

TOWNSHIP OF MULLICA
ATLANTIC COUNTY, NEW JERSEY

Housing Element & Fair Share Plan

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

TABLE OF CONTENTS

Executive Summary	1
Introduction.....	1
Demographic Characteristics	3
Housing Stock, Population & Employment Projections.....	12
Lands Most Appropriate for Affordable Housing	16
Multigenerational Family Housing Continuity	16
Affordable Housing and Fair Share Plan	17
Township of Mullica Fair Share Obligations	17
Housing Strategy	18
Very-Low Income Units	22
Income and Bedroom Distribution.....	22
Affordable Housing Administration and Affirmative Marketing.....	22
State Development and Redevelopment Plan	23
Cost Generation	23
Spending Plan	24
Summary	25

List of Tables

Table 1: Population Changes: 1940-2023.....	3
Table 2: Population by Age Group: 2000-2023.....	4
Table 3: Housing Units: 2000, 2010 & 2020.....	5
Table 4: Housing Tenure: 2000, 2010 & 2020	6
Table 5: Inventory of Housing Age: 2023	6
Table 6: Median Home Values: 2000, 2010, 2020 & 2023	7
Table 7: Home Value of Specified Owner Occupied Units: 2023.....	7
Table 8: Gross Rent of Specified Renter Occupied Units: 2023	8
Table 9: Median Rents: 2000, 2010, 2020 & 2023.....	8
Table 10: Types of Dwelling Units: 2023.....	9
Table 11: Condition of Housing: 2023	9
Table 12: 2024 Affordable Housing Regional Income Limits by Household Size	10
Table 13: Estimate of 2023 Housing Units Affordable to Low- & Moderate-Income Households Based on Census Information for Median Income, Mortgage and Rental Information	12
Table 14: Certificates of Occupancy (C.O.) for Residential Construction: 2013-2023.....	13
Table 15: Civilian Labor Force Characteristics: 2023	14
Table 16: Occupation Distribution: 2023	14
Table 17: Household Income: 2023.....	14
Table 18: Employment Classification: 2023.....	15
Table 19: Population and Employment Projections 2020-2060	16
Table 20: Prior Round & Third Round Affordable Housing Unit Crediting.....	19
Table 21: Summary of Fair Share Obligation.....	21

List of Appendices

- Appendix A: Fourth Round Declaratory Judgment Complaint with Township Resolution committing to Fourth Round obligations
- Appendix B: Court Order setting the Township's Fourth Round obligations
- Appendix C: Final Third Round Judgment of Compliance and Repose
- Appendix D: Rehabilitation Committee Ordinance
- Appendix E: Draft Proposed Mandatory Set Aside Ordinance
- Appendix F: Affordable Housing Ordinance
- Appendix G: Development Fee Ordinance
- Appendix H: Resolution appointing the Township's Municipal Housing Liaison (MHL)

Executive Summary:

As the Township of Mullica continues to satisfy its affordable housing obligation, the 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 Housing Element and Fair Share Plan, the Township promotes provision of a variety of housing types over a range of affordability, encourages the ongoing maintenance of the Township's existing housing stock, and formally acknowledges the constitutional obligation to provide a realistic opportunity for the provision of housing affordable to families of low and moderate income.

The Fourth Round Housing Element and Fair Share Plan will rely on the mandatory set aside ordinance, which ensures that affordable housing is constructed as part of new developments of five units or more in the Township's Pinelands Village and Town areas. The lack of public sewer and public water infrastructure in the Township makes the development of these areas difficult.

This Fourth Round Housing Element and Fair Share Plan will serve as the foundation for the Township's submission to the Superior Court of New Jersey and the Affordable Housing Dispute Resolution Program ("Program").

Introduction:

The Township 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 Township of Mullica 2017 Housing Element and Fair Share Plan, adopted by the Planning Board on August 8, 2017, and endorsed by the Township Committee on August 8, 2017.

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

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

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;
- b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);
- f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing.
- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent

Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and

- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

Demographic Characteristics

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

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

Table 1
Township of Mullica, Atlantic County and New Jersey
Population Changes: 1940-2023

	Township of Mullica		Atlantic County		New Jersey	
Year	Number	Change	Number	Change	Number	Change
1940	1,500	-----	124,066	-----	4,160,165	-----
1950	1,804	20.3%	132,399	6.7%	4,835,329	16.2%
1960	2,944	63.2%	160,880	21.5%	6,066,782	25.5%
1970	3,391	15.2%	175,043	8.8%	7,168,164	18.2%
1980	5,243	54.6%	194,119	10.9%	7,365,011	2.7%
1990	5,896	12.5%	224,327	15.6%	7,730,188	5.0%
2000	5,912	0.3%	252,552	12.6%	8,414,350	8.9%
2010	6,147	4.0%	274,549	8.7%	8,791,894	4.5%
2020	5,816	-5.4%	274,534	< -0.0%	9,288,994	5.7%
2023	5,815	< -0.0%	275,213	0.2%	9,290,841	< 0.0%

Source: US Census Bureau, Population Estimates Program
2020 Census Data
2010 Census Data
2000 Census Data
U.S. Census Bureau

The age distribution within the Township indicates an older population than both Atlantic County and the State. This can be attributed to the slowing down and declining rate of growth in the population over the last 30 years. Approximately 25.9% of the population

was over 60 years of age in 2023. The distribution of ages of persons in the Township is indicated in Table 2.

Table 2
Township of Mullica
Population by Age Group: 2000-2023

	2000		2010		2020		2023	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total Population	5,912	100%	6,147	100%	5,816	100%	5,815	100%
Sex	-----	-----	-----	-----	-----	-----	-----	-----
- Male	2,975	50.3%	3,083	50.2%	2,891	49.7%	2,861	49.2%
- Female	2,937	49.7%	3,064	49.8%	2,925	50.3%	2,954	50.8%
Age	-----	-----	-----	-----	-----	-----	-----	-----
Under 5	354	6.0%	335	5.4%	235	4.0%	214	3.7%
5-9 Years	463	7.8%	367	6.0%	294	5.1%	279	4.8%
10-14 Years	524	8.9%	425	6.9%	386	6.6%	439	7.5%
15-19 Years	403	6.8%	445	7.2%	370	6.4%	615	10.6%
20-24 Years	285	4.8%	354	5.8%	295	5.1%	216	3.7%
25-34 Years	699	11.8%	599	9.7%	575	9.9%	406	7.0%
35-44 Years	1,142	19.3%	844	13.7%	662	11.4%	673	11.6%
45-54 Years	844	14.3%	1,156	18.8%	809	13.9%	946	16.3%
55-59 Years	330	5.6%	436	7.1%	520	8.9%	520	8.9%
60-64 Years	238	4.0%	368	6.0%	546	9.4%	526	9.0%
65-74 Years	382	6.5%	517	8.4%	686	11.8%	665	11.4%
75-84 Years	206	3.5%	228	3.7%	340	5.8%	179	3.1%
85+ Years	42	0.7%	73	1.2%	98	1.7%	137	2.4%

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 29.1% of the households in the Township of Mullica. This is lower than the County rate of 34.0% and State average of 32.3%. In 2023, the average household size in the Township of Mullica is 2.63 persons/dwelling unit, while the County average is 2.42 and the State average is 2.58, making the average household in the Township of Mullica larger than that of the County and State.

Education:

Within the Township of Mullica's adult population (25 and over) 89.4% have received a high school diploma and 21.4% received a bachelor's degree or higher giving the Township a similar rate to the County of people with high school diplomas, but worse rate of college graduates. When compared to the County, 89.5% of the adult population has received a high school diploma and 33.3% of the adult population has received a bachelor's degree or higher.

Age of Housing:

Table 3 depicts the number of new housing units constructed between 2000 and 2020 for the Township, County and State.

Table 3
Township of Mullica, 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
Twp. of Mullica	2,176	2,360	2,379	203	9.3%
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 57.6% of the Township's current housing stock was constructed prior to 1980, with 10.5% constructed prior to 1940. The Township therefore has what can be considered an older housing stock, due to the rapid growth in the mid-1900s and stabilization of the growth rate in recent years. 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 Township of Mullica, a large percentage of homes were built years ago, and some are expected to have endured the "wear and tear" that typically takes place to structures over time.

Housing Tenure:

The 2020 Census data indicates that 2,196 housing units (92.3%) in the Township were occupied, and 183 units (7.7%) were vacant. A total of 1,858 units (84.6%) of the occupied units are owner occupied with the additional 338 units (15.4%) occupied by renters.

Table 4
Township of Mullica
Housing Tenure: 2000, 2010 & 2020

TOWN	2000 Units	2000 % of Total	2010 Units	2010 % of Total	2020 Units	2020 % of Total
Total Housing Units	2,176	100%	2,360	100%	2,379	100%
Occupied Housing Units						
-Owner Occupied	1,772	81.4%	1,871	79.3%	1,858	78.1%
-Renter Occupied	272	12.5%	283	12.0%	338	14.2%
-Total	2,044	93.9%	2,154	91.3%	2,196	92.3%
Vacant Housing Units	132	6.1%	206	8.7%	183	7.7%
Seasonal, Recreational Use	41	1.9%	56	2.4%	42	1.8%
Rental Vacancy Rate	5.2%	-----	0.0%	-----	0.0%	-----
Household Size						
-Owner Occupied	2.89		2.71		2.76	
-Renter Occupied	2.73	-----	4.06	-----	2.23	-----

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 Township Housing Stock

Table 5 provides an inventory of the age of the housing stock in the Township of Mullica.

Table 5
Township of Mullica
Inventory of Housing Age: 2023

Year(s) Constructed	Number	Percent of Total
2020 or later	0	0%
2010-2019	48	2.1%
2000-2009	363	16.0%
1990-1999	222	9.8%
1980-1989	326	14.4%
1970-1979	374	16.5%
1960-1969	302	13.3%
1950-1959	358	15.8%
1940-1949	33	1.5%
1939 or earlier	237	10.5%

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

In 2023, the median value of the owner-occupied units in the Township of Mullica was \$297,400. The median home value has increased since the release of the 2020 Census, which was \$221,000. While the Township of Mullica's average median home value is

only about 2.1% less than that of Atlantic County, it is significantly less than the average in New Jersey.

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

Median Home Value	2000	2010	2020	2023	Percent Increase 2020-2023
Township of Mullica	\$109,00	\$255,400	\$221,000	\$297,400	34.6%
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 2,035 owner-occupied units reported in the 2023 American Community Survey, 81.6% were valued at less than \$500,000.

Table 7
Township of Mullica
Home Value of Specified Owner-Occupied Units: 2023

Value of Specified Owner-Occupied Units	Number of Units	Percent of Total
Less than \$50,000	44	2.2%
\$50,000- \$99,999	166	8.2%
\$100,000- \$149,999	39	1.9%
\$150,000- \$199,999	226	11.1%
\$200,000- \$299,999	559	27.5%
\$300,000- \$499,999	626	30.8%
\$500,000- \$999,999	321	15.8%
Over \$1,000,000	54	2.7%

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

As noted in Table 8, all of the gross rents that were charged were less than \$1,000 per month. Of the 144 rental units reported in the 2023 American Community Survey, 100% of the 58 units that charged cash rent charged between \$500.00 and \$999.00.

Table 8
Township of Mullica
Gross Rent of Specified Renter Occupied Units: 2023

Value of Occupied Rental Specified Units	Number of Units	Percent of Total
Less than \$500.00	0	0%
\$500.00-\$999.00	58	100%
\$1,000.00-\$1,499.00	0	0%
\$1,500.00-\$1,999.00	0	0%
\$2,000.00-\$2,499.00	0	0%
\$2,500.00-\$2,999.00	0	0%
\$3,000 or more	0	0%
No cash rent	86	-----

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

The median gross rent in the Township of Mullica was \$926.00 in 2023. The median rent is lower than that of the Atlantic County average and well lower than the New Jersey average.

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

Median Rent	2000	2010	2020	2023	% Change 2020-2023
Mullica	\$733.00	\$1,101.00	\$1,300.00	\$926.00	-28.6%
Atlantic County	\$677.00	\$955.00	\$1,129.00	\$1,325.00	17.4%
New Jersey	\$751.00	\$1,092.00	\$1,368.00	\$1,667.00	21.9%

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

Single family detached homes remain the dominant housing structure in the Township, representing 92.9% of total housing units. In addition, mobile homes account for 6.1% of the housing structures in the Township. Even though mobile homes are not deed restricted for affordable housing, their presence makes it clear that the Township (1) has an abundance of naturally affordable housing, and (2) does not exclude low- and moderate-income households.

Table 10
Township of Mullica
Types of Dwelling Units: 2023

Type of Unit	Number of Units	Percent of Total
1- Unit; detached	2,102	92.9%
1- Unit; attached	24	1.1%
2 Units	0	0%
3 or 4 Units	0	0%
5 to 9 Units	0	0%
10 to 19 Units	0	0%
20 or more Units	0	0%
Mobile Homes	137	6.1%
Boat, RV, Van, etc.	0	0%
Total	2,263	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
Township of Mullica
Condition of Housing: 2023

Characteristic	Number of Units
Overcrowded (> 1 person per room)	0
Total Units lacking complete plumbing	91
Total Units lacking complete kitchen	0

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

According to the 2023 American Community Survey, the 2023 median household income in the Township of Mullica was \$91,875.00. Additionally, 13.1% percent of the Township's population indentified 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 eighty 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 Township of Mullica. The Township of Mullica is in Region

6, which encompasses Atlantic, Cape May, Cumberland and Salem counties. The median household income in the Township of Mullica in 2023 was \$91,875.00.

Table 12
2024 Affordable Housing Regional Income Limits
By Household Size for 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 to households earning no more than seventy percent (70%) of median income. The sales prices must average fifty-five percent (55%) of median income.

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

Based upon the average household size of 2.63 in the Township of Mullica in 2023 and the regional limits, the median income for three-person households in Region 6 used for the Township of Mullica in 2024 is \$88,524. At a minimum, 231 owner occupied units

and 58 renter occupied units could be considered affordable to three-person very-low-, low- and moderate-income households as indicated in Table 13. Of the 231 owner occupied units, 18 units could be considered affordable to three-person very low income and low-income households, and 213 units could be considered affordable to three-person low-income and moderate-income households. Of the 58 renter occupied units, 58 units could be considered affordable to three-person very-low-income and low-income households, and 0 more of those 58 units could be considered affordable to a three-person low-income and moderate-income. Based upon these numbers a minimum of approximately 13.3% of the 2,179 total occupied units in the Township in 2023 are potentially affordable. Of these, a minimum of 76 units representing approximately 3.5% could be affordable to very low- and low-income households with the remaining 213 units representing approximately 9.8% could be affordable to low-income and moderate-income households. Although these figures are estimates, and assumptions regarding household size have been made, it appears that the Township has a number of affordable units, some of which are naturally affordable, and some of which can be counted as affordable housing credits. This is without factoring the affordable amount of the remaining 758 units owner occupied units without a mortgage, 86 renter occupied units without a cash rent, or the 339 owner occupied units with a mortgage that fall between the moderate-income affordability and unaffordable range.

Table 13
Township of Mullica
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	1,276	
Less than \$500.00	0	Very Low Income
\$500.00-\$999.00	18	Very-Low Income -- Low Income
\$1,000.00-\$1,499.00	213	Low Income – Moderate Income
\$1,500.00-\$1,999.00	339	Moderate Income – Not Affordable
\$2,000.00-\$2,499.00	439	Not Affordable
\$2,500.00-\$2,999.00	72	Not Affordable
\$3,000.00 or more	195	Not Affordable
Not Mortgaged	759	N/A
Renter Occupied Housing Units	58	Affordability
Less than \$500.00	0	Very Low Income
\$500.00-\$999.00	58	Very-Low Income – Low Income
\$1,000.00-\$1,499.00	0	Low Income – Moderate Income
\$1,500.00-\$1,999.00	0	Moderate Income – Not Affordable
\$2,000.00-\$2,499.00	0	Not Affordable
\$2,500.00-\$2,999.00	0	Not Affordable
\$3,000.00 or more	0	Not Affordable
No Rent Paid	86	N/A

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

Housing Stock, Population & Employment Projections

Housing Unit Projections

The FHA requires that housing plans include a 10-year projection of new housing units based on the number of building permits, development applications approved, and

probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). Table 14 shows the balance of Certificates of Occupancy and Demolition Permits issued between 2013 and 2023. According to NJDCA permit data, 39 new units were certified, and 24 units were demolished. There is an annual average of 3 Certificates of Occupancy issued per year and 2 Demolition Permits issued per year. This creates an average of approximately 1 new net dwelling added per year. If this rate were to remain relatively constant, the Township could see a net increase of 12-13 new net units added over the next 10 years.

Table 14
Township of Mullica
Residential Construction Certificate of Occupancy
and Demolition Permits Issued: 2013-2023

Year	Certificates of Occupancy	Demolitions	Net New Dwellings
2013	4	3	1
2014	8	7	1
2015	6	5	1
2016	9	0	9
2017	6	0	6
2018	0	1	-1
2019	1	2	-1
2020	4	2	2
2021	1	3	-2
2022	0	0	0
2023	0	1	-1
Total	39	24	15
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 Township of Mullica and Atlantic County in 2023 were 3,086 and 144,112 respectfully. The Township of Mullica civilian labor force represents approximately 2.1% of the County civilian labor force. In 2023, the percent of the persons age 16 and over in the civilian labor force in the Township of Mullica was 65.4%. This average is higher than the County average of 64.1%. The Township had lower unemployment rates when compared to the County, rates were 2.8% (130 persons) and 4.1% (9,185 persons) respectfully.

The Census data distribution of occupational positions in the Township of Mullica generally reflects that of Atlantic County and the State. The largest difference, at the State level, comes in the sales and office occupations. Approximately 26.5% of the Township of Mullica's labor force works in service occupations compared to 19.0% of the State.

Table 15
Township of Mullica and Atlantic County
Civilian Labor Force Characteristics: 2023

	Township of Mullica		Atlantic County	
	Number of Persons	Percent of Total	Number of Persons	Percent of Total
Labor Force	3,086	65.4%	144,112	64.1%
Employed	2,956	62.6%	134,927	60.1%
Unemployed	130	2.8%	9,185	4.1%

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

Table 16
Township of Mullica, Atlantic County and New Jersey
Occupation Distribution: 2023

Occupation	Twp. of Mullica	Atlantic County	New Jersey
Management, business, science and arts occupations	43.5%	38.6%	47.4%
Service Occupations	16.1%	27.0%	15.5%
Sales and Office Occupations	26.5%	16.8%	19.0%
Natural resources, construction and maintenance occupations	6.6%	7.5%	6.9%
Production, transportation and material moving occupations	7.3%	10.1%	11.2%

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

In 2023, the median household income in the Township of Mullica was \$91,875. However, there is a wide range of income levels, as 30.1% of the population make over \$150,000 and 14.0% make under \$35,000. The distribution of household income is indicated in Table 17.

Table 17
Township of Mullica
Household Income: 2023

Household Income	Number	Percent
Less than \$10,000	48	2.2%
\$10,000- \$14,999	0	0.0%
\$15,000- \$24,999	35	1.6%
\$25,000- \$34,999	222	10.2%
\$35,000-\$49,999	268	12.3%
\$50,000- \$74,999	251	11.5%
\$75,000- \$99,999	377	17.3%
\$100,000- \$149,999	327	15.0%
\$150,000 or more	656	30.1%

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 3,086, of which 2,956 were employed. Classifications of workers by occupation distribution can be referenced in Table 18 which lists occupation by industry of workers in the Township.

Table 18
Township of Mullica
Employment Classification: 2023

Industry	Number of Employees	% of Total Employed
Agriculture, forestry, fishing, hunting and mining	0	0.0%
Construction	250	8.5%
Manufacturing	211	7.1%
Wholesale Trade	63	2.1%
Retail Trade	435	14.7
Transportation, warehousing and utilities	155	5.2%
Information	76	2.6%
Finance, Insurance, Real Estate and Rental/Leasing	165	5.6%
Professional, scientific, management, administrative and waste management services	227	7.7%
Educational services, health care and social assistance	631	21.3%
Arts entertainment, recreation, accommodation and food services	286	9.7%
Other services except public administration	163	5.5%
Public Administration	294	9.9%

Source: US Census, 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 a di minimus population increase and significant employment growth throughout the region. In the Township of Mullica, the SJTPO projects local employment growth of 424 jobs (+39.6%) with a decrease of 442 people (-7.6%). As shown in Table 18, the Township is expected to experience an employment increase (+39.6%) higher than what is projected to occur throughout the County (+25.1%).

Table 19
Township of Mullica
Population and Employment Projections: 2020-2060

Location	Population			Employment		
	Estimate 2020	Projected 2060	Percent Change	Estimate 2020	Projected 2060	Percent Change
Township of Mullica	5,816	5,374	-7.6%	1,071	1,495	+39.6%
Atlantic County	274,534	266,014	- 3.1%	150,987	188,855	+ 25.1%
SJTPO Region	588,786	557,050	- 5.4%	310,002	378,855	+ 22.2%

Source: SJTPO Population and Employment Projections 2020-2060

Lands Most Appropriate for Affordable Housing

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

Mullica is completely located within the Pinelands Protection Area and the Pinelands Comprehensive Management Plan (CMP) regulates development in the Township. More than 85% of the total land area in the Township is within the Pinelands Agricultural Production, Preservation Area, Forest Area or Rural Development Area. The mandated minimum lot sizes in these areas range from 3.6 acres to 31 acres. (One-acre lot sizes are permitted in the Rural area however the density must still maintain the larger lot size for total development area.) Only 12% of the Township land area is within a Pinelands Village or Town. In addition to the Pinelands CMP constraints, the entire Township is without public sewer and public water infrastructure. Without changes to the Pinelands CMP regulations and public infrastructure the development intensity cannot occur.

Multigenerational Family Housing Continuity

The FHA requires the Housing Element and Fair Share Plan to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20).

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

Housing Strategy:

Affordable Housing Caps and Requirements

In accordance with the requirements set forth in the Amended FHA, the Township of Mullica 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 the units, exclusive of any bonus credits, addressing the Township'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 Township's Fourth Round Rehabilitation Obligation of 0, Prior Round Obligation of 40, Third Round Obligation of 98, and the Fourth Round Obligation of 13. Below are the mechanisms the Township has put in place to address the affordable housing obligations.

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 Mt. Laurel II decision 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 SDRP. 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 Township of Mullica.

Township of Mullica Fair Share Obligations

In accordance with the amended FHA, this Fourth Round Housing Element and Fair Share Plan will set forth how the Township has addressed its Prior Round and Third Round affordable housing obligations, as well as how it intends to address its Fourth Round 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. As per the Court's March 27, 2025 Order setting the Township of Mullica's Fourth Round Obligations, the Township has a Fourth Round Present Need Obligation of **0**.

B. Prior Round Obligation (1987-1999)

The Township of Mullica has a Prior Round Obligation of **40**.

C. Third Round - Prospective Need Obligation (1999-2025)

The Township of Mullica has a Third Round Prospective Need Obligation of **98**.

D. Fourth Round Prospective Obligation (2025-2035)

The Township of Mullica has a Fourth Round Obligation of **13**.

Addressing the Present Need Obligation:

The purpose of a rehabilitation program is to rehabilitate substandard housing units occupied by low- and moderate-income households. A substandard housing unit is defined as a unit with health and safety violations that require the repair or replacement of a major system. A major system includes a roof, plumbing, heat, electricity, sanitary plumbing and/or a load bearing structural system. Upon rehabilitation, housing deficiencies are corrected and the unit is brought up to New Jersey Uniform Construction Code standards.

Based on the DCA's calculation for the municipality's present need, a rehabilitation component of zero (0) units was accepted by the Township. The Township does not have a rehabilitation obligation; however, the Township works with the Atlantic County Improvement Authority to rehabilitate properties as well as conducting rehabilitation through a local program.

In 1996, the Township created the Mullica Township Rehabilitation Committee (MTRC) (See Appendix D). The committee reviews and recommends to the Township Committee emergency loans for housing rehabilitation. The program began with funds from the Community Development Block Grant Program and Small Cities Grants. The program utilizes re-captured funds to create a revolving loan fund for the purposes of emergency rehabilitation to low- and very-low-income households. Repayment is made when the property is sold, and all loans are interest free. The program is successful in providing assistance to low- and very-low-income households.

Addressing the Prior Round Obligation:

The Township has a Prior Round obligation of 40 units.

Addressing the Third Round Obligation

Per the 2018 Final Judgment of Compliance and Repose, the Township of Mullica is entitled to a Vacant Land Adjustment with a Realistic Development Potential ("RDP") of 32 units.

Table 20
Township of Mullica
Prior Round & Third Round Affordable Housing Unit Crediting

Development	Units	Bonus Credits	Total Credits
Prior Round			
Credits without Controls	16		16
Third Round			
Career Opportunity Development, Inc.	4	4	8
Arc of Atlantic County	4	4	8
Total Credits	24	8	32

Addressing the Fourth Round Obligation

The Township of Mullica has a Fourth Round (2025-2035) Obligation of 13.

Due to limited vacant and developable land that is within the Township's land use jurisdiction, the Township qualifies for a vacant land adjustment. The Township 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 and the Third Round Judgment of Compliance and Repose, the Fourth Round RDP is zero (0). Based on an analysis of property tax records, approvals, aerial imagery, wetlands mapping and the lack of public sanitary sewer infrastructure, the Township has determined that there have been no changed circumstances that would generate new realistic development potential since the vacant land analysis contained in the Prior and Third Rounds. The remaining obligation is known as the Fourth Round Unmet Need, which will be 13.

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 Borough 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 Borough is complying through the compliance mechanisms already approved by the Court in accordance with the Third Round Settlement Agreement.

The Township received a Vacant Land Adjustment for their obligation since 1991. The Township also has no public sewer infrastructure, which is necessary to permit any type of inclusionary zoning for affordable housing. The 2017 Housing Element and Fair Share Plan includes a Durational Adjustment in lieu of a Vacant Land Adjustment. The Township has existing credits of 32, leaving them with an unmet need of 106 units for the Prior and Third Rounds, in accordance with the Final Third Round Judgment of Compliance and Repose.

Vacant Land Analysis

The conditions remain unchanged from the vacant land analysis done for the Prior Round and Third Round as approved by the Court per the Final Third Round Judgment of Compliance and Repose. The vacant land analysis continues to support an RDP of zero (0) units.

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

Table 21
Summary of Fair Share Obligation

Rehabilitation Share	0
Prior Round Obligation	40
Third Round Obligation	58
Fourth Round Obligation	13
Total Credits (Prior Round and Third Round)	32
Realistic Development Potential for Prior Round and Third Round	0
Realistic Development Potential for Fourth Round	0
Unmet Need for the Prior and Third Rounds per the Settlement Agreement	106
Unmet Need for the Fourth Round	13
Unmet Need Obligation Remaining	119

The Township is proposing a mandatory set aside ordinance for developments of five or more lots in a Pinelands regional growth area, village or town. Only 12% of the Township land area is within a Pinelands Village or Town. In addition to the Pinelands CMP constraints, the entire Township is without public sewer and public water infrastructure. Without changes to the Pinelands CMP regulations and public infrastructure, the development intensity cannot occur.

Affordable Housing Mechanisms

Supportive and Special Needs Housing

The Township has worked with supportive housing groups and non-profit affordable housing developers in the past. The Township agrees to support these entities in terms of providing affordable housing opportunities on single-lot development throughout the municipality through taking affirmative measures to support proposed developments by them, including support for requests for funding from county, state, and federal sources.

Mandatory Set Aside Ordinance

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

Very Low-Income Units

Pursuant to the amended FHA (P.L. 2008, c.46), the Township 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 Township 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.”

Income and Bedroom Distribution

The Township 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

The Township of Mullica currently has a Court-approved Affordable Housing Ordinance, Chapter 144 of the Township Code (see Appendix F). An updated Affordable Housing Ordinance has been introduced to the Township Committee and is anticipated to be adopted on June 24, 2025. The Affordable Housing Ordinance governs the establishment and occupancy of the affordable units in the Township, 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 Township’s Code in Chapter 167 Fees, Article XI Affordable Housing Development Fees (See Appendix G).

The Township 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, once the DCA and HMFA finalize their rule proposals.

The Township shall adopt by resolution an updated Affirmative Marketing Plan. The Township’s Administrative Agent designated by the Township of Mullica, 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 Township has appointed a Municipal Housing Liaison by resolution (see Appendix H). The Township will contract with an Administrative Agent to conduct the administration and affirmative marketing of its affordable housing sites. The affirmative marketing plans are designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to

the affordable units located in the Township. 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 Township'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.

More than 85% of the total land area in the Township is within the Pinelands Agricultural Production, Preservation Area, Forest Area or Rural Development Area. The mandated minimum lot sizes in these areas range from 3.6 acres to 31 acres. One-acre lot sizes are permitted in the Rural area, however, the density must still maintain the larger lot size for total development area. These areas are not suitable for development and are also located outside of the NJDEP Sewer Service Area.

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

The Township continues to encourage the development of affordable housing in the Pinelands Towns and Villages. This is consistent with the overall SRDP 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 Township's Subdivision of Land and Site Plan Review and Zoning ordinances have been reviewed to eliminate unnecessary cost generating standards. The Township will amend, if needed, the Planning Board rules for expediting the review of development

applications for affordable housing projects, including, but not limited to, scheduling special monthly public hearings. All development applications containing affordable housing shall be reviewed for consistency with the Township's ordinances, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the FHA regarding unnecessary cost-generating requirements. The Township will comply with COAH's requirements for unnecessary cost-generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing, N.J.A.C.5:93-10.3.

Once the DCA and HMFA finalize their rule proposes, the Township 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 Township will be preparing 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 Township'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 Township will prepare an updated spending plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules, not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules as well as to address any terms of the court-approved Third Round FSHC agreement.

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

Summary

There are limited opportunities to create affordable housing in the Township given the lack of infrastructure and the regulations from the Pinelands Comprehensive Management Plan. The table that follows summarizes the Township's Housing Plan and reflects an unmet need obligation of 119 units.

**APPENDIX A – Fourth Round Declaratory Judgment Complaint with Township
Resolution committing to Fourth Round obligations**

MARESSA PATTERSON

A NJ LIMITED LIABILITY COMPANY
191 WEST WHITE HORSE PIKE
BERLIN, NEW JERSEY 08009
(856) 767-1471

Attorney for Petitioner, Township of Mullica

Attorney I.D. No.: 005611977

**IN THE MATTER OF THE
TOWNSHIP OF MULLICA,
ATLANTIC COUNTY**

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY**

Docket No. ATL-L-

Civil Action

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

Petitioner, the Township of Mullica (“Petitioner” or “Mullica”), a municipal corporation of the State of New Jersey with its principal place of business located at 4528 S. White Horse Pike, Elwood, County of Atlantic and State of New Jersey, by way of Complaint for Declaratory Judgment pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. and the Mount Laurel Doctrine, states as follows:

BACKGROUND

1. The Township of Mullica is a municipal corporation organized under the laws of the State of New Jersey.
2. The Mount Laurel Doctrine refers to the affordable housing laws of the State of New Jersey as a result of court cases commonly referred to as “Mount Laurel I” (So. Burlington County N.A.A.C.P. v. Tp. Of Mount Laurel, 67 N.J. 15(1975), cert. denied, 423 U.S. 808, 96

S.Ct. 18, 46 L.Ed.2d 28 (1975)), “Mount Laurel II” (So. Burlington County N.A.A.C.P. v.Tp. of Mount Laurel, 92 N.J. 158 (1983)) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and related laws.

3. The Mayor and Township Council of the Township of Mullica are responsible, inter alia, to ensure that the Township of Mullica takes all actions necessary to maintain compliance with its obligations under the laws collectively known as the “Mount Laurel Doctrine” and the “Fair Share Housing Act”.

4. The Mullica Township Planning Board is responsible under the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*, for preparing the Housing Element of the Mullica Township Master Plan and the Fair Share Housing Plan to comply with its obligations under the Mount Laurel Doctrine.

5. The Township of Mullica brings this action seeking Declaratory Judgment pursuant to the Fair Housing Act and P.L. 2024, c.2 for certification of compliance, repose and immunity from exclusionary zoning lawsuits for its Fourth Round Mount Laurel affordable housing obligation for a period of ten (10) years based upon its present need or rehabilitation share of 0 units and its prospective need share of 13 units.

6. Jurisdiction properly rests with the Superior Court, Law Division, Atlantic County before the designated Mount Laurel Judge for Vicinage 4 pursuant to Administrative Directive 14-24 of the Administrative Office of the Courts, dated December 18, 2024.

7. On January 28, 2025, the Township of Mullica memorialized a Resolution adopting And accepting its Fourth Round Fair Share Affordable Housing obligations as 0 units of present need or rehabilitation and prospective need of 13 units (see Exhibit “A” attached hereto).

8. Administrative Directive 14-24 issued by the Administrative Office of the New Jersey

Courts provides that, “A municipality seeking a certification of compliance with the Fair Housing Act shall file an action in the form of a Declaratory Judgment Complaint and Civil Case Information Statement (“CIS”) in the County in which the municipality is located.”

9. The Township of Mullica further seeks by way of this Declaratory Judgment action voluntary admission into the Affordable Housing Dispute Resolution Program (“Program”).

10. To the extent that the Fair Housing Act and amendments thereto are construed or interpreted differently than Administrative Directive 14-24, the Township of Mullica hereby reserves all of its rights and interests under the Fair Housing Act and any amendments thereto, and this Declaratory Judgment action is being filed in accordance with Administrative Directive 14-24 and voluntary admission into the Program.

WHEREFORE, Petitioner, the Township of Mullica, respectfully requests that the Court enter judgment as follows:

- a. Voluntarily admitting the Township of Mullica into the Program;
- b. Declaring and establishing the Township of Mullica’s Fourth Round Mount Laurel Affordable Housing obligation as provided for in the Fair Housing Act and any amendments thereto and as set forth in Exhibit “A”;
- c. Upon the adoption and approval of Mullica Township’s Housing Element and Fair Share Plan and other requirements, within the time periods established, granting the Township of Mullica a Judgment of Fourth Round compliance and repose and certification of compliance with the Fair Housing Act and any amendments thereto and granting immunity from exclusionary zoning lawsuits for its Fourth Round Mount Laurel affordable housing obligations based upon its present need or rehabilitation share of 0 units and its prospective need share of 13 units for the period 2025 to 2035; and

d. Awarding such other relief as the Court may deem equitable and just and necessary.

MARESSA PATTERSON, LLC

BY: 


DAVID C. PATTERSON, ESQUIRE
Attorney for Petitioner, Township of Mullica

DATED: January 29, 2025

DESIGNATION OF TRIAL ATTORNEY

PLEASE TAKE NOTICE that pursuant to R.4:25-4, David C. Patterson, Esquire is hereby designated as trial counsel.

MARESSA PATTERSON, LLC


DAVID C. PATTERSON, ESQUIRE
Attorney for Petitioner, Township of Mullica

DATED: January 29, 2025

RULE 4:5-1 CERTIFICATION

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

MARESSA PATTERSON, LLC



DAVID C. PATTERSON, ESQUIRE
Attorney for Petitioner, Township of Mullica

DATED: January 29, 2025

CERTIFICATION IN COMPLIANCE WITH ADMINISTRATIVE DIRECTIVE 14-24

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

MARESSA PATTERSON, LLC



DAVID C. PATTERSON, ESQUIRE
Attorney for Petitioner, Township of Mullica

DATED: January 29, 2025

RULE 4:6-1 CERTIFICATION

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

MARESSA PATTERSON, LLC

A handwritten signature in black ink, appearing to read 'D C Patterson', is written over a horizontal line.

DAVID C. PATTERSON, ESQUIRE
Attorney for Petitioner, Township of Mullica

DATED: January 29, 2025

APPENDIX B – Court Order setting the Township’s Fourth Round obligations

David Patterson

From: eCourtsCivilDoNotReply.mailbox@njcourts.gov
Sent: Thursday, March 27, 2025 3:45 PM
To: David Patterson; Chrissy Brooks
Subject: NJ eCourts Order On Fair Share Obligations Notification - Civil Part ATL-L-000197-25

SUPERIOR COURT OF NEW JERSEY - eCOURTS CIVIL LAW

The following was filed by COURT on 03/27/2025:

Petitioner Name TOWNSHIP OF MULLICA
Respondent Name: NULL
Case Caption: IN THE MATTER OF MULLICA TWP
Case Number: ATL L 000197-25
Docket Text: Order On Fair Share Obligations - GRANTED by Judge PORTO, JOHN, C
Transaction ID: LCV2025945136

Notice has been electronically mailed to:

Petitioner Attorney DAVID C PATTERSON DPATTERSON@MARESSALAW.COM
CBROOKS@MARESSALAW.COM

Notice was not electronically mailed to:

Respondent NULL 00000

Login to eCourts to view the Case Jacket. You will need a valid user ID (Bar ID) to view the submitted documents.

For questions, please contact the Superior Court of New Jersey Civil Division in county of venue.

This communication is for notification purposes only.

This email was sent from a notification-only address that cannot accept incoming mail. Please do not reply to this message.

PREPARED BY THE COURT:**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE TOWNSHIP
OF MULLICA, ATLANTIC
COUNTY PURSUANT TO P.L.
2024, CHAPTER 2**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
ATLANTIC COUNTY
DOCKET NO. ATL-L-197-25

Civil Action

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

THIS MATTER, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 29, 2025 (“DJ Complaint”) by the Petitioner, **BOROUGH OF FOLSOM** (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

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

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

AND IT APPEARING that, pursuant to the DCA's Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported as **0** affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as **13** affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

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

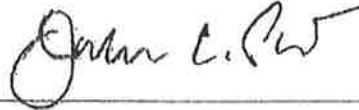
AND THE COURT, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA's Fourth Round Report have been committed to by the Petitioner and are uncontested,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

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

1. That the present need obligation of the Municipality, be, and hereby is fixed as **0** affordable units for the Fourth Round housing cycle.
2. That the prospective need obligation of the Municipality, be, and hereby is fixed as **13** affordable units for the Fourth Round Housing cycle; and
3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

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

SO ORDERED:

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

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

(X) Uncontested.

APPENDIX C – Final Third Round Judgment of Compliance and Repose

TRACY A. SIEBOLD, ESQUIRE
NEHMAD PERILLO & DAVIS, P.C.
Attorney ID: 017842000
4030 Ocean Heights Avenue
Egg Harbor Township, New Jersey 08234
Phone: (609) 927-1177
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Attorneys for Declaratory Plaintiff, Township of Mullica

IMO THE APPLICATION OF THE TOWNSHIP OF MULLICA, a municipal corporation of the State of New Jersey	SUPERIOR COURT OF NEW JERSEY LAW DIVISION ATLANTIC COUNTY DOCKET NO. ATL-L- 1534-15 Civil Action FINAL THIRD ROUND JUDGMENT OF COMPLIANCE AND REPOSE
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THIS MATTER having been opened to the Court by Tracy A. Siebold, Esquire of the law firm of Nehmad Perillo & Davis, P.C., appearing on behalf of the declaratory plaintiff, Township of Mullica (hereinafter “the Township”), via a Declaratory Judgment Action (“DJ Action”) filed on July 8, 2015 in response to In Re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (hereinafter “In re COAH”) and requesting judicial approval of the Township’s amended Housing Element and Fair Share Plan (“Fair Share Plan”); and the Court having granted the Township immunity from all Mount Laurel lawsuits commencing from July 8, 2015; and the Township’s immunity currently remaining in force; and the Court having appointed the Honorable Steven P. Perskie, J.S.C. (Ret’d.), as the Special Mount Laurel Master (hereinafter the “Special Master”); and Fair Share Housing Center (“FSHC”) having participated in the Township’s DJ Action as an interested party and not by way of formal Motion to Intervene but having been granted intervenor status under the terms of the

Settlement Agreement by and between the Township and FSHC which was memorialized on October 10, 2017; and the Township's Planning Board having adopted the Housing Element and Fair Share Plan ("Fair Share Plan") on August 8, 2017; and the Township Council having endorsed the Fair Share Plan on August 8, 2017; and said Settlement Agreement and Fair Share Plan having established the Township's "fair share" obligations and the compliance mechanisms through which the Township would satisfy same; and the Court having conducted a Fairness Hearing on December 14, 2017; and Tiffany CuvIELLO-Morrissey, P.P., A.I.C.P. and Adam Gordon, Esquire on behalf of the FSHC, and Special Master Perskie having appeared at the Fairness Hearing; and no other members of the public or interested parties having appeared at the Fairness Hearing; and Special Master Perskie having recommended that the Court grant the Township an unconditional Third Round Judgment of Compliance and Repose following the adoption of the required ordinances implementing the Settlement Agreement; and the Court having entered as evidence the Township's Fair Share Plan and supporting documents, the Township's Affidavit of Public Notice, and other relevant documents; and the Court having considered the documents on the record and the Special Master's testimony; and, as a result of the foregoing, the Court having made at the conclusion of the Fairness Hearing various findings of fact and determinations of law as set forth on the record; and the Court having entered an Order on January 3, 2018 requiring the Township to adopt the compliance mechanisms through which the Township would satisfy its the Township's "fair share" obligations by May 15, 2018; and the Township having adopted the compliance mechanisms which seek to capture affordable housing opportunities if and when the opportunity arises; and the supporting ordinances and other documents having been submitted to the Court, the Court Master and FSHC for review and approval in accordance with the Court's January 3, 2018 Order; and for good cause shown:

IT IS on this 31st day of May, 2018, **ORDERED AND ADJUDGED** as follows:

1. The Township provided sufficient notice of the Fairness Hearing to the public and all interested parties.

2. The Township of Mullica's Fair Share Plan is hereby approved, and the Township is granted a Final Third Round Judgment of Compliance and Repose pursuant to the Fair Housing Act (N.J.A.C. 52:27D-301, et seq.), applicable Council on Affordable Housing (COAH) substantive regulations, and Mount Laurel case law, including the New Jersey Supreme Court's decision in In re N.J.A.C. 5:96 & N.J.A.C. 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV").

3. The Township's Final Third Round Judgment of Compliance and Repose shall remain in effect for ten (10) years, commencing on July 8, 2015 and ending on July 8, 2025, during which the Township will have immunity and repose from any and all Mount Laurel lawsuits, including "builders remedy lawsuits," "constitutional compliance actions," and any other lawsuit brought under Mount Laurel principles.

4. The Township's Present Need or Rehabilitation Obligation is 0 units, the Township's Prior Round Obligation is 40 units, and the Township's Round allocation of the regional need is 98 units.

5. The Township is entitled to a Vacant Land Adjustment with a Realistic Development Potential ("RDP") of 32 units.

6. The Township's RDP shall not be revisited by FSHC or any other interested party absent a substantial changed circumstance and, if such a change in circumstances occurs either with the RDP or the remaining portion of its allocation of the Third Round regional need, the Township shall have the express right to address the issue without any negative impact on its

immunity from all Mount Laurel lawsuits or any form of related litigation claiming that the RDP should be increased in accordance with the terms of the Settlement Agreement.

7. The Township's "unmet need" is 106 units, comprised of the sum of its Prior Round and Third Round obligations.

8. The Township shall forward a copy of this Order to the Special Master and the Service List within seven (7) days of receipt.

9. The Court retains jurisdiction over this matter solely for purposes of enforcement of this Judgment of Compliance and Repose and the Settlement Agreement entered by the Township and Fair Share Housing Center on October 10, 2017.

 5-31-18

HON. NELSON C. JOHNSON, J.S.C.

APPENDIX D – Rehabilitation Committee Ordinance

Chapter 47**REHABILITATION COMMITTEE**

§ 47-1.	Purpose.	§ 47-5.	Financial controls.
§ 47-2.	Membership.	§ 47-6.	Rehabilitation Committee
§ 47-3.	Loan criteria.		Administrator.
§ 47-4.	Procedures.		

[HISTORY: Adopted by the Township Committee of the Township of Mullica 8-27-1996 by Ord. No. 6-96. Amendments noted where applicable.]

§ 47-1. Purpose. [Amended 3-9-1999 by Ord. No. 9-99; 12-12-2000 by Ord. No. 16-2000]

The purpose of this chapter is to create the Mullica Township Rehabilitation Committee (referred to herein as the "MTRC"), which will review, recommend and administer emergency loans for housing rehabilitation for the citizens of Mullica Township. For several years preceding the adoption of this chapter, the Township has been in receipt of community development block grants and small cities' grants which have resulted in loans being made to various township residents through the Mullica Township Rehabilitation Committee. As those loans have been repaid by homeowners, funds have become available and the Township wishes to take steps to assure that these repaid loan funds are again made available to low- and very-low-income households for purposes of emergency rehabilitation.

§ 47-2. Membership. [Amended 3-9-1999 by Ord. No. 9-99]

The Mullica Township Rehabilitation Committee shall consist of five members, including the Township Committee member who serves as Director of Development and Housing, the Township Committee member who serves as Director of Revenue and Finance, the Township Clerk, the Township Code Enforcement Official and the Mullica Township Rehabilitation Committee Administrator. At any meeting of the MTRC, the Director of Development and Housing will serve as the Chairperson of the MTRC.

§ 47-3. Loan criteria.

- A. Emergency loans. Loans will be made on an emergency basis only. An emergency condition is deemed to be a condition which threatens the health and safety of the residents of the household. Emergency conditions include, but are not limited to, the lack of heat, the lack of potable water, the lack of electrical service and severe structural damage.
- B. Additional criteria. During the course of administering loans from community development and block grants and small cities' grants, the Township has adopted and utilized certain standards in reviewing loan applications. In reviewing current applications, the MTRC will utilize the guidelines and procedures contained in Attachment A¹ attached hereto, and may utilize any standards and procedures previously incorporated as part of the original loan programs.
- C. Loan limits. No loan will be made in an amount in excess of \$10,000. **[Amended 3-9-1999 by Ord.**

1. Editor's Note: Attachment A is available at the Township offices.

No. 7-99; 2-28-2023 by Ord. No. 2-2023]**§ 47-4. Procedures.**

- A. Application. The application will be presented on a form which the Township Committee may from time to time approve and modify, which form shall be presented to the Township Clerk. The applications will be reviewed by the members of the MTRC.
- B. Verification. The Code Enforcement Office will verify the emergency situation at the household and confirm to the MTRC that the emergency exists and that the situation is in need of rehabilitation. The Code Enforcement Official will also review all specifications and bids received for the performance of the work. Upon completion of the required repairs, the Code Enforcement Official shall confirm that the repairs have in fact been satisfactorily completed.
- C. Review and recommendation. The MTRC will review all available information and make a recommendation to the Township Committee.
- D. Disbursement of funds. Upon an affirmative majority vote of the Township Committee, the loan will be approved. Upon verification of satisfactory completion of the work, the Chief Financial Officer of the Township shall issue a check to the contractor in the amount previously approved by the Township Committee.
- E. Repayment. Prior to the disbursement of the funds, the homeowner seeking the loan for rehabilitation will execute a note and mortgage in favor of the Township in an amount equal to the amount borrowed. Repayment will be made at the time that the applicant for the loan sells the property for which the loan was granted. If, at the time of the issuance of the loan, it is determined by the MTRC that the applicant is of low income in accordance with the guidelines, in that case the applicant will repay 100% of the face amount of the loan. If, at the time of the issuance of the loan, it is determined by the MTRC that the applicant is of very low income in accordance with the guidelines, in that case the applicant will repay 50% of the face amount of the loan. Loans will be interest free. **[Amended 12-12-2000 by Ord. No. 16-2000]**

§ 47-5. Financial controls.

The Chief Financial Officer shall establish an interest-bearing account with a local financial institution. This account shall be monitored on an annual basis by the Township Auditor, and the Township Auditor shall provide the Township Committee with an appropriate audit on an annual basis. The Chief Financial Officer shall be responsible for all disbursements made from the account. At least two signatures will be required for any activity on the account. The Chief Financial Officer shall maintain all financial records and will monitor the number of loans that have been made, the status of each loan and the amount of funds that remain available to the MTRC for future loans.

§ 47-6. Rehabilitation Committee Administrator. [Added 3-9-1999 by Ord. No. 9-99]

There is hereby created the position of Mullica Township Rehabilitation Committee Administrator. Said Administrator will be responsible for reviewing loan applications for completeness, reviewing background information of applicants and advising the Mullica Township Rehabilitation Committee concerning certain standards and criteria which shall be applied based upon said background information.

APPENDIX E – Draft Proposed Mandatory Set Aside Ordinance

§ 233-83. Development regulations.

A. Housing.

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

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

- (g) All to-be-constructed affordable housing units shall be specifically identified on the site plan for the qualifying development project, along with the support services required to sustain such affordable housing units. It is the intent herein to not only encourage but to sustain a quality of life for affordable housing residents within prescribed residential developments.
- (h) In pursuing the development of affordable housing as part of a qualifying development project, the Planning Board or Zoning Board, as applicable, may grant such bulk (c) variances and/or design waivers as may be necessary to assist in adjusting the site plan configuration to provide for such units, thereby allowing the placement of disbursed affordable housing units throughout the qualifying development project. Notwithstanding this requirement, the lot area standards set forth on Table I: Use, Area, Yard and Bulk Regulations⁶ for the PA, FA-5, FA- WEST, FA-20, R-5, VR, TR, R, R-1 and PIRD Zones and the standards, application procedures or other provisions contained in Article X, Pinelands Area

APPENDIX F – Affordable Housing Ordinance

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

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

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

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

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

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

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

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

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

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

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change

in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Applicability

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Mullica pursuant to the Township’s most recently adopted Housing Element and Fair Share Plan.
2. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units, and also including projects funded with Low-income Housing Tax Credits.

D. Alternative Living Arrangements

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

E. Phasing Schedule for Inclusionary Zoning

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

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

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

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

F. New Construction

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

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

2. Accessibility Requirements:

- a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:
- b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- 1) An adaptable toilet and bathing facility on the first floor; and
- 2) An adaptable kitchen on the first floor; and
- 3) An interior accessible route of travel on the first floor; and
- 4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- 5) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- 6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Mullica has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - b) To this end, the builder of restricted units shall deposit funds within the Township of Mullica's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - c) The funds deposited under paragraph 6)b) above shall be used by the Township of Mullica for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Mullica for the conversion of adaptable to accessible entrances.
 - e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

3. Design:

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

4. Maximum Rents and Sales Prices:

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and using calculation procedures approved by the Court. Income limits for all units that are part of the Township's Housing Element and Fair Share Plan and for which income limits are not already established through a federal program exempted from the UHAC pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Township annually within 30 days of the publication of determinations of median income by the Department of Housing and Urban Development ("HUD") as follows:
 - 1) Regional income limits shall be established for the region that the Township is located within based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- 2) The income limits are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the fiscal year 2025, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - 3) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3) shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
 - c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
 - d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
 - e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one and one-half person household;
 - 3) A two-bedroom unit shall be affordable to a three-person household;
 - 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - 5) A four-bedroom unit shall be affordable to a six-person household.

- f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- j. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

G. Utilities

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

H. Occupancy Standards

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

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

I. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for newly constructed restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, except as may be modified by the terms of the settlement agreement between the Township of Mullica and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented, and each newly constructed restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least fifty (50) years, until Mullica takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, except as modified by the terms of the settlement agreement between the Township of Mullica and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit

meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

J. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

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

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of approved capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

K. Buyer Income Eligibility

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Committee, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as

applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

L. Limitations on Indebtedness Secured by Ownership Unit; Subordination

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

M. Capital Improvements To Ownership Units

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

N. Control Periods for Restricted Rental Units

1. Control periods for newly constructed restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, except as may be modified by the terms of a settlement agreement between the Township of Mullica and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented, and each newly constructed restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until the Township takes action to release the unit

from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, except as may be modified by the terms of a settlement agreement between the Township of Mullica and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented.

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

O. Rent Restrictions for Rental Units; Leases

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

P. 100% Affordable Projects

1. All 100% affordable projects, including projects funded through Low-income Housing Tax Credits, shall comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et. seq., except as may be modified by the terms of a settlement agreement executed between the Township of Mullica and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented. All such projects shall

be required to have an initial thirty (30) year affordability control period plus a fifteen (15) year extended use period.

Q. Tenant Income Eligibility

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

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

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

- 1) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the affirmative marketing plan of the Township of Mullica and the provisions of N.J.A.C. 5:80-26.15; and
- 2) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

b. Household certification.

- 1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- 2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- 3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- 4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendixes J and K of N.J.A.C. 5:80-26.1 et seq.;
- 5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- 6) Employing the random selection process as provided in the affirmative marketing plan of the Township of Mullica when referring households for certification to affordable units.

c. Affordability controls.

- 1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- 2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- 3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;

- 4) Communicating with lenders regarding foreclosures; and
 - 5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- d. Resale and rental.
- 1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental upon availability of the information to the Municipal Housing Liaison Officer; and
 - 2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental upon availability of the information to the Municipal Housing Liaison Officer.
- e. Processing request from unit owners.
- 1) Reviewing and approving, in conjunction with the Township Attorney, requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
 - 2) Reviewing and approving, in conjunction with the Township Attorney, requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air-conditioning systems; and
 - 3) Processing requests and making determinations, in conjunction with the Township Attorney, on requests by owners of restricted units for hardship waivers.
- f. Enforcement.
- 1) The posting annually in all rental properties when the information becomes available to the Municipal Housing Liaison, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made;
 - 2) Creating and publishing a written operating manual, as approved by Court, setting forth procedures for administering such affordability controls; and
 - 3) Providing annual reports to Court as required.
- g. The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

S. Administrative Agent

An Administrative Agent shall be an independent entity serving under contract to and reporting to the Township. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:

- a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Mullica and the provisions of N.J.A.C. 5:80-26.15; and
- b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

- a. Soliciting, scheduling, conducting and following up on interviews with interested households;
- b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
- f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Mullica when referring households for certification to affordable units; and
- g. Notifying the following entities of the availability of affordable housing units in the Township of Mullica: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Atlantic County and Southern Burlington County Branches of the NAACP, the Supportive Housing Association of New Jersey, and the New Jersey Housing Resource Center.

3. Affordability Controls:

- a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

- b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Atlantic County Clerk and Register of Deeds office after the termination of the affordability controls for each restricted unit;
 - d. Communicating with lenders regarding foreclosures; and
 - e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- 4. Resales and Re-rentals:
 - a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
 - b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
- 5. Processing Requests from Unit Owners:
 - a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
 - b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
 - c. Notifying the Township of an owner's intent to sell a restricted unit; and
 - d. Making determinations on requests by owners of restricted units for hardship waivers.
- 6. Enforcement:

- a. Securing annually from the Township a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - c. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
 - d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - e. Establishing a program for diverting unlawful rent payments to the Township 's Affordable Housing Trust Fund; and
 - f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Township Committee and the Court, setting forth procedures for administering the affordability controls.
7. Additional Responsibilities:
- a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
 - b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
 - c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

T. Affirmative Marketing Requirements

1. The Township of Mullica shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is

intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Burlington, Atlantic and Gloucester Counties.
4. The Township has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Township of Mullica shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and, if one, the municipal library in the Township in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in the Township, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Atlantic County Branch of the NAACP, the Supportive Housing Association of New Jersey, STEPS, Senior Citizens United Community Services, and the New Jersey Housing Resource Center.
10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

U. Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the Township shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of

any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Township may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The Township may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - 1) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - 2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Mullica Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - 3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - b. The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
 - 1) The judgment shall be enforceable, at the option of the Township, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the Township, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - 2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Township 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 Township 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 Township in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Township 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 Township 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 Township. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the Owner or forfeited to the Township.

- 3) Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- 4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the Township may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- 5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Township shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Township, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- 6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

V. Appeals

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

Section 2. Development Fees

In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and the State Constitution, subject to the adoption of Rules by the Committee on Affordable Housing (COAH).

Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain and spend non-residential development fees collected in accordance with the approved Spending Plan.

A. Mandatory Development Fees

Purpose. This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with current regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 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.

B. Basic requirements. The Township of Mullica shall not spend development fees until the Court has approved a plan for spending such fees.

C. Definitions

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

1. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
2. "Construction" means new construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act,"

P.L.1975, c.217 (C.52:27D-119 et seq.).

3. "Department of Community Affairs"
4. "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.
5. "Development fee" means funds paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules.
6. "Equalized assessed value" means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.
7. "Mixed use development" means any development which 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.
8. "Non-residential development" means: (1) 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 promulgated to effectuate the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), including any subsequent amendments or revisions thereto; (2) hotels, motels, vacation timeshares, and child-care facilities; and (3) 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," P.L.1986, c.1 03 (C.52:27D-330 et seq.).
9. "Non-residential development fee" means the fee authorized to be imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8. 1 through C.40:55D-8.7).
10. "Relating to the provision of housing" shall be liberally construed to include the construction, maintenance, or operation of housing, including but not limited to the provision of services to such housing and the funding of any of the above.
11. "Spending plan" means a method of allocating funds collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) for the purpose of meeting the housing needs of low and moderate

income individuals.

D. Residential Development fees

1. Where residential development occurs within the Township of Mullica, residential developers shall pay a fee of 1.5% of the equalized assessed value for residential development provided no increased density is permitted.
2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, 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.
3. The 1.5% of the equalized assessed value fee may be imposed on the construction of new residential development and additions and alterations to existing development. New construction fees shall be based on the equalized assessed value of land and improvements. Fees that result from additions and alterations shall be based on the increase in equalized assessed value that results from the addition or alteration.

D. Non-residential Development fees

1. Where residential development occurs within the Township of Mullica, non- residential developers shall pay a mandatory fee of 2.5% of the equalized assessed value for non-residential development pursuant to P.L.2008, c.46.
2. If an increase in floor area ratio is approved pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) shall incur a bonus development fee of 6% of the equalized assessed value for non-residential development. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.
3. The 2.5% of the equalized assessed value fee may be imposed on the construction of new non-residential development and additions and alterations to existing development. Ordinances governing the imposition of development fees shall clearly indicate which types of development shall be subject to the imposition of development fees. New construction fees shall be based on the equalized assessed value of land and improvements. Fees that result from additions and alterations shall be based on the increase in equalized assessed value that results from the addition or alteration.

E. Eligible exactions, ineligible exactions and exemptions

1. Affordable housing developments and developments where the developer has made a payment in lieu of constructing affordable units shall be exempt from development fees.

2. Development fees may be imposed and collected when an existing structure is expanded, undergoes a change to a more intense use, or is demolished and replaced. The development fee that may be imposed and collected shall be calculated on the increase in the equalized assessed value.
3. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees unless the developer seeks substantial change in an approval. Where a site plan approval does not apply, a zoning and/or construction permit shall be synonymous with preliminary or final site plan approval for this purpose.
4. Development fees shall be imposed and collected when an existing structure is expanded or undergoes a change to a more intense use. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
5. All non-residential construction of buildings or structures on property used by churches, synagogues, mosques, and other houses of worship, and property used for educational purposes, which is tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the imposition of a non-residential development fee, provided that the property continues to maintain its tax exempt status under that statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a non-residential development fee:
 - (a) parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, such as an office building, or whether the parking lot is developed as an independent non-residential development;
 - (b) any non-residential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers, which are developed in conjunction with or funded by a non-residential developer;
 - (c) non-residential construction resulting from a relocation of or an on-site improvement to a nonprofit hospital or a nursing home facility;
 - (d) projects that are located within a specifically delineated urban transit hub, as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208);

F. Collection of fees

1. Fifty percent of the development fee will be collected at the time of issuance of the building permit. The remaining portion will be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

G. Appeal of Development fees

1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, the collected fee shall be placed in an interest-bearing escrow account by the Township.

Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq. within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

H. Affordable Housing trust fund

1. There is hereby created a separate, interest-bearing housing trust fund to be established in a Barile approved by the Township under authority and regulations promulgated by the State of New Jersey for selecting banks in which to place municipal funds for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls. All development fees paid by developers pursuant to this ordinance shall be deposited into this account.
2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement;
 - (b) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other payments or funds collected in accordance with the Township of Mullica's Affordable Housing Program;
3. In the event of a failure by the Township of Mullica to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J.Super. 565 (Law Div. 2015) (aff'd 442 N.J.Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that

all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township, or, if not practicable, then within the County or the Housing Region.

I. Use of funds

1. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the municipal fair share. 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; Regional Housing Partnership programs; 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 the Court and specified in the approved Spending Plan.
2. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households, at least half of which shall be available to low and moderate income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to very low income households.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, and rental assistance.
 - (b) Affordability assistance to very low income households may include offering a subsidy to developers of inclusionary or 100% affordable developments or buying down the cost of low or moderate income units in the municipal fair share plan.
 - (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement
3. The Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance.
4. No more than 20 percent of all development fee revenue shall be expended on administration. This includes but is not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.
5. In the case of a Rehabilitation Program, no more than thirty (30%) percent of the revenues collected from Development fees shall be used for administrative expenses for such a Program. The Township may contract with a private or public entity to administer any

part of its Rehabilitation Program.

Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the DCA's monitoring requirements. Development fee administrative costs are calculated and may be expended at the end of each year or upon receipt of the fees.

J. Monitoring.

The Township of Mullica shall complete and return to the Court or DCA all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan approved by the Court of DCA. All monitoring shall be completed on forms designed by the Court or DCA.

K. Ongoing collection of fees

1. The ability for the Township of Mullica to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Township has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
2. If the Township of Mullica fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
3. The Township of Mullica shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Township retroactively impose a development fee on such a development. The Township also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

Section 3.

All ordinances, policies and or procedures or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency.

Section 4.

Pursuant to the Municipal Land Use Law, the Clerk is directed to give notice at least ten (10) days prior to the hearing on the adoption of this ordinance to the County Planning Board pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this ordinance after public hearing

**TOWNSHIP OF MULLICA
COUNTY OF ATLANTIC
STATE OF NEW JERSEY**

ORDINANCE # 8-2025

**ORDINANCE OF THE TOWNSHIP OF MULLICA REPEALING CHAPTER 144
ARTICLE XA OF THE CODE OF THE TOWNSHIP OF MULLICA CAPTIONED
“AFFORDABLE HOUSING” AND REPLACING IT WITH A NEW CHAPTER 144
ARTICLE XA OF THE CODE OF THE TOWNSHIP OF MULLICA CAPTIONED
“AFFORDABLE HOUSING” TO ADDRESS THE REQUIREMENTS OF THE FAIR
HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS
(UHAC) REGARDING COMPLIANCE WITH THE TOWNSHIP OF MULLICA’S
AFFORDABLE HOUSING OBLIGATIONS**

WHEREAS, the Township of Mullica wishes to establish its compliance with the current rules and regulations on Affordable Housing by repealing Chapter 144 Article XA of the Code of the Township of Mullica captioned “Affordable Housing” and replacing it with a new Chapter 144 Article XA of the Code of the Township of Mullica captioned “Affordable Housing”.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Township Committee of the Township of Mullica County of Atlantic, State of New Jersey that it hereby repeals Chapter 144 Article XA of the Code of the Township of Mullica captioned “Affordable Housing” and replaces it with a new 144 Article XA of the Code of the Township of Mullica captioned “Affordable Housing” as follows:

Section 1. AFFORDABLE HOUSING REGULATIONS

A. Monitoring and Reporting Requirements

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

1. On each anniversary of a final judgment of repose, and on every anniversary of that date, the Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Committee on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
2. On each anniversary of a final judgment of repose, and on every anniversary of that date, the Township of Mullica shall provide annual reporting of the status of all affordable housing activity within the Township through posting on the municipal website with a

copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose.

3. As required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the Township, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
4. Every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low-income requirements, including its family very low-income requirements. Such posting shall invite any interested party to submit comments to the Township and FSHC on the issue of whether the Township has complied with its very low-income and family very low-income housing obligations.

B. Definitions

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

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

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

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

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

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

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

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

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

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

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

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

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

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

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

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

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

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change

in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Applicability

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Mullica pursuant to the Township’s most recently adopted Housing Element and Fair Share Plan.
2. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units, and also including projects funded with Low-income Housing Tax Credits.

D. Alternative Living Arrangements

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

E. Phasing Schedule for Inclusionary Zoning

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

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

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

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

F. New Construction

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

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

2. Accessibility Requirements:

- a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:
- b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- 1) An adaptable toilet and bathing facility on the first floor; and
- 2) An adaptable kitchen on the first floor; and
- 3) An interior accessible route of travel on the first floor; and
- 4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- 5) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- 6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Mullica has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - b) To this end, the builder of restricted units shall deposit funds within the Township of Mullica's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - c) The funds deposited under paragraph 6)b) above shall be used by the Township of Mullica for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Township of Mullica for the conversion of adaptable to accessible entrances.
 - e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

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

3. Design:

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

4. Maximum Rents and Sales Prices:

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and using calculation procedures approved by the Court. Income limits for all units that are part of the Township's Housing Element and Fair Share Plan and for which income limits are not already established through a federal program exempted from the UHAC pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Township annually within 30 days of the publication of determinations of median income by the Department of Housing and Urban Development ("HUD") as follows:
 - 1) Regional income limits shall be established for the region that the Township is located within based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- 2) The income limits are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the fiscal year 2025, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - 3) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3) shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
- c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.
- d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
- 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one and one-half person household;
 - 3) A two-bedroom unit shall be affordable to a three-person household;
 - 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - 5) A four-bedroom unit shall be affordable to a six-person household.

- f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- j. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

G. Utilities

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

H. Occupancy Standards

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

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

I. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for newly constructed restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, except as may be modified by the terms of the settlement agreement between the Township of Mullica and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented, and each newly constructed restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least fifty (50) years, until Mullica takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, except as modified by the terms of the settlement agreement between the Township of Mullica and Fair Share Housing Center (FSHC), as said settlement agreement may be further amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit

meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

J. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

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

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of approved capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

K. Buyer Income Eligibility

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Committee, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as

applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

L. Limitations on Indebtedness Secured by Ownership Unit; Subordination

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

M. Capital Improvements To Ownership Units

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

N. Control Periods for Restricted Rental Units

1. Control periods for newly constructed restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, except as may be modified by the terms of a settlement agreement between the Township of Mullica and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented, and each newly constructed restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until the Township takes action to release the unit

from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, except as may be modified by the terms of a settlement agreement between the Township of Mullica and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented.

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

O. Rent Restrictions for Rental Units; Leases

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

P. 100% Affordable Projects

1. All 100% affordable projects, including projects funded through Low-income Housing Tax Credits, shall comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et. seq., except as may be modified by the terms of a settlement agreement executed between the Township of Mullica and Fair Share Housing Center (FSHC), as such settlement agreement may be further amended and supplemented. All such projects shall

be required to have an initial thirty (30) year affordability control period plus a fifteen (15) year extended use period.

Q. Tenant Income Eligibility

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

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

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

- 1) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the affirmative marketing plan of the Township of Mullica and the provisions of N.J.A.C. 5:80-26.15; and
- 2) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

b. Household certification.

- 1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- 2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- 3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- 4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendixes J and K of N.J.A.C. 5:80-26.1 et seq.;
- 5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- 6) Employing the random selection process as provided in the affirmative marketing plan of the Township of Mullica when referring households for certification to affordable units.

c. Affordability controls.

- 1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- 2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- 3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;

- 4) Communicating with lenders regarding foreclosures; and
 - 5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- d. Resale and rental.
- 1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental upon availability of the information to the Municipal Housing Liaison Officer; and
 - 2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental upon availability of the information to the Municipal Housing Liaison Officer.
- e. Processing request from unit owners.
- 1) Reviewing and approving, in conjunction with the Township Attorney, requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
 - 2) Reviewing and approving, in conjunction with the Township Attorney, requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air-conditioning systems; and
 - 3) Processing requests and making determinations, in conjunction with the Township Attorney, on requests by owners of restricted units for hardship waivers.
- f. Enforcement.
- 1) The posting annually in all rental properties when the information becomes available to the Municipal Housing Liaison, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made;
 - 2) Creating and publishing a written operating manual, as approved by Court, setting forth procedures for administering such affordability controls; and
 - 3) Providing annual reports to Court as required.
- g. The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

S. Administrative Agent

An Administrative Agent shall be an independent entity serving under contract to and reporting to the Township. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:
 - a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Mullica and the provisions of N.J.A.C. 5:80-26.15; and
 - b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
2. Household Certification:
 - a. Soliciting, scheduling, conducting and following up on interviews with interested households;
 - b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
 - f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Mullica when referring households for certification to affordable units; and
 - g. Notifying the following entities of the availability of affordable housing units in the Township of Mullica: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Atlantic County and Southern Burlington County Branches of the NAACP, the Supportive Housing Association of New Jersey, and the New Jersey Housing Resource Center.
3. Affordability Controls:
 - a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

- b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Atlantic County Clerk and Register of Deeds office after the termination of the affordability controls for each restricted unit;
 - d. Communicating with lenders regarding foreclosures; and
 - e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- 4. Resales and Re-rentals:
 - a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
 - b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
- 5. Processing Requests from Unit Owners:
 - a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
 - b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
 - c. Notifying the Township of an owner's intent to sell a restricted unit; and
 - d. Making determinations on requests by owners of restricted units for hardship waivers.
- 6. Enforcement:

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

7. Additional Responsibilities:

- a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
- c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

T. Affirmative Marketing Requirements

1. The Township of Mullica shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is

intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Burlington, Atlantic and Gloucester Counties.
4. The Township has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Township of Mullica shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and, if one, the municipal library in the Township in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in the Township, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Atlantic County Branch of the NAACP, the Supportive Housing Association of New Jersey, STEPS, Senior Citizens United Community Services, and the New Jersey Housing Resource Center.
10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

U. Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the Township shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of

any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Township may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The Township may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - 1) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - 2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Mullica Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - 3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - b. The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
 - 1) The judgment shall be enforceable, at the option of the Township , by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the Township, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - 2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Township 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 Township 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 Township in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Township 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 Township 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 Township. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the Owner or forfeited to the Township.

- 3) Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- 4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the Township may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- 5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Township shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Township, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- 6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

V. Appeals

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

Section 2. Development Fees

In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and the State Constitution, subject to the adoption of Rules by the Committee on Affordable Housing (COAH).

Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain and spend non-residential development fees collected in accordance with the approved Spending Plan.

A. Mandatory Development Fees

Purpose. This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with current regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 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.

B. Basic requirements. The Township of Mullica shall not spend development fees until the Court has approved a plan for spending such fees.

c. Definitions

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

1. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
2. "Construction" means new construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act,"

P.L.1975, c.217 (C.52:27D-119 et seq.).

3. "Department of Community Affairs"
4. "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.
5. "Development fee" means funds paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules.
6. "Equalized assessed value" means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.
7. "Mixed use development" means any development which 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.
8. "Non-residential development" means: (1) 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 promulgated to effectuate the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), including any subsequent amendments or revisions thereto; (2) hotels, motels, vacation timeshares, and child-care facilities; and (3) 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," P.L.1986, c.1 03 (C.52:27D-330 et seq.).
9. "Non-residential development fee" means the fee authorized to be imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8. 1 through C.40:55D-8.7).
10. "Relating to the provision of housing" shall be liberally construed to include the construction, maintenance, or operation of housing, including but not limited to the provision of services to such housing and the funding of any of the above.
11. "Spending plan" means a method of allocating funds collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) for the purpose of meeting the housing needs of low and moderate

income individuals.

D. Residential Development fees

1. Where residential development occurs within the Township of Mullica, residential developers shall pay a fee of 1.5% of the equalized assessed value for residential development provided no increased density is permitted.
2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers shall be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, 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.
3. The 1.5% of the equalized assessed value fee may be imposed on the construction of new residential development and additions and alterations to existing development. New construction fees shall be based on the equalized assessed value of land and improvements. Fees that result from additions and alterations shall be based on the increase in equalized assessed value that results from the addition or alteration.

D. Non-residential Development fees

1. Where residential development occurs within the Township of Mullica, non- residential developers shall pay a mandatory fee of 2.5% of the equalized assessed value for non-residential development pursuant to P.L.2008, c.46.
2. If an increase in floor area ratio is approved pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) shall incur a bonus development fee of 6% of the equalized assessed value for non-residential development. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.
3. The 2.5% of the equalized assessed value fee may be imposed on the construction of new non-residential development and additions and alterations to existing development. Ordinances governing the imposition of development fees shall clearly indicate which types of development shall be subject to the imposition of development fees. New construction fees shall be based on the equalized assessed value of land and improvements. Fees that result from additions and alterations shall be based on the increase in equalized assessed value that results from the addition or alteration.

E. Eligible exactions, ineligible exactions and exemptions

1. Affordable housing developments and developments where the developer has made a payment in lieu of constructing affordable units shall be exempt from development fees.

2. Development fees may be imposed and collected when an existing structure is expanded, undergoes a change to a more intense use, or is demolished and replaced. The development fee that may be imposed and collected shall be calculated on the increase in the equalized assessed value.
3. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees unless the developer seeks substantial change in an approval. Where a site plan approval does not apply, a zoning and/or construction permit shall be synonymous with preliminary or final site plan approval for this purpose.
4. Development fees shall be imposed and collected when an existing structure is expanded or undergoes a change to a more intense use. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
5. All non-residential construction of buildings or structures on property used by churches, synagogues, mosques, and other houses of worship, and property used for educational purposes, which is tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the imposition of a non-residential development fee, provided that the property continues to maintain its tax exempt status under that statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a non-residential development fee:
 - (a) parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, such as an office building, or whether the parking lot is developed as an independent non-residential development;
 - (b) any non-residential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers, which are developed in conjunction with or funded by a non-residential developer;
 - (c) non-residential construction resulting from a relocation of or an on-site improvement to a nonprofit hospital or a nursing home facility;
 - (d) projects that are located within a specifically delineated urban transit hub, as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208);

F. Collection of fees

1. Fifty (50%) percent of the Residential Development Fees shall be collected at the time of issuance of the Building Permit. The remaining portion will be collected at the issuance of the Certificate of Occupancy. The Developer shall be responsible for paying the difference between the fee calculated at Building Permit issuance and at issuance of Certificate of Occupancy. The procedure for collection of the Development Fees shall be set forth in the adopted Township Spending Plan.

G. Appeal of Development fees

1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, the collected fee shall be placed in an interest-bearing escrow account by the Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq. within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
2. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

H. Affordable Housing trust fund

1. There is hereby created a separate, interest-bearing housing trust fund to be established in a Barile approved by the Township under authority and regulations promulgated by the State of New Jersey for selecting banks in which to place municipal funds for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls. All development fees paid by developers pursuant to this ordinance shall be deposited into this account.
2. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement;
 - (b) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other payments or funds collected in accordance with the Township of Mullica's Affordable Housing Program;
3. In the event of a failure by the Township of Mullica to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J.Super. 565 (Law Div. 2015) (aff'd 442 N.J.Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of

Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township, or, if not practicable, then within the County or the Housing Region.

I. Use of funds

1. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the municipal fair share. 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; Regional Housing Partnership programs; 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 the Court and specified in the approved Spending Plan.
2. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households, at least half of which shall be available to low and moderate income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to very low income households.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, and rental assistance.
 - (b) Affordability assistance to very low income households may include offering a subsidy to developers of inclusionary or 100% affordable developments or buying down the cost of low or moderate income units in the municipal fair share plan.
 - (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement
3. The Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance.
4. No more than 20 percent of all development fee revenue shall be expended on administration. This includes but is not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.
5. In the case of a Rehabilitation Program, no more than thirty (30%) percent of the revenues

collected from Development fees shall be used for administrative expenses for such a Program. The Township may contract with a private or public entity to administer any part of its Rehabilitation Program.

Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the DCA's monitoring requirements. Development fee administrative costs are calculated and may be expended at the end of each year or upon receipt of the fees.

J. Monitoring.

The Township of Mullica shall complete and return to the Court or DCA all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan approved by the Court of DCA. All monitoring shall be completed on forms designed by the Court or DCA.

K. Ongoing collection of fees

1. The ability for the Township of Mullica to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Township has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
2. If the Township of Mullica fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
3. The Township of Mullica shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Township retroactively impose a development fee on such a development. The Township also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

Section 3.

All ordinances, policies and or procedures or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency.

Section 4.

Pursuant to the Municipal Land Use Law, the Clerk is directed to give notice at least ten (10) days

prior to the hearing on the adoption of this ordinance to the County Planning Board pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this ordinance after public hearing thereon, the Municipal Clerk is further directed to publish notice of the passage thereof and to file a copy of this ordinance with the County Planning Board as required by N.J.S.A. 40:55D-16.

Section 5.

Severability

Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction or invalid by an administrative agency, such decision shall not affect the legality and enforceability of the remaining portions of this Ordinance.

Section 6.


Repealer

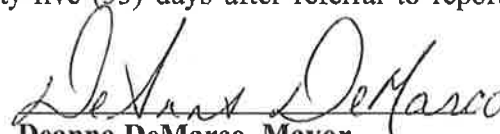
All prior Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 7.

When effective.

This Ordinance shall take effect upon final passage and publication as provided by law; however, subsequent to first reading, this ordinance must be referred to the Township Planning Board for review, which shall be based on whether the proposal is substantially consistent with the Master Plan. The Planning Board has a period of thirty-five (35) days after referral to report on the proposed ordinance.


Monica Newton, Acting Township Clerk


Deanna DeMarco, Mayor


Introduction: May 27, 2025

Final: June 24, 2025

Adopted: June 24, 2025

Certified to be a true copy of an Ordinance adopted by the Mayor and Township Committee of the Township of Mullica at a regular meeting held on June 24, 2025, at the Mullica Township Elementary School.

Date: June 24, 2025


Monica Newton, Acting Township Clerk

APPENDIX G – Development Fee Ordinance

§ 144-79.2. Housing development fees.**A. Purpose.**

- (1) In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- (2) Pursuant to P.L. 2008, c. 46, Section 8 (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), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
- (3) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.¹

B. Basic requirements.

- (1) This article shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.²
- (2) The Township of Mullica shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.³

C. Definitions. The following terms, as used in this article, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

COAH or the COUNCIL — The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

DEVELOPMENT FEE — Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.⁴

1. Editor's Note: N.J.A.C. 5:97 expired on 6-2-2015.

2. Editor's Note: N.J.A.C. 5:96 expired on 6-2-2015.

3. Editor's Note: N.J.A.C. 5:96 and 5:97 expired on 6-2-2015.

4. Editor's Note: N.J.A.C. 5:97 expired on 6-2-2015.

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

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through c).

GREEN BUILDING STRATEGIES — Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

D. Residential development fees. (Reserved)

E. Nonresidential development fees.

(1) Imposed fees

- (a) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2 1/2% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (b) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2 1/2% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2 1/2% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.
- (d) Eligible exactions, ineligible exactions and exemptions for nonresidential development.
 - [1] The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2 1/2% development fee, unless otherwise exempted below.
 - [2] The 2 1/2% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - [3] Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required

Township of Mullica, NJ

§ 144-79.2

§ 144-79.2

pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" form. Any exemption claimed by a developer shall be substantiated by that developer.

- [4] A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46, shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- [5] If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of Mullica as a lien against the real property of the owner.

F. Collection procedures

- (1) 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.
- (2) For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (3) The construction official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- (4) Within 90 days of receipt of that notice, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- (5) The construction official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- (6) Within 10 business days of a request for the scheduling of a final inspection, the municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

Township of Mullica, NJ

§ 144-79.2

§ 144-79.2

- (7) Should the Township of Mullica 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).
- (8) The developer shall pay 100% of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.
- (9) Appeal of development fees
 - (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Township of Mullica. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (b) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township of Mullica. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing Trust Fund.

- (1) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- (2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of affordable units;
 - (b) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;

Township of Mullica, NJ

§ 144-79.2

§ 144-79.2

- (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with the Township of Mullica's affordable housing program.
- (3) Within seven days from the opening of the trust fund account, the Township of Mullica shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).⁵
- (4) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

H. Use of funds.

- (1) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Township of Mullica's 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, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential 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, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9⁶ and specified in the approved spending plan.
- (2) Funds shall not be expended to reimburse the Township of Mullica for past housing activities.
- (3) At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
- (a) 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, and assistance with emergency repairs.
 - (b) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal

5. Editor's Note: N.J.A.C. 5:97 expired on 6-2-2015.

6. Editor's Note: N.J.A.C. 5:97 expired on 6-2-2015.

Fair Share Plan to make them affordable to households earning 30% or less of median income.

- (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (4) The Township of Mullica may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.⁷
- (5) No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

I. Monitoring.

- (1) The Township of Mullica shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of Mullica's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

J. Ongoing collection of fees.

- (1) The ability for the Township of Mullica to impose, collect and expend development fees shall expire with its substantive certification unless the Township of Mullica has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Township of Mullica fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal 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 (N.J.S.A. 52:27D-320). The Township of Mullica shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive

7. Editor's Note: N.J.A.C. 5:96 expired on 6-2-2015.

Township of Mullica, NJ

§ 144-79.2

§ 144-79.2

certification or judgment of compliance, nor shall the Township of Mullica retroactively impose a development fee on such a development. The Township of Mullica shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

APPENDIX H – Resolution Appointing Municipal Housing Liaison

