QPA
City Clerk

Darren Matik
Mayor

APPENDIX H - Resolution Appointing the City’s Municipal Housing Liaison

RESOLUTION No. 159, 2018

A RESOLUTION APPOINTING A MUNICIPAL HOUSING LIAISON IN THE CITY OF LINWOOD

WHEREAS, the City of Linwood, Atlantic County, has requested the Superior Court for a Judgment of Compliance and Repose of its adopted Housing Element and Fair Share Plan; and

WHEREAS, the City of Linwood's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., the City of Linwood is required to appoint a Municipal Housing Liaison for the administration of the City of Linwood's affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, the City of Linwood has amended its Municipal Code by Ordinance No. 15, 2008, to provide for the appointment of a Municipal Housing Liaison to administer the City of Linwood's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Linwood in the County of Atlantic, and the State of New Jersey that Leigh Ann Napoli is hereby appointed by the Governing Body of the City of Linwood as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with the Municipal Code of the City of Linwood and more specifically Ordinance No. 15, 2008.

I, Leigh Ann Napoli, RMC, Municipal Clerk of the City of Linwood, do hereby certify that the foregoing resolution was duly adopted at a Regular Meeting of the City Council of Linwood, held this 8th day of August, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 8th day of August, 2018.


LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK


RICHARD L. DEPAMPHILIS, III, MAYOR

APPROVED: August 8, 2018

APPENDIX I – Vacant Land Analysis Maps & Vacant Lots

Block	Lot	PropertyLocation	OwnerName	OwnerStreet	OwnerCityState	ZipCode	LandDescription	Zone
1	1.01	West Ave	Lang, Robert A & Laura A	2025 West Avenue	Linwood, Nj	08221	43.45 AC	CONS
1	20.01	2019 West Ave	Lang, Robert & Laura	2020 West Ave	Linwood, Nj	08221	115.05 X 117.86 IRR	R-10
1	21	2021 West Ave	Lang, Robert & Laura	2025 West Ave	Linwood, Nj	08221	1.92 AC	R-10
1	24	2007 West Ave	2020 West Prop Llc	2020 West Ave	Linwood, Nj	08221	.483 AC	R-10
1	31	Patcong Creek	Patcong Creek Foundation	991 Tuckahoe Rd	Milmay, Nj	08340	2.934AM	CONS
1	38	520 Hamilton Ave	New Jersey Water Company;Tax Dept	P.O. Box 2738	Camden, Nj	08102	160X156	BUS
1	45.03	New Road	Meadows At Linwood Homeowners Assoc	P.O. Box 231	Linwood, Nj	08221	.17 AC	PRD
1	45.08	4 Spatterdock Lane	Randy Homes Llc	178 Asbury Ave	Egg Harbor Twp, Nj	08234	.21 AC	PRD
1	45.27	New Road	Meadows At Linwood Homeowners Assoc	P.O. Box 231	Linwood, Nj	08221	.44 AC	PRD
1	49	1201 New Road	1201 Linwood Pads Llc	380 Red Lion Rd Ste 202	Huntingdon Valley, Pa	19006	17.37 AC- 10%	REDE
1	49	1201 New Road	1201 Linwood Pads Llc	380 Red Lion Rd Ste 202	Huntingdon Valley, Pa	19006	17.37 AC- 15%	REDE
6	38.01	495 Oak Lane	495 Oak Lane Llc	Po Box 264	Linwood, Nj	08221	.96 ACRES	R-15
6	52.01	West Ave	Costello, John & Jennifer	1922 West Ave	Linwood, Nj	08221	122.14X164.82IR	R-15
8.03	23	210 W Ocean Heights Ave	Giddings, Janet	112 Burke Ave	Egg Harbor Twp, Nj	08234	50X193.05	R-10
11	23	125 W Kirklirn Ave	Garman, Margaret M	121 W Kirklirn Ave	Linwood, Nj	08221	52.95X101.36IR	R-10
12	3	Cleveland Ave	Fischer, Waltraud	Unknown	Unknown	00000	87.8X105	R-10
12	6	Cleveland Ave	Mclaughlin, Alicia K	420 Atlantic Ave	Ocean City, Nj	08226	102.84X103.92IRR	R-10
13	16.01	Burwick Lane	Seaview Baptist Church	2025 Shore Rd	Linwood, Nj	08221	100X100	R-10
13	16.02	Burwick Lane	Seaview Baptist Church	2025 Shore Rd	Linwood, Nj	08221	100X100	R-10
15	9.02	20 E Ocean Heights Ave	Appel, John & Sangeeta	43 E Royal Ave	Linwood Nj	08221	124 X 484	R-10
16.01	1.23	Royal & Franklin	J & M Land Company	7515 Baysshore Dr	Margate, Nj	08402	5.65AC	CONS
16.01	31.08	16 Seagarden Drive	Thum, William C	3626 Wesley Ave	Ocean City, Nj	08226	1.12 AC	R-10
16.01	58	R Iona Ave	Off, Frank; Estate Of	200 E Iona Ave	Linwood, N J	08221	10.35 AC	CONS
17	1.02	4 E Myrtle Avenue	Dilks, Wayne D	214 Van Sant Avenue	Linwood, Nj	08221	95 X 123	R-10
18	9.09	2 Bonnie Drive	Geist, Jason	1 Bonnie Dr	Linwood, Nj	08221	.77 AC	R-15
21	1.06	New Road	Malick, Melody A	24 Wendy Dr	Linwood, Nj	08221	2.64	R-10
24	1	Joseph & New Rd	Max Gurwicz & Son Inc	331 Tilton Road	Northfield, N J	08225	75X113.62	R-10
24	16	Hamilton & New Rd	Max Gurwicz & Son Inc	331 Tilton Road	Northfield, N J	08225	75X113.62	R-10
27	11.01	1901 W Burwick Lane	Smith, Randy J & Levy, Smith Iris	121 N Granville Ave	Margate City, Nj	08402	.31AC	R-10
27	11.02	1903 W Burwick Lane	Smith, Randy J & Levy, Smith Iris	121 N Granville Ave	Margate City, Nj	08402	.34AC	R-10
27	11.03	1902 W Burwick Lane	Smith, Randy J & Levy, Smith Iris	121 N Granville Ave	Margate City, Nj	08402	.54AC	R-10
33	12.01	1807 Franklin Blvd	Wallace, Grace H.	1803 Franklin Blvd	Linwood, Nj	08221	215.05X281.5	R-10
34	2	1732 Shore Road	Lockhart, Ann R	1730 Shore Road	Linwood, N J	08221	50X180	SR
40	39	210 E Seaview Ave	Sj Hauck Prop Llc	900 W Leeds Ave #A	Absecon, Nj	08201	120X268.92	R-15
40	66	Helena Dr	Max Gurwicz & Son Inc	331 Tilton Road	Northfield, N J	08225	13.32 AC	CONS
40	70.01	Somerset Blvd Rear	Cho, Shao Ru & Sheau Yi T	716 Taranto Ct	Virginia Bch, Va	23454	9.304 AC	CONS
45	26.02	2 Athina Drive	Harrington, Patrick & Kimberly Gitt	7 Joseph Court	Northfield, Nj	08225	20900 SF	R-10
48	5	New Rd	Brighton Farms Corp	Shore Rd & Poplar Ave	Linwood, N J	08221	338.79X120.31IR	R-10
64	4	114 E Balfour Ave	Mcpeak, Barbara	1210 Franklin Blvd	Linwood, Nj	08221	120X100	R-10
68	1.04	Cheltenham Ave	Layedra, Rodolfo & Devon	210 E Balfour Ave	Linwood, Nj	08221	130X150	CONS
68	2	Cheltenham Ave	Layedra, Rodolfo & Devon	210 E Balfour Ave	Linwood, Nj	08221	50X135IR	CONS
69	1.03	208 E Balfour Ave	Ong, Alvin C - Trust	18 Flamingo Dr	Avalon, Nj	08202	359.78 X 100	CONS
76	5.01	110 E Devonshire Ave	Adam, Saad 2022 Rev Tr & Saad, Adam	110 E Devonshire Ave	Linwood, Nj	08221	175X100 IRR	R-15
80	1.04	207 E Frankford Ave	Gendel, Kailina & Shah, Umang	203-207 E Frankford Ave	Linwood, Nj	08221	270 X 100	R-15
81	3.03	1009 Bartlett Ave	Glenn, Thomas L Iii	1011 Bartlett Ave	Linwood, Nj	08221	150 X 100	R-10
85	10	1011 New Road	Dr, Horton Inc Nj	2040 Briggs Rd Ste A	Mount Laurel, Nj	08054	100X100	R-10
93	4	Pierce Ave	Donohoe, Dennis & Bucci, Tia	409 W Poplar Ave	Linwood, Nj	08221	93.38X158.65IR	R-10
99	10	1007 Wabash Ave	Cassidy, Lindsey	201 W Van Sant Ave	Linwood, Nj	08221	60.15X153.56IR	R-10
107	13	23 Elm Ave	Everett, Michael & Whitmore, Kathy	1014 Maple Ave	Linwood, Nj	08221	50X150IR	R-10
116	2	557 W Barr Ave	Bozzelli, Richard I & Joan M	555 W Barr Ave	Linwood, Nj	08221	2.24 AC	CONS
121	1	Rear Oak Av	Aspenberg, Edward C/O Ben Carney	Po Box 105	Mays Landing, Nj	08330	10.02 AC	CONS
121	2.02	2 Barr Court	Mccabe, Kevin & Deepa	3 Barr Court	Linwood, Nj	08221	110 X 875 IRR	R-10
121	5	538 W Barr Ave	Elliott, William C/O Robert Elliott	24 Willow Pond Ct	Woolwich, Nj	08085	50X218.85IR	R-10
123	2	402 Cedarbrook Lane	Fulton, Anna Niesley	213 Lark Ln	Lititz, Pa	17543	83.11X130.22IR	R-10
125	11	535 Maple Ave (Rear)	Realty Income Prop 13 Llc	11995 El Camino Real	San Diego, Ca	92130	121.35X174.1IR	BUS
127	10	725 Maple Ave	Bassett, George P (& Carolyn-Dcsd)	328 W Poplar Ave	Linwood, Nj	08221	159.28X344IR	R-10
128	7.02	643 Maple Ave (Rear)	Breslin, Marina H	643 Maple Ave	Linwood, Nj	08221	111.46X180.07IR	R-10
148	14.06	Ashbridge Lane	Fischer Woods Property Owners Assoc	13 Fischer Rd	Linwood, Nj	08221	30X135	R-15
148	14.28	Evergreen Road	Fischer Woods Property Owners Assoc	13 Fischer Rd	Linwood, N J	08221	2.08	R-15
148	15.01	Oak Avenue	Fischer Greens C/O Rs Mairone	Po Box 3182	Margate City, Nj	08402	34995 SF	R-15
148	15.10	8 Wexford Lane	Wexford Lane Llc	12 Wexford Ln	Linwood, Nj	08221	16808 SF	R-15
148	15.19	Oak Avenue	Fischer Greens C/O Rs Mairone	Po Box 3182	Margate City, Nj	08402	24306 SF	R-15
148.01	5	5 Fischer Road	Fischer Woods Property Owners Assoc	13 Fischer Rd	Linwood, N J	08221	225X110 IRR	R-15
150	8.33	Oak Ave	Parkwood Homeowners Assoc., Inc.	501 Zion Road #8	Egg Harbor Twp, Nj	08234	9086 SF	PRD
150	8.34	Lexington Ct	Parkwood Homeowners Assoc., Inc.	501 Zion Road # 8	Egg Harbor Twp, Nj	08234	17159 SF	PRD
150	8.35	Brandywine Ct	Parkwood Homeowners Assoc., Inc.	501 Zion Road # 8	Egg Harbor Twp, Nj	08234	7964 SF	PRD
150	8.36	Vernon Ave	Parkwood Homeowners Assoc., Inc.	501 Zion Road # 8	Egg Harbor Twp, Nj	08234	23767 SF	PRD
150	8.37	Central Ave	Parkwood Homeowners Assoc., Inc.	501 Zion Road # 8	Egg Harbor Twp, Nj	08234	4866 SF	PRD
150	8.38	Parkwood Place	Parkwood Homeowners Assoc., Inc.	501 Zion Road # 8	Egg Harbor Twp, Nj	08234	44791 SF	PRD
162	1	334 W Vernon Ave	Ocean Portal Inv Llc	Ste 105B 1125 Atlantic Av	Atlantic City, Nj	08401	30X120	R-10
163	7	200 W Haines Ave	Jackson, Gregory J & Kimberly R	No Known Address	Linwood, Nj	08221	100X40.30IR	R-10
181	8	E Edgewood Ave	Ducks Pond Inc % M Gibson Esq	222 Landing Lane	Linwood, Nj	08221	1.57 AC	CONS
182.01	1.01	104 E Edgewood Ave	Ridgway, Theodore & Lois; Estates Of	Po Box 476	Linwood, Nj	08221	103 X 160 IRR	R-20
182.01	9.03	E Edgewood Ave	Ducks Pond Inc C/O M Gibson Esq	222 Landing Lane	Linwood, Nj	08221	5.17	CONS
182.01	9.04	E Delmar Ave	Luxuria Llc	320 Shore Rd	Somers Point, Nj	08244	70X126IRR	R-15
182.01	18.01	Poplar Ave	Linwood Cc Land Llc	500 Shore Rd	Linwood, Nj	08221	23.71AC	CONS
182.01	19	Poplar Ave	Roberts, Charles K	2734 Ridge Road	Daytona Beach, Fl	32118	4.38 AC	CONS
182.02	9.03	120 Country Club Drive	Feriozzi, Joseph L & Karen	124 Country Club Drive	Linwood, Nj	08221	113X143AV	R-15
182.02	18.02	900 Woodynyne Blvd	Linwood Cc Land Llc	500 Shore Rd	Linwood, Nj	08221	14.57AC	REC/
183	1	Poplar & Bay	Linwood Cc Land Llc	500 Shore Rd	Linwood, Nj	08221	4.99 AC	CONS
183	2	Poplar Av	Roberts, Charles K	2734 Ridge Road	Daytona Beach, Fl	32118	0.627 AC	CONS
184	1.02	6 E Poplar Ave	W & W Land Management, Llc	10 E Poplar Ave	Linwood, Nj	08221	.56 AC	SR
184	15	Shore Road (Rear)	Linwood Cc Land Llc	500 Shore Rd	Linwood, Nj	08221	11.11	REC/
184	33	Poplar Av	Roberts, Charles K	2734 Ridge Road	Daytona Beach, Fl	32118	56X23.50IR	CONS

Land greater than 0.50 acres

Block	Lot	Property Location	Land Desc	Zoning	Calc Acreage	Developable Acreage (Approx.)	Constraints
1	1.01	WEST AVE	43.45 AC	CONS	43.45	0	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, AE - Special Flood Hazard Area
1	21	2021 WEST AVE	1.92 AC	R-10	1.92	0	Wetlands, 50 foot wetland buffer, Rank 1 - Suitable Habitat, Rank 4 - State Endangered Habitat, AE - Special Flood Hazard Area
1	31	PATCONG CREEK	2.934AM	CONS	2.94	0	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, AE - Special Flood Hazard Area
1	38	520 HAMILTON AVE	160X156	BUS	0.573	0	Water Tower, 0.2% Annual Chance Flood Hazard, AE - Special Flood Hazard
6	24	2110 NEW ROAD	3.41 ACRES	BUS	3.41	0.30	Wetlands, 50 foot wetland buffer, Rank 3 - State Threatened Habitat, 0.2% Annual Chance Flood Hazard
6	38.01	495 OAK LANE	.96 ACRES	R-15	0.96	0.96	AE Special Flood Hazard & 0.2% Annual Chance Flood Hazard
15	9.02	20 E OCEAN HEIGHTS AVE	124 X 484	R-10	1.3778	0.07	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, VE - Special Flood Hazard Area, AE - Special Flood Hazard Area, X - Minimal Risk Flood Area
16.01	1.23	ROYAL & FRANKLIN	5.65AC	CONS	5.65	0	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, VE - Special Flood Hazard Area, AE - Special Flood Hazard Area
16.01	31.08	16 SEAGARDEN DRIVE	1.12 AC	CONS	1.12	0.97	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, VE - Special Flood Hazard Area, AE - Special Flood Hazard Area, 0.2% Annual Chance Flood Hazard, X - Minimal Risk Flood Area
16.01	58	R IONA AVE	10.35 AC	CONS	10.35	0	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area
18	9.09	2 BONNIE DRIVE	.77 AC	R-15	0.77	0.07	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area, X - Minimal Risk Flood Area
21	1.06	NEW ROAD	2.64	R-10	2.64	0	Basin, Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area
27	11.03	1902 W BURWICK	0.54	R-10	0.54	0.54	None
33	12.01	1807 FRANKLIN BLVD	215.05X281.5	R-10	1.3897	1.3897	Rank 1 - Suitable Habitat
40	39	210 E SEAVIEW AVE	120X268.92	R-15	0.7408	0.2	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area, 0.2% Annual Chance Flood Hazard
40	66	HELENA DR	13.32 AC	CONS	13.32	0	Wetlands / Water, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, AE - Special Flood Hazard Area
40	70.01	SOMERSET BLVD REAR	9.304 AC	CONS	9.304	0	Wetlands / Water, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, AE - Special Flood Hazard Area, VE - Special Flood Hazard Area
48	5	NEW RD	338.79X120.31IR	R-10	0.9	0	Water, Rank 4 - State Endangered Habitat, AE - Special Flood Hazard Area
69	1.03	208 E BALFOUR AVE	359.78 X 100	CONS	0.8259	0.25	Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area, X - Minimal Risk Flood Area
80	1.04	207 E FRANKFORD AVE	270 X 100	R-15	0.6198	0.45	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area, X - Minimal Risk Flood Area
116	2	557 W BARR AVE	2.24 AC	CONS	2.24	0	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, AE - Special Flood Hazard Area
121	1	REAR OAK AV	10.02 AC	CONS	10.02	0	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area
121	2.02	2 BARR COURT	110 X 875 IRR	R-10	0	0.21	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area, X - Minimal Risk Flood Area
127	10	725 MAPLE AVE	159.28X344IR	R-10	0	0	Rank 3 - State Threatened Habitat
148	14.28	EVERGREEN ROAD	2.08	R-15	2.08	0 (Common Open Space)	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area, 0.2% Annual Chance Flood Area
148	15.01	OAK AVENUE	34995 SF	R-15	0.8034	0	Stormwater Basin
148	15.19	OAK AVENUE	24306 SF	R-15	0.558	0	Stormwater Basin
148.01	5	5 FISCHER ROAD	225X110 IRR	R-15	0	0 (Common Open Space)	0.2% Annual Chance Flood Risk, X - Minimal Risk Flood Area
150	8.36	VERNON AVE	23767 SF	PRD	0.5456	0	Stormwater Basin
150	8.38	PARKWOOD PLACE	44791 SF	PRD	1.02	0	Stormwater Basin
181	8	E EDGEWOOD AVE	1.57 AC	CONS	1.57	0	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area
182.01	1.01	104 E EDGEWOOD AVENUE	103 X 160 IRR	R-20	0.569	0	Not Vacant, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area

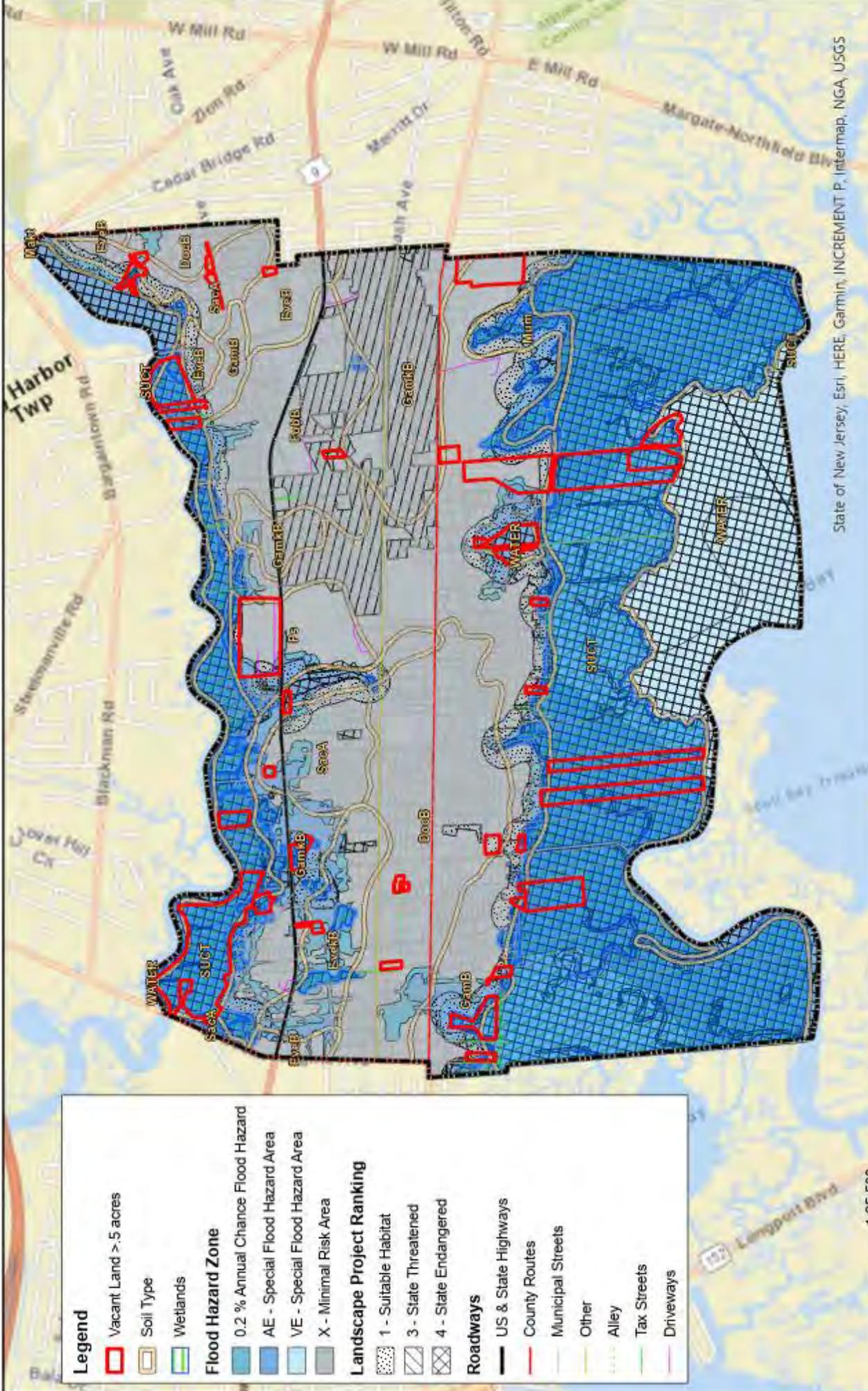
182.01	9.03	E EDGEWOOD AVE	5.17	CONS	5.17	0	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area
182.01	18.01	POPLAR AVE	23.71AC	CONS	23.71	0	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, AE - Special Flood Hazard Area, VE - Special Flood Hazard Area
182.01	19	POPLAR AVE	4.38 AC	CONS	4.38	0	Water / Wetlands, 50 foot wetland buffer, Rank 4 - State Endangered Habitat, Rank 1 - Suitable Habitat, VE - Special Flood Hazard Area
182.02	18.02	900 WOOD-LYNNE BLVD	14.57AC	REC/	14.57	0 (Golf Club)	Not Vacant, Rank 1 - Suitable Habitat, 0.2% Annual Chance Flood Hazard, AE - Special Flood Hazard Area, X - Minimal Risk Area
183	1	POPLAR & BAY	4.99 AC	CONS	4.99	0 (Golf Club)	Not Vacant, Rank 1 - Suitable Habitat, 0.2% Annual Chance Flood Hazard, AE - Special Flood Hazard Area, X - Minimal Risk Area
184	15	SHORE ROAD (REAR)	11.11	REC/	11.11	0 (Golf Club)	Not Vacant, X - Minimal Risk Area
Totals						3.8597	Developable Land

 - greater than .5 acres

 - suitable for development

City of Linwood
 Developable Vacant Lots Greater than .5 Acre
 January 28, 2026

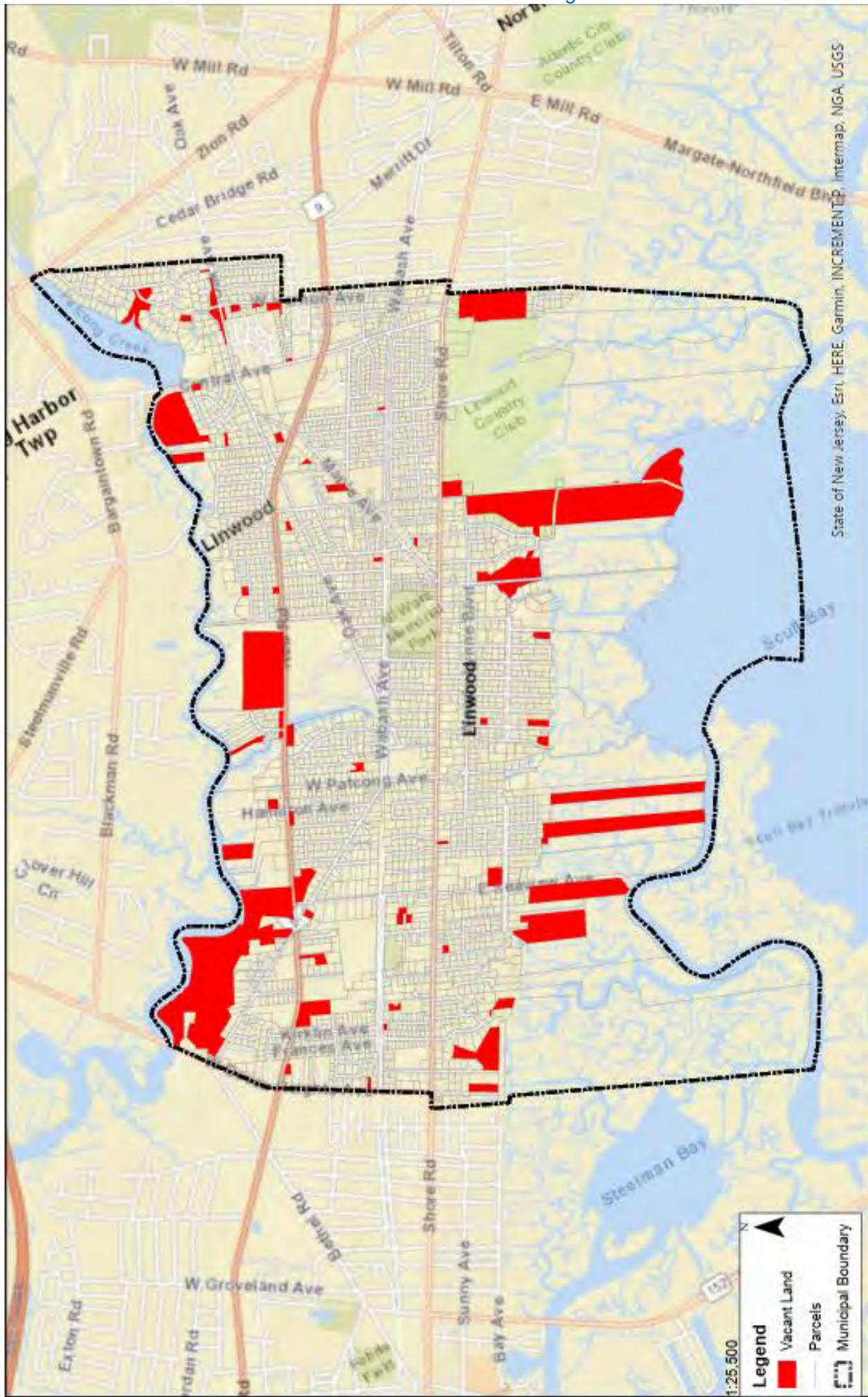
ID	Block	Lot	Owner Name	Property Location	Calc Acreage	Developable Acreage (Approx.)
1	6	38.01	ISABELLA HOMES LLC & RUZZO, MATTHEW	495 OAK LANE	0.96	0.96
2	16.01	31.07	THUM, WILLIAM C	18 SEAGARDEN DRIVE	1.12	0.97
3	27	11.03	SMITH, RANDY J & LEVY, SMITH IRIS	1902 W BURWICK LANE	0.54	0.54
4	33	12.01	WALLACE, GRACE H.	1807 FRANKLIN BLVD	1.3897	1.3897
Totals						3.8597 Developable Land



Legend	Vacant Land > .5 acres
Soil Type	Wetlands
Flood Hazard Zone	0.2 % Annual Chance Flood Hazard
AE - Special Flood Hazard Area	VE - Special Flood Hazard Area
X - Minimal Risk Area	Landscape Project Ranking
1 - Suitable Habitat	3 - State Threatened
4 - State Endangered	Roadways
US & State Highways	County Routes
Municipal Streets	Other
Alley	Tax Streets
Driveways	

Vacant Land Analysis
Map 2
Vacant Land (Greater than .5 acres)
with Environmental Constraints

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Vacant Land Analysis Map 1 Vacant Land Located in the City of Linwood

1:25,500

Legend

- Vacant Land
- ▭ Parcels
- ▭ Municipal Boundary

