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March 6, 2026

### **VIA ECOURTS**

**Honorable Lina Corriston, J.S.C.**

Bergen County Superior Court  
10 Main Street Floor 3,  
Hackensack, New Jersey 07601

**RE: In the Matter of the Application of the Borough of Bogota  
Docket No.: BER-L-405-25**

Dear Judge Corriston:

Please be advised that this office represents the Borough of Bogota in the above-referenced matter. As you are aware the Borough's correspondence on February 9, 2026, the Borough adopted three ordinances related to its compliance with the March 15, 2026 deadline. As previously stated, on the Borough would be adopting a number of resolutions March 5, 2026. Enclosed please find the following:

1. Resolution of the Borough Council of the Borough of Bogota Endorsing the Amendment to the Housing Element and Fair Share Plan Adopted by the Planning Board on February 24, 2026, adopted March 5, 2026. See Exhibit 1.
2. Resolution of the Borough Council of the Borough of Bogota of the County of Bergen, State of New Jersey, Stating its Intent to Bond or Take Such Other Steps as May Be Necessary to Fully Fund its Housing Element and Fair Share Plan, adopted March 5, 2026. See Exhibit 2.
3. Resolution of the Borough Council of the Borough of Bogota, County of Bergen, State of New Jersey, Adopting the Affirmative Marketing Plan Prepared by Piazza and Associates, adopted on March 5, 2026. See Exhibit 3.

4. Resolution of the Borough Council of the Borough of Bogota, County of Bergen, State of New Jersey, Adopting the Affordable Housing Manuals for the Rehabilitation of Owner Occupied and Rental Units, adopted on March 5, 2026. See Exhibit 4
5. Resolution Appointing an Administrative Agent to Administer the Boroughs Amended Housing Element and Fair Share Plan Pizza an Associates, adopted on February 19, 2026. See Exhibit 5.

Thank you for your attention to this matter.

Respectfully submitted,

*Jeffrey R. Surenian*

Jeffrey R. Surenian

JRS/mo

cc: All Attorney of Counsel (*via eCourts*)

# Exhibit 1



**RESOLUTION # 2026-81**

**DATE: 03-05-2026**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
L. Kohles			✓				
C. Carpenter		✓	✓				
W. Hordern			✓				
P. McHale			✓				
J. Mitchell	✓		✓				
D. Vergara							✓
Mayor D. Fede (Tie Vote Only)							

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF BOGOTA ENDORSING THE AMENDMENT TO THE HOUSING ELEMENT AND FAIR SHARE PLAN ADOPTED BY THE PLANNING BOARD**

**WHEREAS**, the Borough of Bogota is constitutionally obligated to address its affordable housing obligations as established by the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. and other applicable law (commonly referred to as “the Mount Laurel doctrine”); and

**WHEREAS**, N.J.S.A. 40:55D-28(b)(3) charges the Planning Board of the Borough of Bogota (hereinafter “Planning Board”) with adopting a Housing Element as part of the Borough’s Master Plan to set forth the municipality’s affordable housing obligation and to explain how the obligation will be addressed; and

**WHEREAS**, the Planning Board adopted a Housing Element and Fair Share Plan in June of 2025 and the Borough endorsed that plan in June as well (hereinafter “2025 Plan”); and

**WHEREAS**, the Borough filed the 2025 Plan with the Program, an entity created pursuant to the Fair Housing Act amended in 2024 (hereinafter “FHA II”); and

**WHEREAS**, in the process established by FHA II, Fair Share Housing Center, Inc. (FSHC) filed an objection to Bogota’s efforts to secure approval of its 2025 Plan; and

**WHEREAS**, the objection triggered a mediation process; and

**WHEREAS**, mediation culminated in a Mediation Agreement in December 2025 between Bogota and FSHC; and

**WHEREAS**, the Mediation Agreement includes the Borough’s commitment to make changes to the 2025 Plan in order to secure a favorable recommendation by the Program Judge to the county-level judge; and

**WHEREAS**, the Borough’s affordable housing planner has prepared an amendment to the 2025 Plan to effectuate the Mediation Agreement (hereinafter “Amendment”); and

**WHEREAS**, on February 24, 2026, the Planning Board adopted the Amendment; and

**WHEREAS**, the Borough Council has reviewed the Amendment and desires to formally endorse it in order to advance the Borough’s efforts to secure judicial approval of its affordable housing compliance; and



**RESOLUTION # 2026-81**

**DATE: 03-05-2026**

**WHEREAS**, the Borough remains subject to court oversight with respect to its affordable housing obligations and must take all reasonable and necessary steps to secure approval of its Housing Element and Fair Share Plan, as amended, and to implement the amended plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Bogota, County of Bergen, State of New Jersey, as follows:

1. The Borough Council hereby endorses and approves the Amendment to the Housing Element and Fair Share Plan.
2. The Borough authorizes its professionals to provide supplemental information, clarifications, or certifications as may be reasonably required in connection with judicial review of the Borough's 2025 Plan as amended.
3. The Borough authorizes its professionals to make any non-substantive or de minimis revisions or clarifications necessary to effectuate the intent of this resolution and facilitate judicial review and approval of the Amended Plan.
4. The Borough Clerk is directed to transmit copies of this Resolution, together with the Amendment to Affordable Housing Counsel so that Counsel may file the Amendment promptly.
5. This Resolution shall take effect immediately upon adoption.

**CERTIFICATION**

I, Melissa Baque, Deputy Clerk of the Borough of Bogota, Bergen County, New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Mayor and Council at a meeting held on 03-05-2026.

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Melissa Baque, Deputy Clerk

**BOROUGH OF BOGOTA MASTER PLAN  
AMENDMENT TO THE  
HOUSING ELEMENT AND FAIR SHARE PLAN**

*Prepared for:*

Planning Board  
Borough of Bogota  
375 Larch Avenue  
Bogota, New Jersey 07603

*Prepared by:*

Phillips Preiss Grygiel Leheny Hughes LLC  
Planning and Real Estate Consultants  
70 Hudson Street, Suite 5B  
Hoboken, New Jersey 07030

January 2026, Adopted February 24, 2026

The original copy of this document was signed and sealed  
in accordance with N.J.S.A. 45:14 A-1 et seq.



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Paul Grygiel  
New Jersey Professional Planner License #5518



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Spach Trahan, AICP, PP  
New Jersey Professional Planner License #6435

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# Acknowledgments

## Planning Board

Corrado Manicini, Chairman  
Yesenia Frias, Co-Chair  
Daniele Fede, Mayor  
John Mitchell, Councilman  
Arthur Sopelsa, Borough Official  
Rebecca Foster  
Robert Foster  
Daniel Schnipp  
Anthony Teresi  
Samuel Harris, Alternate  
Robert Robbins, Alternate

Patricia Morrone, Secretary  
Jason Shafron, Esq., Attorney  
Robert Costa, PE, Engineer  
Paul Grygiel, AICP, PP, Planner  
Jeffrey R. Surenian, Esq. Affordable Housing Counsel

## I. Introduction

This Amendment to the 2025 Housing Element and Fair Share Plan has been prepared on behalf of the Borough of Bogota, Bergen County, in accordance with the New Jersey Municipal Land Use Law per N.J.S.A. 40:55D-28b(3) and the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.). This document amends the Borough's 2025 Housing Element and Fair Share Housing Plan, which was adopted on June 17, 2025, hereinafter referred to as the "Borough's 2025 Housing Plan."

The Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., requires that a municipal master plan include a Housing Element in order for the municipality to exercise the power to zone and regulate land use. The Housing Element and Fair Share Plan is adopted by the Borough Planning Board and endorsed by the governing body. It is intended to achieve the goal of meeting the Borough's obligations to plan and regulate land use to provide for a fair share of the regional need for affordable housing.

Bogota remains committed to meeting its constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of the region's present and prospective needs for housing for low- and moderate-income families. Fair Share Housing Center challenged the Borough's 2025 Housing Plan. Subsequently, the Borough entered into a Mediation Agreement with Fair Share Housing Center through the Affordable Housing Dispute Resolution Program.<sup>1</sup> This Amendment to the Housing Element and Fair Share Plan document outlines how the Borough will satisfy its affordable housing obligations based on the Mediation Agreement with Fair Share Housing Center.

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<sup>1</sup> "In the Matter of the Application of the Borough of Bogota, County of Bergen, Docket No. BER-L-405-25"

## II. Fair Share Plan

### Affordable Housing Obligations

#### Present Need

Bogota's Present Need is 26.

#### Prospective Need

Bogota's Fourth Round Prospective Need is 85.

#### Vacant Land Analysis

There remains limited land in Bogota that is vacant or underutilized and therefore available for inclusionary development. Indeed, after applying the protocols established by COAH regulations (N.J.A.C. 5:93-4.2), the Borough is entitled to adjust its Fourth Round obligation of 85 to one. That means that the Borough's realistic development potential is one and its unmet need is 84.

The text, tables and figures in Appendix 2: Vacant Land Adjustment provide the basis for the conclusion that the Borough's realistic development potential or RDP is one. The vacant land inventory (VLI) is based on the most recent and accurate quantitative and qualitative data and information available to the Borough. The Vacant Land Adjustment analysis performed followed the criteria outlined in N.J.A.C. 5:93-4.

### Proposed Compliance Mechanisms

#### Bonus Credits

For the Fourth Round and beyond, a municipality shall not receive more than one type of bonus credit for any unit, and a municipality shall not be permitted to satisfy more than 25 percent of its prospective need obligation through the use of bonus credits. Therefore a maximum of 21.25 bonus credits may be granted (25 percent of the Prospective Need of 85 units).

#### Realistic Development Potential and Unmet Need

Bogota's Fourth Round Realistic Development Potential (RDP) of one and Unmet Need obligation of 84 units will be addressed through the following compliance mechanisms:

**Surplus Credits:** Bogota has five surplus credits from its Prior Round and Third Round compliance, which can be applied to the Fourth Round obligation. One credit will address RDP, and the remainder will be applied to Unmet Need.

**The Gabriel:** This recently constructed project created five affordable units plus 2.5 bonus credits, for a total of 7.5 credits that can be applied to the Fourth Round Unmet Need obligation.

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Amendment to the Housing Element and Fair Share Plan**

**Inclusionary Overlay Zones:** In order to create additional affordable housing opportunities in locations where redevelopment would be appropriate and consistent with sound planning, new inclusionary housing overlay zones are proposed in two locations in the Borough.

The first area consists of three parcels on the north side of West Fort Lee Road (Block 3, Lots 1. 1.01 and 2) located across the street from the Atwater inclusionary development. These parcels are approximately 7.3 acres in area and occupied by industrial and commercial uses, which is why they were not considered redevelopable in the vacant land adjustment analysis. These sites remain occupied but are developed with land uses that are not as compatible with new residential and commercial development in the vicinity that replaced former heavy industrial uses. If all three parcels were to be included in a new overlay zone, approximately 29 affordable units could be created through zoning permitting mixed-use development with a residential density of 20 units per acre.

The second area consists of two blocks between Leonia Avenue, East Fort Lee Road, Linwood Avenue and West Shore Avenue. These blocks are approximately 1.4 acres in area and occupied by commercial, residential and institutional uses, which is why they were not considered redevelopable in the vacant land adjustment analysis. These sites remain occupied. However, this area would be an appropriate location for new housing given its proximity to the Borough's downtown and transportation routes. If these two blocks were to be included in a new overlay zone, approximately 4 affordable units could be created through zoning permitting mixed-use development with a residential density of 15 units per acre.

**Extension of Affordability Controls – Silver Maple Gardens:**

The two **Silver Maple Gardens** age-restricted affordable housing complexes were constructed in 1993 and 1996. Therefore, the standard 30-year period of affordability controls for these developments have recently passed or will soon. HDC's mission is to provide affordable housing, as noted above, and it is standard procedure to extend controls. As these developments will continue to be restricted to occupancy by low- and moderate-income households, the 20 units provided 20 credits that can be applied to the Fourth Round obligation.

**Inclusionary Zoning Requirements:** In the event there is any redevelopment, the Affordable Housing Controls section of the Borough's General Ordinances that were amended in 2023 create the following new Subsection 22B-1.5a.3:

Rezoning and Variances.

Notwithstanding the provisions of subsection 22B-1.5a1(b), or any other section in this Chapter, any residential development consisting of five or more dwelling units, at a density

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above six units per acre, that is permitted pursuant to a variance or rezoning shall produce low- and moderate-income housing on-site or elsewhere in the Borough or pay a fee in lieu of providing affordable units. The number of affordable units to be provided or in lieu payment shall be equal to 20% of the residential units in the development, or 15% for affordable rental units. The amount of the payment in lieu of providing housing shall be as determined by the appropriate rules of the New Jersey Council on Affordable Housing and any other relevant state regulations.

There are existing inclusionary zoning requirements in Chapter 22B of the Borough’s General Ordinances, which pertain to the River Road Redevelopment Area and the 57 West Fort Lee Road property discussed above. Section 22B-1.7a.2 includes standards for rental developments. At present, the presumptive minimum density is 12 units per acre, which may be increased to 20 units per acre with a 20 percent set-aside of low- and moderate-income units.

**Summary of Credits and Bonuses**

The Borough’s Fourth Round compliance mechanisms and the credits and bonuses associated with them are summarized in Table 1.

*Table 1. Fourth Round Credits*

<b>CREDITS APPLIED TOWARDS FOURTH ROUND UNMET NEED OBLIGATION (2025-2035) OF 84</b>				
<i>Affordable Development</i>	<i>Type</i>	<i>Units/ Credits</i>	<i>Bonus Credits</i>	<i>Total Credits Plus Bonuses</i>
Surplus Credits		5		5
The Gabriel	Inclusionary Development	5	2.5	7.5
Silver Maple Gardens	Extension of Controls	20	N/A	20
Proposed overlay zone - Leonia Avenue	Inclusionary	4	TBD	TBD
Proposed overlay zone - West Fort Lee Road	Inclusionary	29	TBD	TBD
Inclusionary zoning		TBD		TBD
<b>TOTAL</b>		<b>63</b>	<b>2.5</b>	<b>32.5</b>

**Spending Plan**

The Borough of Bogota has a development fee ordinance (Chapter 22A) which provides a dedicated revenue source for affordable housing. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund for the purposes

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of affordable housing. These funds shall be spent for purposes including a housing rehabilitation program, costs associated with affordable housing construction, providing affordability assistance to low-income households and professional services related to the planning for affordable housing. The proposed Spending Plan is included in the Appendix 3.

### III. Consistency with the State Development and Redevelopment Plan

The New Jersey State Development and Redevelopment Plan (SDRP) was originally adopted in 1992. The purpose of the SDRP according to the State Planning Act at N.J.S.A. 52:18A-200(f) is to:

*Coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.*

The State Plan is not a regulation, but a policy guide, and is meant to coordinate planning activities and development throughout the state. At the municipal level, master plans are required to be evaluated and, if necessary, modified to reflect policies of the State Plan. The State Plan is also important when the State makes infrastructural and other investment decisions, i.e., in determining where available State funds should be expended.

A revised version of the plan was adopted by the State Planning Commission in 2001. While required by the State Planning Act to be revised and re-adopted every three years, the SDRP has only been readopted once during the 32 years since its original adoption. A new State Strategic Plan (SSP) was proposed in 2011 as the revision to the 2001 SDRP, but it has not been advanced in recent years. The State Office of Planning Advocacy started the process of preparing a new State Plan in 2023 and the State Planning Commission has been engaging with stakeholders. As part of the update process, the State Planning Commission approved the Preliminary State Development and Redevelopment Plan on December 4, 2024, and was undertaking the Cross-Acceptance process (i.e., review of the plan at the county level) at the time this HEFSP was first adopted. The new State Development and Redevelopment Plan was subsequently adopted in December 2025.

Spatially, the last adopted State Plan utilizes planning areas, centers, and environs as a framework for implementing Statewide goals and policies. The State Plan Map indicates that the Borough of Bogota is located within the Metropolitan Planning Area (PA1). For the Metropolitan Planning Area, the State Plan has four major aims, as follows: (1) to provide for much of the state's future redevelopment; (2) to revitalize cities and towns and promote growth in compact forms; (3) to stabilize older suburbs and redesign areas of sprawl; and (4) to protect the character of existing stable communities.

The land use policy objectives of the Metropolitan Planning Area are to:

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Amendment to the Housing Element and Fair Share Plan**

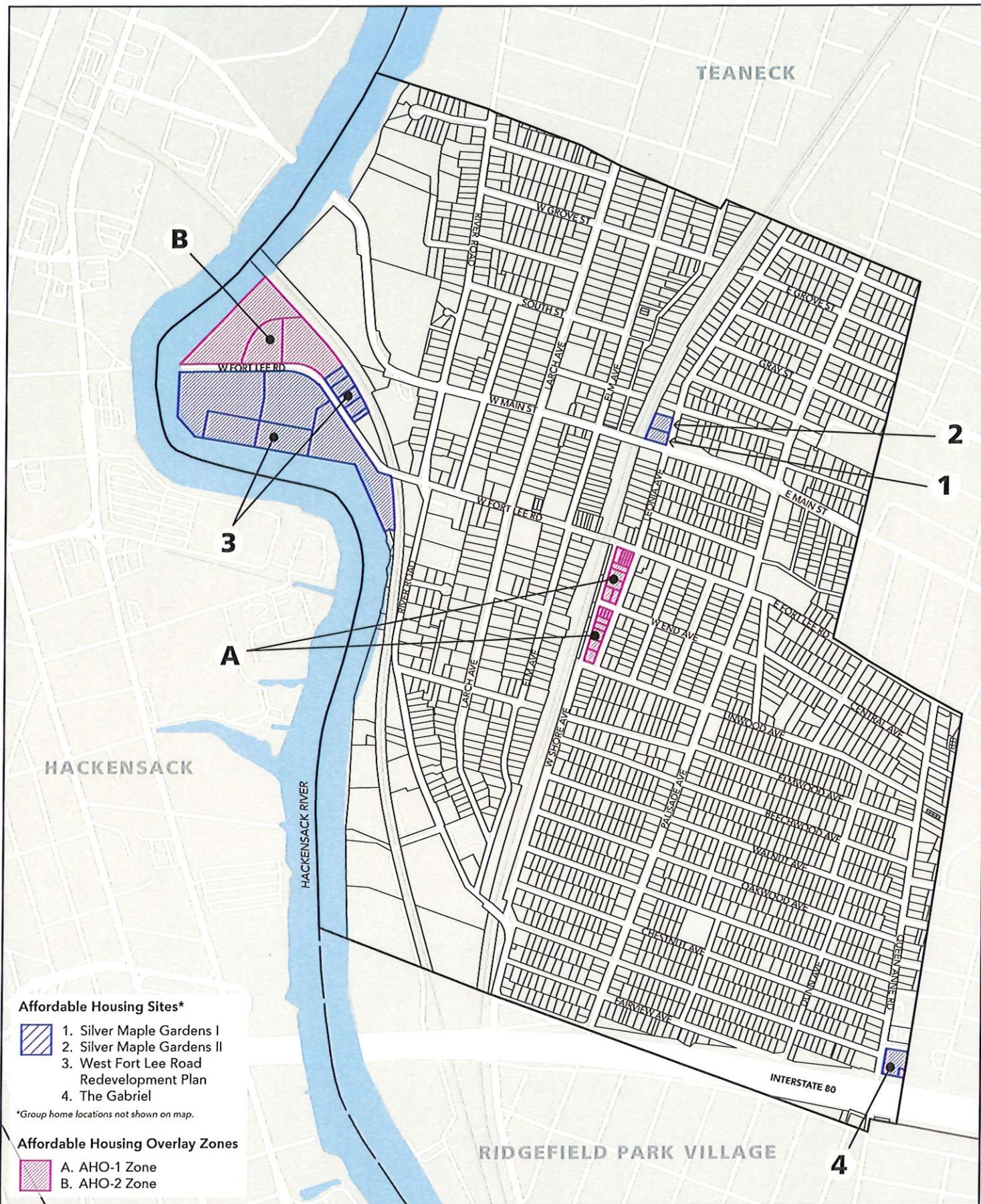
1. Promote redevelopment and development in cores and neighborhoods through cooperative regional planning efforts;
2. Promote diversification of land uses, including housing where appropriate, in single-use developments and enhance their linkages to the rest of the community; and
3. Ensure efficient and beneficial utilization of scarce land resources throughout the Planning Area to strengthen its existing diversified and compact nature.

The Borough has satisfied its responsibilities through Round 3 and taken appropriate measures to satisfy its unmet need in Round 4

**Borough of Bogota Master Plan  
Amendment to the Housing Element and Fair Share Plan**

## Appendices

- Appendix 1: Affordable Housing Sites
- Appendix 2: Vacant Land Adjustment
- Appendix 3: Spending Plan
- Appendix 4: Adopted Ordinance Amendments



**Affordable Housing Sites\***

- 1. Silver Maple Gardens I
- 2. Silver Maple Gardens II
- 3. West Fort Lee Road Redevelopment Plan
- 4. The Gabriel

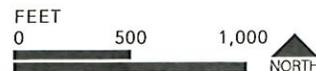
\*Group home locations not shown on map.

**Affordable Housing Overlay Zones**

- A. AHO-1 Zone
- B. AHO-2 Zone

**Appendix 1: Affordable Housing Sites**

Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, New York State, Maxar



## Appendix 2: Vacant Land Adjustment

### Vacant Land Adjustment

There is limited land in the Borough that is vacant or otherwise developable for affordable and/or inclusionary housing. Pursuant to the requirements of the amended Fair Housing Act, set forth at N.J.S.A. 52:27D-310.1, the Borough of Bogota is entitled to a Vacant Land Adjustment (VLA) to determine the Borough's Fourth Round RDP, based on the amount of vacant and/or developable land that is suitable for inclusionary development. As such, a VLA has been conducted, which determined that Bogota's Fourth Round RDP is zero units. After subtracting this number from the Fourth Round Prospective Need of 85 units, Bogota has a Fourth Round Unmet Need of 85 units. The vacant land inventory (VLI) is based on the most recent and accurate quantitative and qualitative data and information available to the Borough.

Using the most recent tax assessment data for Bogota, obtained from the state of New Jersey's assessment records, all Class 1 (vacant) and Class 15C (public land) property parcels were extracted to create a preliminary list of potentially developable properties in the Borough. There were no properties in the Borough assessed with a property class of 3B (farmland).

MOD IV Tax Assessment data and corresponding parcel shapefile data were obtained from the New Jersey Geographic Information Network (NJGIN), which serves as the Geographic Information Systems (GIS) data warehouse for New Jersey. The parcel shapefile was used in GIS to analyze environmental constraints, spatial relationships between vacant parcels, etc. In the event that there were discrepancies between the MOV IV data and the 2024 tax assessment records referenced above, data from the 2024 tax assessment records was used.

#### *Eliminating Parcels from Consideration*

Parcels were initially eliminated from the preliminary list of potentially developable properties based on the following:

- a) any land that is owned by a local government entity that as of January 1, 1997, has adopted, prior to the institution of a lawsuit seeking a builder's remedy or prior to the filing of a petition for substantive certification of a housing element and fair share plan, a resolution authorizing an execution of agreement that the land be utilized for a public purpose other than housing;
- b) any land listed on a master plan of a municipality as being dedicated, by easement or otherwise, for purposes of conservation, park lands or open space and which is owned, leased, licensed, or in any manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education, or by more than one municipality by joint agreement pursuant to P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains such ownership, lease, license, or operational control of such land;

- c) any vacant contiguous parcels of land in private ownership of a size which would accommodate fewer than five housing units based on appropriate standards pertaining to housing density (parcels less than 0.83 acres in size);
- d) historic and architecturally important sites listed on the State Register of Historic Places or National Register of Historic Places prior to the date of filing a housing element and fair share plan pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) or initiation of an action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313);
- e) agricultural lands when the development rights to these lands have been purchased or restricted by covenant;
- f) sites designated for active recreation that are designated for recreational purposes in the municipal master plan;
- g) and environmentally sensitive lands where development is prohibited by any State or federal agency, including, but not limited to, the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), for lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities.

It should be noted that the rules of NJAC 5:93-4.2 were utilized, where still applicable, in order to complete the analysis of lands which may be excluded from consideration.

Tax assessment data, aerials and the NJDEP Recreation and Open Space Inventory (ROSI) were also consulted to determine those Class 15C (public) properties that were not available for development (i.e., parklands, utilities, municipal buildings, etc.).

With regard to item c) above, the limited vacant sites throughout the municipality are isolated small parcels and/or located in single-family residential neighborhoods. Even if a higher density than six units per acre were to be assigned to such lots, given their limited size (less than 0.83 acres), the cost of construction and the need to provide adequate parking for multifamily residential development would mean there is still no realistic potential for the redevelopment of such parcels with inclusionary residential development.

There is one site to which a higher density has been applied. Block 64.01, Lots 6.01, 6.02 and 6.03 are three contiguous small vacant lots with street addresses of 316, 310 and 300 River Road, respectively. These parcels are in separate ownership, but given their location on a main road outside of a residential neighborhood, they are being treated as a single parcel of 0.347 acres for VLA purposes. A density of 15 units per acre has been applied to this parcel, which is a realistic figure given the need to be able to provide parking for the number of units on the site. This density would permit a five-unit development, including one affordable dwelling unit. Therefore, Bogota's Realistic Development Potential (RDP) is one.

### *Environmental Constraints*

Environmentally sensitive lands per N.J.A.C. 5:93-4.2(e)2 were then mapped and deducted on those Class 1 and 15C parcels that were not eliminated from consideration based on the above criteria. To start, GIS shapefiles were obtained for the following environmental constraints:

- Wetlands and water bodies derived from the NJDEP 2020 state land use/land cover dataset
- FEMA flood hazard areas, inclusive of the 100-year floodplain. It should be noted that construction within the floodway itself is severely restricted as per NJAC 7:13-et seq, and therefore excluded. Furthermore, flood hazard areas (defined as the 100-year design flood as per NJAC 7:13-et seq) were also excluded.
- Steep slope areas exceeding 15 percent greater than 5,000 square feet as per 10-foot digital elevation model lidar data

In this analysis, these constraints were then consolidated to determine the environmentally constrained areas contained within each of the properties which had not yet been eliminated from consideration for potential development for the reasons stated above. The environmentally constrained lands layer was processed such that the constraints would not be "double-counted" in the event that they overlapped one another. Using GIS, the acreage of environmentally constrained lands was calculated for each property. The area of environmentally constrained lands was then subtracted from the property's overall acreage, leaving the remaining developable area of each property. As stated above, those properties with less than 0.83 acres of developable area remaining were eliminated from the list of potentially developable properties.

### *Plan Area and Sewer Service Area*

Following the aforementioned steps in the VLA analysis, there were no remaining parcels available for development consideration. Nonetheless, it was determined that the entire Borough of Bogota is within a Sewer Service Area as per the Statewide Sewer Service Area for New Jersey Authoritative GIS layer obtained from the New Jersey Department of Environmental Protection Bureau of GIS. Additionally, it was found that the entire Borough is also located within a Planning Area 1 (metropolitan planning area) per the New Jersey State Plan Policy Map.

### *Conclusion*

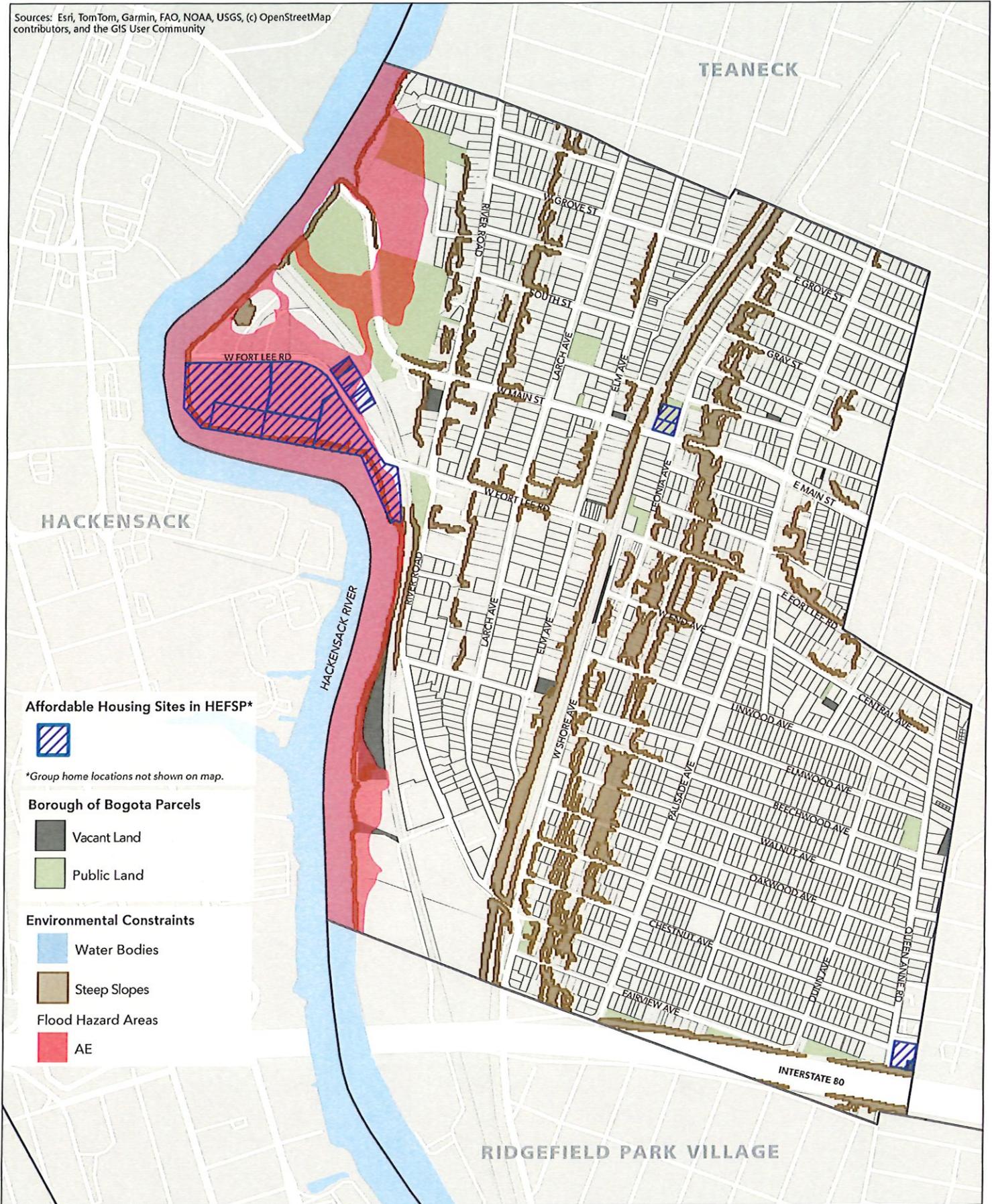
There is one available parcel which can be considered a realistic candidate for development of affordable/inclusionary housing as established within the criteria outlined above. The Borough's RDP is one based on the analysis of this VLA.

Block	Lot	Property Location	Property Class	Owner's Name	Zone	Acreage	Environmentally Constrained Acreage	Constraint Description	Remaining Acreage	Remaining Acreage > 0.83 (Y/N)	Dev Acreage	Notes
1	5.01	REAR 468-476 RIVER	15C	BOROUGH OF BOGOTA	RIA	0.36			0	N	0	Lot size less than 0.83 acres.
1	25.01	REAR 382-348 RIVER RD	15C	BOROUGH OF BOGOTA	R1	0.059			0	N	0	Lot size less than 0.83 acres.
1	30	WEST MAIN ST	15C	BOROUGH OF BOGOTA	P	5.27			0	N	0	Oscar E. Olsen Park as designated in 1989 Master Plan.
1	30.02	REAR 468 RIVER RD	15C	BOROUGH OF BOGOTA	P	1			0	N	0	Swim Club as designated in 1989 Master Plan.
1	30.03	252 FELLER PLACE	15C	BOGOTA SWIM CLUB	P	2.2			0	N	0	Swim Club parking lot for Swim Club designated in 1989 Master Plan.
1.01	1	WEST MAIN ST	15C	BOROUGH OF BOGOTA	P	7.141			0	N	0	Oscar E. Olsen Park as designated in 1989 Master Plan.
3	3	229 WEST FORT LEE RD	1	WENESCO BOGOTA REALTY UR REN LLC	I	0.875	0.232883	Flood hazard areas	0.642117	N	0	Eliminated due to environmental constraints, leaving less than 0.83 developable acres.
4	11.03	158 LARCH AVENUE	1	TERNEY, MARK D. & LAURAL		0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	13	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	14	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	15	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	16	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	17	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	18	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	19	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	20	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	21	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
4	22	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
7	16.02	REAR 197 SOUTH ST	15C	BOROUGH OF BOGOTA	R1	0.016			0	N	0	Lot size less than 0.83 acres.
10	16	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R1	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
11	15	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK	R2	0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
12	1.01	481 LINDEN AVE. CO481	1	MOHIUDDIN, PEER & SYEDA		0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
15	7.03	315 PINE STREET	1	NEGRON, CARMEN		0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
21	6.01	142 CANE ST	1	SINGH, KULDIP & KAUR, JASBIR	R1	0.044			0	N	0	Lot size less than 0.83 acres.
23	15	ASSESSED IN TEANECK	1	ASSESSED IN TEANECK		0			0	N	0	Assessed in Teaneck, less than 0.83 acres.
24	8.01	115 HIGHVIEW PL. REAR	15C	BOROUGH OF BOGOTA	R1	0.005			0	N	0	Assessed in Teaneck, less than 0.83 acres.
25	14.01	73 E BROAD ST	1	73 E BROAD STREET LLC	R1	0.075			0	N	0	Lot size less than 0.83 acres.
30	7.01	375 LARCH AVE	15C	BOROUGH OF BOGOTA	R1	0.744			0	N	0	Borough Hall not developable.
31	5.01	69 WEST MAIN ST	15C	BOROUGH OF BOGOTA	B1	0.072			0	N	0	Kennedy Emergency Services Building not developable.
32	5	337 ELM AVE	1	KLINK, HERMAN /CLAIRE P	B1	0.069			0	N	0	Lot size less than 0.83 acres.
32	6.01	45 WEST MAIN ST	1	HACKENSACK WATER CO., CIVILITUS	B1	0.023			0	N	0	Lot size less than 0.83 acres.
34	1	362-364 LEDNIA AVE	15C	BOROUGH OF BOGOTA	R4	0.128			0	N	0	Listed as "Mill's Playground" along Broad Street in 1989 Master Plan.
34	2.01	354 LEDNIA AVE	15C	HOUSING DEV CORP OF BERGEN COUNTY	R4	0.275			0	N	0	Existing Silver Maple Gardens II senior housing.
34	4.01	348 LEDNIA AVE	15C	HOUSING DEVELOPMENT CORP	R4	0.204			0	N	0	Existing Silver Maple Gardens II senior housing.
35	1	361 LEDNIA AVE	15C	BOROUGH OF BOGOTA	R1	0.065			0	N	0	Lot size less than 0.83 acres.
36	5	120 HIGHVIEW PL	1	EDZ CORPORATION	R1	0.037			0	N	0	Lot size less than 0.83 acres.
39	7.01	297 PALISADE AVE	1	297 PALISADES URBAN RENEWAL, LLC	R1	0.668			0	N	0	Lot size less than 0.83 acres; lot eliminated as it is developed with multifamily residential building.
41	7.01	REAR OF 282 LEONIA	15C	BOROUGH OF BOGOTA	R1	0.09			0	N	0	Narrow rear parcel developed with Bogota DPW and residence. Not developable.
41	8	282 LEONIA AVE	15C	BOROUGH OF BOGOTA	R1	0.158			0	N	0	Bogota DPW, not developable.
41	9	13 EAST FORT LEE RD	15C	BOROUGH OF BOGOTA	B1	0.078			0	N	0	Bogota DPW, not developable.
41	10	9 EAST FORT LEE RD	15C	BOROUGH OF BOGOTA	B1	0.092			0	N	0	Bogota DPW, not developable.
55	5.01	164 CENTRAL AVE	15C	BOROUGH OF BOGOTA	R2	0.078			0	N	0	Bogota Fire Dept Engine Co. 2, not developable.
55	6.01	200 JAMES ST	1	RAUH, STEPHEN F.	R2	0.115			0	N	0	Lot size less than 0.83 acres.
60.01	2	200 WEST SHORE AVE	1	228W SHORE AVE MGMT LLC	B2	0.085			0	N	0	Lot size less than 0.83 acres.

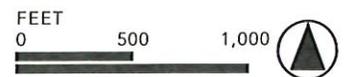
60.01	3.01	WEST SHORE AVE	1	WEST SHORE LLC	R2	0.045			0	N	0	Lot size less than 0.83 acres.
60.01	3.02	WEST SHORE AVE	1	TERESI, NANCY	R2	0.045			0	N	0	Lot size less than 0.83 acres.
64.01	1	WEST MAIN ST	15C	BOROUGH OF BOGOTA	R3	0.289			0	N	0	Lot size less than 0.83 acres.
66	21.01	REAR OF LARCH AVE	15C	BOROUGH OF BOGOTA	R2	0.063			0	N	0	Lot size less than 0.83 acres.
67	13	269 ELM AVE	1	PARK, HYUN JOO CHUNG	R2	0.063			0	N	0	Lot size less than 0.83 acres.
68	20	151 ELM AVE	1	HOYT ENTERPRISES NJ	R1	0.294			0	N	0	Lot size less than 0.83 acres.
72	1	2000 WEST FORT LEE ROAD	1	RC3 URBAN RENEWAL LLC		4.029			0	N	0	Completed West Fort Lee Road Redevelopment. Awater Apartments. Lot eliminated as it is developed with residential & mixed-use development.
72	2	3000 WEST FORT LEE ROAD	1	RC3 URBAN RENEWAL LLC		1.4			0	N	0	Completed West Fort Lee Road Redevelopment. Awater Apartments. Lot eliminated as it is developed with residential & mixed-use development.
72	3	4000 WEST FORT LEE ROAD	1	RC3 URBAN RENEWAL LLC		1.04			0	N	0	Completed West Fort Lee Road Redevelopment. Awater Apartments. Lot eliminated as it is developed with residential & mixed-use development.
72	4	1000 WEST FORT LEE ROAD	1	RC3 URBAN RENEWAL LLC		3.55			0	N	0	Completed West Fort Lee Road Redevelopment. Awater Apartments. Lot eliminated as it is developed with residential & mixed-use development.
72	8	WEST OF NYS & WRR	15C	BOROUGH OF BOGOTA	PD1	0.045	0.024821	Flood hazard areas, steep slopes, water bodies	0.020179	N	0	Eliminated due to environmental constraints leaving less than 0.83 developable acres.
72	8.01	WEST OF NYS & WRR	1	PERRY, WILLIAM	PD1	0.053	0.031837	Flood hazard areas and steep slopes	0.021163	N	0	Eliminated due to environmental constraints leaving less than 0.83 developable acres.
72	9	WEST OF NYS & WRR	15C	BOROUGH OF BOGOTA	PD1	0.108	0.108	Flood hazard areas, steep slopes, water bodies	0	N	0	Eliminated due to environmental constraints leaving less than 0.83 developable acres.
72	9.01	WEST OF NYS & WRR	15C	BOROUGH OF BOGOTA	PD1	0.149	0.12762	Flood hazard areas, steep slopes, water bodies	0.02138	N	0	Eliminated due to environmental constraints leaving less than 0.83 developable acres.
72	9.02	WEST OF RR	15C	BOROUGH OF BOGOTA	PD1	0.139	0.110302	Flood hazard areas, steep slopes, water bodies	0.028698	N	0	Eliminated due to environmental constraints leaving less than 0.83 developable acres.
72	10	WEST OF RR	15C	BOROUGH OF BOGOTA	PD1	0.184	0.096068	Flood hazard areas, steep slopes, water bodies	0.067932	N	0	Eliminated due to environmental constraints leaving less than 0.83 developable acres.
72.01	1	246 RIVER RD	15C	BOROUGH OF BOGOTA	P	0.576			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
72.01	2	216 RIVER RD	15C	BOROUGH OF BOGOTA	R1	0.083			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
72.01	4.01	208 RIVER RD	15C	BOROUGH OF BOGOTA	R1	0.17			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
74	8	188 QUEEN ANNE RD	15C	BOROUGH OF BOGOTA	R2	0.503			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
75	4.01	195 OAK ST	1	LOPES, MARCO	R2	0.029			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
75.01	2	A-177 QUEEN ANNE RD	1	KHAN, MOHAMMAD J.	R2	0.06			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
75.01	4	163 QUEEN ANNE RD	1	MAZL, MARIE M	R2	0			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
81	3	194 OAK ST	1	BEH 194 OAK LLC	R2	0.029			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
94	17	REAR 230-558 CYPRESS	15C	NEW JERSEY DEPT OF TRANSPORTATION	R1	0.497			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
95	1.02	R 35 QUEEN ANNE RD	1	QUEEN ANNE ROAD REALTY LLC NJ	B1	0.073			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
96	15	150 FAIRVIEW AVE	15C	BOROUGH OF BOGOTA	R1	0.009			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
96	19	166 FAIRVIEW AVE	15C	BOROUGH OF BOGOTA	R1	0.073			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
96	20	174 FAIRVIEW AVE	15C	BOROUGH OF BOGOTA	R1	0.055			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
98	53	7 PAULSADE AVE	15C	N J STATE HIGHWAY DEPT	R1	0.293			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
105	1	39 WEST SHORE AVE	15C	BOROUGH OF BOGOTA	R1	0.223			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.
105	17.01	31 FAIRVIEW AVE	15C	BORO OF BOGOTA	R1	0.172			0	N	0	Designated for parks, recreation, and open space in 1989 Master Plan.

Block	Lot	Property Location	Property Class	Owner's Name	Zone	Acres	Environmentally Constrained Acreage	Flood hazard areas, steep slopes, water bodies	Dev Acreage	Total Units	Affordable Units	Notes
113	1	WEST OF NYS & WRR	1	RIVER ROCK EQUITIES, INC.	PD1	1	0.849856	Flood hazard areas, steep slopes, water bodies	0.150144	N	0	Contiguous with Block 113. Lots 1-4. Although contiguous developable acreage greater than 0.83 acres exists, area is narrow wooded space, landlocked between railroad and Hackensack River. Not developable.
113	2	WEST OF NYS & WRR	1	RIVER ROCK EQUITIES, INC.	PD1	0.5	0.085908	Flood hazard areas and steep slopes	0.414092	N	0	
113	3	WEST OF NYS & WRR	1	RIVER ROCK EQUITIES, INC.	PD1	0.087	0	None	0.087	N	0	
113	4	WEST OF NYS & WRR	1	RIVER ROCK EQUITIES, INC.	PD1	1.1	0.869728	Flood hazard areas and steep slopes	0.430272	N	0	
								Applicable Density (units/acre)				
64.01	6.01	318 RIVER RD	1	BLOCK 64.01 LOT 6.01 LLC	B3	0.113	0					
64.01	6.02	310 RIVER RD	1	BLOCK 64.01 LOT 6.02 LLC	B3	0.114	0	15	0.347	5.205	1.041	
64.01	7.01	300 RIVER RD	1	BLOCK 64.01 LOT 7.01 LLC	B3	0.12	0					
<b>TOTAL DEVELOPABLE ACREAGE</b>											<b>0.347</b>	
<b>TOTAL RDP</b>											<b>1</b>	

Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community



## Borough of Bogota Vacant Land Adjustment



**Affordable Housing Trust Fund Spending Plan**  
**Borough of Bogota**  
February 2026

**INTRODUCTION**

The Borough of Bogota, Bergen County has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301), and N.J.A.C. 5:99. A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH and the Superior Court and adopted by the municipality in 2018. The ordinance establishes the Bogota affordable housing trust fund for which this spending plan is prepared.

As of December 31, 2024, the Bogota affordable housing trust fund had a balance of \$118,949. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in an account with TD Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:99 as described in the sections that follow.

The Borough reserves the right and authority to further amend or modify the within spending plan to address or take into account changes which may be warranted due to new rules or rule amendments or judicial determinations, which may change standards or establish new criteria for the Borough to address its affordable housing obligation.

## 1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the Fourth Round, Bogota considered the following:

- (a) Development fees, in accordance with N.J.A.C. 5:99-3.1 through 3.4, including:
  - 1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
  - 2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
  - 3. Future development that is likely to occur based on historical rates of development. Residential development fees collected in the past five years have averaged approximately \$8,000 per year, and no nonresidential development fees were collected during that period.
  
- (b) Payments-in-lieu (PIL):  
Actual and committed payments in lieu (PIL) of construction from developers as follows: none.
  
- (c) Other funding sources:  
Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income and proceeds from the sale of affordable units. No other funds have been or are anticipated to be collected.
  
- (d) Projected interest:  
Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate.

It is noted in January 2025 a nonresidential development fee was collected for a single large project, a light industrial/warehouse development on Cross Street. The amount of this fee is included in the "Approved Development" category for 2026. No other large development projects are anticipated in the coming years due to the lack of vacant and developable land in Bogota.

SOURCE OF FUNDS	PROJECTED REVENUE SCHEDULE JANUARY 1, 2025-JUNE 30, 2035					
	2026	2027	2028	2029	2030	
(a) Development fees:						
1. Approved Development	\$144,000	\$0	\$0	\$0	\$0	
2. Development Pending Approval	\$0	\$0	\$0	\$0	\$0	
3. Projected Development	\$8,500	\$8,500	\$8,500	\$8,500	\$8,500	
(b) Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	
(c) Other Funds (Specify source(s))	\$0	\$0	\$0	\$0	\$0	
(d) Interest	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	
<b>Total</b>	<b>\$155,000</b>	<b>\$11,000</b>	<b>\$11,000</b>	<b>\$11,000</b>	<b>\$11,000</b>	
	<b>2031</b>	<b>2032</b>	<b>2033</b>	<b>2034</b>	<b>2035</b>	<b>Total</b>
(a) Dev. fees:						
1. Appr.	\$0	\$0	\$0	\$0	\$0	\$144,000
2. Pending	\$0	\$0	\$0	\$0	\$0	\$0
3. Projected	\$8,500	\$8,500	\$8,500	\$8,500	\$8,500	\$85,000
(b) In Lieu	\$0	\$0	\$0	\$0	\$0	\$0
(c) Other	\$0	\$0	\$0	\$0	\$0	\$0
(d) Interest	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$25,000
<b>Total</b>	<b>\$11,000</b>	<b>\$11,000</b>	<b>\$11,000</b>	<b>\$11,000</b>	<b>\$11,000</b>	<b>\$254,000</b>

Bogota projects a total of \$254,000 in revenue to be collected between January 1, 2025 and June 30, 2035. All interest earned on the account shall accrue to the account to be used only for the purposes of eligible affordable housing activities included in this Spending Plan or an emergent opportunity authorized by the Division.

## **2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS**

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Bogota:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Bogota's development fee ordinance for both residential and non-residential developments in accordance with N.J.A.C. 5:99-3.1 et seq., and monitoring fees shall be conducted in accordance with N.J.A.C. 5:99-5.3 and 5:99-5.4.

(b) Distribution of development fee revenues:

The disbursement of monies in Bogota's affordable housing trust fund will be coordinated by its Municipal Housing Liaison. In some instances, funds will be provided to other entities, such as an entity responsible for administering a rehabilitation program, for eventual disbursement.

**3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS**

**(a) Rehabilitation program (N.J.A.C. 5:99-2.3(a)1)**

Bogota will dedicate \$186,564 for rehabilitation purposes, including through the Bergen County Home Improvement Program, whose purpose is to renovate deficient housing units that are occupied by low- and moderate-income households, in accordance with the New Jersey State Housing Code, N.J.A.C. 5:28, or the requirements of the Rehabilitation Subcode, N.J.A.C. 5:23-6, as applicable, and costs related to the rehabilitation of the unit.

**(b) Affordability Assistance (N.J.A.C. 5:99-2.3(a)12 and 5:99-2.5)**

The Borough reserves the right to utilize up to 30 percent of its trust fund monies for affordability assistance :

Actual development fees and other income through 12/31/2024		\$118,949
Development fees projected 2025-2035	+	\$229,000
Interest projected 2025-2035	+	\$25,000
<b>Total</b>	=	\$372,949
30 percent	x 0.30 =	\$111,885
Less Affordability assistance expenditures through 12/31/2024	-	\$0
<b>PROJECTED Affordability Assistance 1/1/2025 through 6/30/2035</b>	=	\$111,885
<b>PROJECTED Very Low-Income Affordability Assistance 1/1/2025 through 6/30/2035</b>	÷ 3 =	\$37,295

Bogota will dedicate up to \$111,885 from the affordable housing trust fund to provide affordability assistance to render housing units more affordable to very low-, low-, and moderate-income households, pursuant to N.J.S.A 52:27D-329.1, including \$37,295 to render units more affordable to very low-income households. Affordability assistance activities include, but are not limited to, down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, common maintenance expenses, and assistance with emergency repairs and rehabilitation to bring deed-restricted units up to code. For very low-income households, affordability assistance may include offering a subsidy to developers of inclusionary or 100 percent affordable housing developments or buying down the cost of low- or moderate-income units in the Borough's fair share plan to make them affordable to very low-income households, including special needs and supportive housing opportunities.

**(c) Administrative Expenses (N.J.A.C. 5:99-2.4)**

Bogota projects that \$74,500 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Costs reasonably related to the determination of the fair share obligation and the development of a municipal housing element and fair share plan, including fees necessary to develop or implement affordable housing programs, an affirmative marketing program, and/or expenses that are reasonably necessary for compliance with the processes of the Program, including, but not limited to, the costs to the municipality of resolving a challenge pursuant to the Program;
- Costs associated with functions carried out in compliance with UHAC, including activities related to the marketing program and waitlist management, administering the placement of occupants in housing units, income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with the Division's monitoring requirements; and
- Proportion of a municipal employee's salary related to the MHL or RCA administrator functions and fees for required educational programs, may be paid as an administrative expense from the municipal affordable housing trust fund.
- Administering the Borough's participation in the Bergen County Home Improvement Program.

**(d) Other Expenditures (N.J.A.C. 5:99-2.8)**

The Borough of Bogota does not anticipate collecting or expending affordable housing trust funds in accordance with the optional activities listed at N.J.A.C. 5:99-2.8, including the collection and distribution of barrier-free escrow fees; the collection of payments-in-lieu of constructing affordable units on-site; or the use of recaptured funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines and application fees, the implementation of a market-to-affordable program, or any other funds collected by the municipality in connection with its affordable housing programs.

**4. EXPENDITURE SCHEDULE**

Bogota intends to use affordable housing trust fund revenues for the rehabilitation of housing units. Where applicable, the activities funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

Program		PROJECTED EXPENDITURE SCHEDULE				
		JANUARY 1, 2025-JUNE 30, 2035				
		2026	2027	2028	2029	2030
Rehabilitation		\$18,656	\$18,656	\$18,656	\$18,656	\$18,656
Affordability Assistance		\$11,188	\$11,188	\$11,188	\$11,188	\$11,188
Administration		\$7,450	\$7,450	\$7,450	\$7,450	\$7,450
<b>Total</b>		<b>\$37,295</b>	<b>\$37,295</b>	<b>\$37,295</b>	<b>\$37,295</b>	<b>\$37,295</b>
	2031	2032	2033	2034	2035	Total
Rehab.	\$18,656	\$18,656	\$18,656	\$18,656	\$18,656	\$186,564
Aff. Asst.	\$11,188	\$11,188	\$11,188	\$11,188	\$11,188	\$111,885
Admin.	\$7,450	\$7,450	\$7,450	\$7,450	\$7,450	\$ 74,500
<b>Total</b>	<b>\$37,295</b>	<b>\$37,295</b>	<b>\$37,295</b>	<b>\$37,295</b>	<b>\$37,295</b>	<b>\$372,949</b>

## 5. EXCESS OR SHORTFALL OF FUNDS

In accordance with N.J.A.C. 5:99-5.6, in the event there is a shortfall in funding for a proposed affordable housing delivery technique, then the Division may require the governing body of Bogota to enact a resolution appropriating funds from general revenue or its resolution of intent to bond.

In accordance with N.J.A.C. 5:99-4.1, in the event of excess funds, the Borough may request authorization from the Division for expenditure of excess affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan. The request shall be made in the form of a resolution from the governing body of the Borough and shall include:

1. Documented proof that the excess funds are not accounted for in the Borough's spending plan approved by the Program or a court of competent jurisdiction;
2. A description of the affordable housing activity in accordance with N.J.A.C. 5:99-4.1(b) and 5:99-2.3;
3. Documentation demonstrating that the entire municipal trust fund balance will be spent and/or committed for expenditure within four years, as set forth at N.J.A.C. 5:99-5.5, shall be submitted to the Division with the request; and
4. A certification that the affordable housing opportunity is consistent with the Act and information describing the proposed affordable housing mechanism. The certification shall demonstrate that the proposal does not alter the spending plan approved by the Program or court of competent jurisdiction.

**SUMMARY**

Bogota intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:99-2.3 through 2.5 and consistent with the housing programs outlined in its housing element and fair share plan.

Bogota had a balance of \$118,287 as of December 31, 2024 and anticipates an additional \$254,000 in revenues from 2025 to 2035. The municipality will dedicate \$186,564 towards rehabilitation, \$111,885 to render units more affordable, and \$74,500 to administrative costs. Any shortfall of funds will be offset by funds appropriated from general revenue. The municipality will dedicate any excess funds toward providing affordability assistance, aiding with the rehabilitation of units and/or encouraging provision of affordable accessory apartments.

<b>SPENDING PLAN SUMMARY</b>		
Balance as of December 31, 2024		\$118,949
<b>PROJECTED REVENUE 2025-2035</b>		
Development fees	+	\$229,000
Payments in lieu of construction	+	\$0
Other funds	+	\$0
Interest	+	\$25,000
<b>TOTAL REVENUE</b>	=	\$372,949
<b>EXPENDITURES</b>		
Funds used for Rehabilitation	-	\$186,564
Affordability Assistance	-	\$111,885
Administration	-	\$74,500
<b>TOTAL PROJECTED EXPENDITURES</b>	=	\$372,949
<b>REMAINING BALANCE</b>	=	\$0



**BOROUGH OF BOGOTA**

**ORDINANCE NO. 1649**

**PUBLIC HEARING & ADOPTION**

**DATE: 02-05-26**

**AN ORDINANCE AMENDING CHAPTER 21A OF THE BOGOTA CODE, ENTITLED "ZONING"**

**PUBLIC HEARING OPENED**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter	✓		✓				
Councilmember W. Hordern		✓	✓				
Councilmember P. McHale			✓				
Councilmember J. Mitchell			✓				
Councilmember D. Vergara			✓				

**COMMENTS:**

- Borough Attorney provided a brief summary.
- A member of the public asked about the town's obligation to pass or implement these ordinances.

**PUBLIC HEARING CLOSED**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter		✓	✓				
Councilmember W. Hordern			✓				
Councilmember P. McHale	✓		✓				
Councilmember J. Mitchell			✓				
Councilmember D. Vergara			✓				

**ADOPTION:**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter	✓		✓				
Councilmember W. Hordern			✓				
Councilmember P. McHale		✓	✓				
Councilmember J. Mitchell			✓				
Councilmember D. Vergara			✓				



**AN ORDINANCE AMENDING CHAPTER 21A OF THE BOGOTA CODE, ENTITLED "ZONING"**

**WHEREAS**, Chapter 21A of the Bogota Code, entitled "Zoning", sets forth the zoning and development regulations applicable within the Borough, and;

**WHEREAS**, the Mayor and Council seek to amend the language in Chapter 21A to conform it to the terms of a settlement reached between the Borough of Bogota and Fair Share Housing Center.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Bogota, that Chapter 21A of the Bogota Code is hereby amended, revised and supplemented as follow:

**SECTION 1: ESTABLISHMENT OF A NEW SECTION 21A-10.17, ENTITLED "AHO-1 AFFORDABLE HOUSING OVERLAY ZONE"**

A new Section 21A-10.17 is hereby established, entitled "AHO-1 Affordable Housing Overlay Zone" which shall read as follows:

**§ 21A-10.17 AHO-1 Affordable Housing Overlay Zone.**

- a. **Properties Included.** The AHO-1 Affordable Housing Overlay Zone shall include the following properties:
  - Block 45, all lots.
  - Block 60, all lots.
- b. **Principal Permitted Uses.** In the AHO-1 Affordable Housing Overlay Zone, in addition to any use permitted in the underlying zone district, the following uses are permitted:
  - Multifamily residential development.
  - Mixed-use development.
- c. **Permitted Accessory Uses.** Off-street parking, recreation facilities, fences and walls, signs, and other customary accessory uses which are clearly incidental to the principal use.
- d. **Area and Bulk Requirements.**
  - 1. Minimum Lot Area: 10,000 square feet.
  - 2. Minimum Lot Width: 75 feet.
  - 3. Minimum Front Yard: 0 feet.
  - 4. Minimum Side Yard: 0 feet.
  - 5. Minimum Rear Yard: 15 feet.



6. Maximum Density: 15 dwelling units per acre.
  7. Minimum Building Coverage: 75 percent.
  8. Maximum Imperious Coverage: 90 percent.
  9. Maximum Building Height: 3 stories/40 feet.
- e. Affordable Housing Requirements. Low- and moderate-income dwelling units shall be provided in accordance with this subsection. The minimum affordable housing set-aside shall be 20% of the dwelling units in the development. Low- and moderate-income housing units shall be governed by the standards set forth in the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., and shall comply with any other relevant state statutes and regulations. All development including affordable dwelling units shall also be subject to Chapter 22B, Affordable Housing, of the Revised General Ordinances of the Borough of Bogota. In the event of any conflict between Chapter 22B, Affordable Housing, of the Revised General Ordinances of the Borough of Bogota and the regulations of the New Jersey Housing and Mortgage Finance Agency (HMFA), the HMFA regulations shall control.

**SECTION 2: ESTABLISHMENT OF A NEW SECTION 21A-10.18, ENTITLED "AHO-2 AFFORDABLE HOUSING OVERLAY ZONE"**

A new Section 21A-10.18 is hereby established, entitled "AHO-2 Affordable Housing Overlay Zone" which shall read as follows:

**§ 21A-10.18 AHO-2 Affordable Housing Overlay Zone.**

- a. Properties Included. The AHO-2 Affordable Housing Overlay Zone shall include the following properties:
  - Block 3, Lot 1
  - Block 3, Lot 1.01
  - Block 3, Lot 2
- b. Principal Permitted Uses. In the AHO-2 Affordable Housing Overlay Zone, in addition to any use permitted in the underlying zone district, the following uses are permitted:
  - Multifamily residential development.
  - Mixed-use development. Permitted uses on the ground floor of a mixed-use development shall include retail and service commercial uses.
- c. Permitted Accessory Uses. Off-street parking, recreation facilities, fences and walls, signs, and other customary accessory uses which are clearly incidental to the principal use.
- d. Area and Bulk Requirements.



1. Minimum Lot Area: 20,000 square feet.
  2. Minimum Lot Width: 100 feet.
  3. Minimum Front Yard: 25 feet.
  4. Minimum Side Yard: 20 feet.
  5. Minimum Rear Yard: 25 feet.
  6. Maximum Density: 20 dwelling units per acre.
  7. Minimum Building Coverage: 60 percent.
  8. Maximum Imperious Coverage: 80 percent.
  9. Maximum Building Height: 3 stories/40 feet.
- e. Affordable Housing Requirements. Low- and moderate-income dwelling units shall be provided in accordance with this subsection. The minimum affordable housing set-aside shall be 20% of the dwelling units in the development. Low- and moderate-income housing units shall be governed by the standards set forth in the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., and shall comply with any other relevant state statutes and regulations. All development including affordable dwelling units shall also be subject to Chapter 22B, Affordable Housing, of the Revised General Ordinances of the Borough of Bogota. In the event of any conflict between Chapter 22B, Affordable Housing, of the Revised General Ordinances of the Borough of Bogota and the regulations of the New Jersey Housing and Mortgage Finance Agency (HMFA), the HMFA regulations shall control.

**SECTION 3: INCONSISTENCY.**

Any and all ordinances, or parts thereof, in conflict or inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent.

**SECTION 4: SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, then such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.



**SECTION 5: EFFECTIVE DATE.**

This ordinance shall take effect twenty (20) days after the first publication thereof after final passage and filing with the Bergen County Planning Board.

**CERTIFICATION**

✓

ATTEST:

APPROVED:

\_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Mayor

I, Melissa Baque, Deputy Clerk of the Borough of Bogota, Bergen County, New Jersey, do hereby certify that the foregoing is a correct and true copy of an Ordinance adopted by the Borough of Bogota at a meeting held on 02-05-26.



**BOROUGH OF BOGOTA**

**ORDINANCE NO. 1651**

**PUBLIC HEARING & ADOPTION**

**DATE: 02-05-26**

**AN ORDINANCE AMENDING CHAPTER 22A OF THE  
BOGOTA CODE, ENTITLED "AFFORDABLE HOUSING  
DEVELOPMENT FEES"**

**PUBLIC HEARING OPEN**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter			✓				
Councilmember W. Hordern		✓	✓				
Councilmember P. McHale	✓		✓				
Councilmember J. Mitchell			✓				
Councilmember D. Vergara			✓				

**COMMENTS:**

- Borough Attorney provided a brief summary.
- No comments from the public.

**PUBLIC HEARING CLOSED**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter		✓	✓				
Councilmember W. Hordern			✓				
Councilmember P. McHale	✓		✓				
Councilmember J. Mitchell			✓				
Councilmember D. Vergara			✓				

**ADOPTION:**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter	✓		✓				
Councilmember W. Hordern			✓				
Councilmember P. McHale			✓				
Councilmember J. Mitchell		✓	✓				
Councilmember D. Vergara			✓				



**AN ORDINANCE AMENDING CHAPTER 22A OF THE  
BOGOTA CODE, ENTITLED "AFFORDABLE HOUSING  
DEVELOPMENT FEES"**

WHEREAS, Chapter 22A of the Bogota Code sets forth the rules and regulations pertaining to the calculation and collection of affordable housing development fees in the Borough; and,

WHEREAS, the Mayor and Council seek to amend the language in Chapter 22A to conform it to the terms of a settlement reached between the Borough of Bogota and Fair Share Housing Center.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Bogota, that Chapter 22A of the Bogota Code is hereby deleted in its entirety and replaced with the following:

**SECTION 1: AMENDMENT TO CHAPTER 22A, ENTITLED "AFFORDABLE HOUSING DEVELOPMENT FEES".**

Chapter 22A, entitled "Affordable Housing Development Fees" is hereby deleted in its entirety and replaced with the following:

**§ 22A-1. PURPOSE.**

- a. 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 then functioning Council on Affordable Housing's (COAH's) adoption of rules as amended from time to time and/or in accordance with the enacted legislation and/or in accordance with directives from the courts.
- b. Pursuant to P.L. 2008, c. 46, § 8 (N.J.S.A. 52:27D-329.2), 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 the Council or court of competent jurisdiction and had a COAH-approved spending plan were able to retain fees collected from nonresidential development.
- c. In *Re: Adoption of N.J.A.C. 5:96 and 5:97* by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 1, 2025 were under the Court's jurisdiction and were subject to approval by the Court.



- d. Pursuant to P.L.2024, c. 2, the authority relating to rulemaking on the collection of residential and non-residential development fees is appropriately delegated to the Department of Community Affairs, following the abolition of COAH, effective March 20, 2024. As such, municipalities which have obtained or are in the process of seeking compliance certification may retain and expend these development fees.
- e. This article establishes standards for the collection, maintenance and expenditure of development fees pursuant to the regulations set forth in P.L., 2024, c. 2, N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:99-1 et seq. and as previously established in accordance with P.L., 2008, c. 46, Sections 8 and 32 through 38.

The purpose of this chapter is to establish standards for the collection, maintenance and expenditure of development fees pursuant to the above. Fees collected pursuant to this chapter shall be used for the sole purpose of providing low- and moderate-income housing.

#### § 22A-2. DEFINITIONS.

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

**ACT** — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), as amended through P.L. 2024, c.2.

**ADMINISTRATIVE AGENT** — The individual or entity designated by the Borough and approved by the Division to administer affordable units in accordance with this chapter, the regulations of the amended Fair Housing Act (P.L.1985, c. (N.J.S.A. 52:27D-301 et seq.)), as designated pursuant to N.J.A.C. 5:99-7, and the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26 et seq.

**AFFORDABLE** — A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.S.A. 52:27D-301 et seq., 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. 5:80-26.7, 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. 5:80-26.13, as may be amended and supplemented.

**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.

**AFFORDABLE HOUSING PROGRAM(S)** — Any method of creating or preserving actual housing units available to low- and moderate-income households or creating a realistic opportunity for the construction of such units, and any mechanism in a municipal fair share plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE HOUSING MONITORING SYSTEM or AHMS** — The Department of Community Affairs (DCA) or Department's cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

**AFFORDABLE UNIT** — A housing unit proposed or created pursuant to the Fair Housing Act and approved for crediting by the court and/or funded through an affordable housing trust fund.

**BOROUGH** — The Borough of Bogota, in Bergen County, New Jersey..

**COAH OR THE COUNCIL**— The New Jersey Council on Affordable Housing, as previously established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), prior to its abolition effective March 20, 2024 through P.L.2024, c.2.

**COMPLIANCE CERTIFICATION** — The certification issued to a municipality by a county-level housing judge pursuant to section 3 at P.L. 2024, c. 2, that protects the municipality from exclusionary



zoning litigation during the current round of present and prospective need and through July 1 of the year the next affordable housing round begins, which is also known as a "judgment of compliance" resulting in an "order for repose." The term "compliance certification" includes a judgment of repose granted in an action filed pursuant to section 13 at P.L. 1985, c. 222 (N.J.S.A. 52:27D-313).

DCA or DEPARTMENT — The State of New Jersey, Department of Community Affairs.

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.

DEVELOPMENT FEE — Money paid by a developer for the improvement of residential and non-residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3.

DISPUTE RESOLUTION PROGRAM — The Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2). The Dispute Resolution Program is established within the Executive Branch of the State, for the purpose of resolving disputes associated with the Fair Housing Act with respect to municipalities seeking to obtain a certification of compliance of their adopted Housing Element & Fair Share Plan.

DIVISION — The Division of Local Planning Services within the Department of Community Affairs.

EMERGENT OPPORTUNITY — A circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of a compliance certification.

EQUALIZED ASSESSED VALUE or EAV— The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 at P.L. 1973, c. 123 (N.J.S.A. 54:1-35a, 54:1-35b, and 54:1-35c). Estimates at the time of issuance of a building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Municipal Tax Assessor.

FAIR SHARE OBLIGATION — The total of the present need and prospective need as determined by a court of competent jurisdiction.

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.

HOUSING PROJECT — A project, or distinct portion of a project, which is designed and intended to provide decent, safe, and sanitary dwellings, apartments, or other living accommodations for persons of low- and moderate-income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes. The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

MIXED USE DEVELOPMENT — Any development that includes both a non-residential development component and a residential development component, and shall include developments for which: (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are



located on the same lot or adjoining lots, including, but not limited to, lots separated by a street, a river, or another geographical feature.

**MUNICIPAL AFFORDABLE HOUSING TRUST FUND** — A separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing, barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

**NEW JERSEY AFFORDABLE HOUSING TRUST FUND** — An account established pursuant to N.J.S.A. 52:27D-320.

#### **NON-RESIDENTIAL DEVELOPMENT**

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, N.J.A.C. 5:23, promulgated to effectuate the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., including any subsequent amendments or revisions thereto;

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, N.J.S.A. 52:27D-330 et seq.

**NON-RESIDENTIAL DEVELOPMENT FEE** — The fee authorized to be imposed pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7.)

**PAYMENT IN LIEU OF CONSTRUCTING AFFORDABLE UNITS** — The payment of funds to the municipality by a developer when affordable units are not produced on a site zoned for an inclusionary development.

**REHABILITATION** — The repair, renovation, alteration, or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

**RESIDENTIAL DEVELOPMENT FEE** — Money paid by a developer for the improvement of residential property as permitted pursuant to N.J.S.A. 52:27D-329.2 and N.J.A.C. 5:99-3.2.

**SPENDING PLAN** — A plan to predict funds that will be paid into a municipality's affordable housing trust fund and to allocate how those funds will be spent to advance the interest of low and moderate income households subject to limitations required by law.

The definitions in the Uniform Housing Affordability Controls (UHAC) at N.J.A.C 5:80-26.2 and N.J.A.C. 5:99 shall be applicable where a term is not defined. In the event of a discrepancy between a definition in this section and UHAC and N.J.A.C. 5:99, the current UHAC or N.J.A.C. 5:99 definition shall be applicable.

#### **§ 22A-3. RESIDENTIAL DEVELOPMENT FEES.**

Development fees assessed on new construction shall be based on the equalized assessed value of land and improvements. Development fees assessed on additions and alterations shall be based only on the increase in equalized assessed value that results from the addition or alteration, the expansion, change to a more intense use, or replacement;

- a. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted in § 22A-5 below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- b. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) has been permitted, developers shall 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.

**§ 22A-4. NONRESIDENTIAL DEVELOPMENT FEES.**

- a. The Borough shall impose, collect, retain, and expend fees collected from non-residential development in accordance with the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7 and this chapter.
- b. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee of 2.5% of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.
- c. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions or alterations to existing structures to be used for nonresidential purposes.
- d. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time the final certificate of occupancy is issued. If the calculation required under this subsection results in a negative number, the nonresidential development fee shall be zero.
- e. In all mixed-use projects, developers shall pay to the Borough the 2.5 percent fee generated by the non-residential component of the project unless an exemption of the Statewide Nonresidential Development Fee Act applies.
- f. In the event of any conflict between this ordinance and the Statewide Non-Residential Development Fee Act (SNDFA), the SNDFA shall apply

**§ 22A-5. ELIGIBLE EXACTIONS, INELIGIBLE EXACTIONS AND EXEMPTIONS.**

- a. The following types of developments are exempt from the imposition of residential and nonresidential development fees:
  1. Affordable housing developments, affordable housing developments where the affordable units are being provided elsewhere in the municipality, and developments where the developer has paid a payment in lieu of on-site construction for all the units in the project shall be exempt from residential development fees. All other forms of new construction shall be subject to development fees, unless exempted below.
  2. Developments that have received preliminary or final approval prior to the imposition of a municipal development fee ordinance shall be exempt from development fees unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site



plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

3. Residential structures demolished and replaced as a result of a fire, flood, or any natural disaster or catastrophe shall be exempt from paying a development fee, even if the new structure has an increased equalized assessed value as compared to the previous structure.
4. The development fee shall not apply to the expansion of a single- or two-family home where the net increase in interior floor area is less than 15% of the existing structure. In no event shall the development fee be collected where the total increase in floor area is 500 square feet or less. Upon the request of the Zoning Officer, the property owner shall produce, within 30 days, a set of certified plans, signed by a licensed architect, confirming the amount of previously existing and as-built conditions.
5. Non-profit organizations that have received tax exempt status pursuant to the Internal Revenue Code, providing current evidence of that status is submitted to the municipal clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
6. Federal, State, county, and local governments shall be exempt from paying a development fee.
7. 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, that are tax-exempt pursuant to N.J.S.A. 54:4-3.6, shall be exempt from the imposition of a non-residential development fee pursuant to this section, provided that the property continues to maintain its tax exempt status pursuant to that statute for a period of at least three years from the date of issuance of the certificate of occupancy.
8. Parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, or whether the parking lot is developed as an independent non-residential development;
9. Any non-residential development that is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers that are developed in conjunction with, or funded by, a non-residential developer;
10. Non-residential construction resulting from a relocation of, or an on-site improvement to, a nonprofit hospital or a nursing home facility;
11. Projects that are located within a specifically delineated urban transit hub, as defined pursuant to N.J.S.A. 34:1B-208;
12. Projects that are located within an eligible municipality, as defined pursuant to N.J.S.A. 34:1B-208, the Urban Transit Hub Tax Credit Act, when a majority of the project is located within a one-half mile radius of the midpoint of a platform area for a light rail system; and



13. Projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the New Jersey Department of Transportation.
- b. A developer of a mixed use development shall be required to pay the non-residential development fee relating to the non-residential development component of a mixed use development subject to the provisions at N.J.S.A. 52:27D-329.1 et seq.
  - c. Non-residential construction connected with the relocation of the facilities of a for-profit hospital shall be subject to the fee authorized to be imposed pursuant to this section to the extent of the increase in equalized assessed valuation.
  - d. A developer of a non-residential development exempted from the non-residential development fee pursuant to this section shall be subject to that fee at such time as the basis for the exemption set forth in this subsection no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
  - e. If a property that was exempt from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees in these circumstances may be enforceable by the Borough as a lien against the real property of the owner.

#### § 22A-6. COLLECTION OF FEES.

The Borough shall collect 100 percent of the development fee for residential and non-residential development prior to the issuance of the certificate of occupancy. 50% of the development fee will be collected at the time of issuance of the building permit. The remaining portion will be collected at, or prior to, 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. Developers shall be notified of the fee by the Borough, including when payment is required to be made, at the time of land use board approval or application for a construction permit. After issuance of a building permit, the Construction Official shall refer the plans for the development to the Tax Assessor. The Tax Assessor shall certify to the Construction Official the final equalized assessed value in advance of the issuance of a certificate of occupancy by the Construction Official. The remaining portion of the development fee shall be adjusted to reflect any change in the estimated equalized assessed value so that the total of the two payments shall equal 100% of the total development fee based upon the final equalized assessed value.

#### § 22A-7. CONTESTED FEES.

- a. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Collected fees shall be placed in an interest-bearing escrow account by the Borough of Bogota. The local code enforcement official shall thereafter issue the certificate of occupancy provided that the construction is otherwise eligible for a certificate of occupancy. 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.

**§ 22A-8. AFFORDABLE HOUSING TRUST FUND.**

- a. There is hereby created a separate, interest-bearing housing trust fund, in a bank utilized by the Borough for its ordinary business purposes, and maintained by the Chief Financial Officer of the Borough, for the purpose of depositing development fees collected from residential and nonresidential developers, any other payments made pursuant to this chapter from residential and nonresidential developers, and proceeds from the sale of units with extinguished controls. The Borough shall provide written authorization, in the form of a three-party escrow agreement between the Borough, the bank or other financial institution, and the Division, to permit the Division to direct the disbursement of the funds, as provided for at N.J.A.C. 5:99-5.6, shall be maintained at all times. This authorization shall be submitted to the Division within 21 days from the opening of the trust fund account and/or within 21 days of any change in banks or other financial institutions in which trust funds are deposited. Bogota's affordable housing trust fund shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Act and N.J.A.C 5:99-1 et seq. All development fees paid by developers pursuant to this chapter shall be deposited into this fund. The Borough shall identify the funds on its monitoring report pursuant to N.J.A.C. 5:99-5 and include a plan for the use of the funds in its spending plan.
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  1. Payments in lieu of on-site construction of affordable units;
  2. Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible (barrier-free escrow funds);
  3. Rental income from municipally operated units;
  4. Repayments from affordable housing program loans;
  5. Recapture funds;
  6. Proceeds from the sale of affordable units; and
  7. Enforcement fines
  8. Unexpended RCA funds remaining from a completed RCA project
  9. Any other funds collected in connection with the Borough of Bogota's affordable housing program

**§ 22A-9. USE OF FUNDS.**

- a. Funds deposited in the housing trust fund may be used for any eligible activity as set forth in the amended Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), N.J.A.C. 5:99-2, and for any housing



activity as approved by the Dispute Resolution Program pursuant to N.J.S.A. 52:27D-329.2.a(4) to address the municipal fair share or by the Division pursuant to N.J.S.A. N.J.A.C. 5:99-4. Such activities include, but are not limited to:

1. A rehabilitation program whose purpose is to renovate deficient housing units that are occupied by low- and moderate-income households, in accordance with the New Jersey State Housing Code, N.J.A.C. 5:28, or the requirements of the Rehabilitation Subcode, N.J.A.C. 5:23-6, as applicable, and costs related to the rehabilitation of the unit. Any recaptured funds from a rehabilitation program shall be deposited into the Borough's affordable housing trust fund and subject to the provisions thereof;
2. New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
3. Creation of a market to affordable program to pay down the cost of unrestricted units and offer them in sound condition, for sale or rent, at affordable prices to low- and moderate-income households to address all or a portion of the affordable housing obligation;
4. Extensions or improvements of roads and infrastructure directly serving affordable housing development sites; in the case of inclusionary developments, costs shall be prorated based on the proportion of affordable housing units included in the development;
5. RCAs, approved prior to July 17, 2008;
6. Acquisition and/or improvement of land to be used for affordable housing;
7. Accessory dwelling units;
8. The extension of expiring controls;
9. The construction of group homes and supportive and special needs housing;
10. Maintenance and repair of affordable housing units;
11. To defray the costs of structured parking; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
12. Affordability assistance in accordance with N.J.A.C. 5:99-2.5;
13. Repayment of municipal bonds issued to finance low- and moderate-income housing activity;
14. Any other activity as specified in the approved spending plan or as approved by the Division as an emergent affordable housing opportunity; or
15. Any other activity approved by the Division.



- b. Until a new spending plan is approved pursuant to the declaratory judgement action filed in accordance with the amended Fair Housing Act, the Borough shall be entitled to expend funds from the housing trust fund in accordance with the approved spending plan dated March 2018 in conjunction with the Borough's application for approval for Round 3 or in accordance with the Fair Housing Act as amended in March 2024. Thereafter, funds shall not be expended to reimburse the Borough for activities that occurred prior to the authorization of the Borough to collect development fees; on attorney fees or court costs to obtain a judgment of compliance or order of repose, including any associated administration costs; on any costs in connection with a challenge to a determination of the Borough's fair share obligation; on any costs in connection with a challenge to the Borough's obligation, housing element, or fair share plan.
- c. At least 20% of all development fees collected and interest earned shall be used to provide affordability assistance to very-low-, low- and moderate-income households in affordable units included in the Municipal Fair Share Plan pursuant to N.J.S.A. 52:27D-329.1 and in accordance with N.J.A.C. 5:99-2.5.. 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 regional median income by region.
1. Affordability assistance programs may include downpayment assistance, security deposit assistance, low-interest loans, and rental assistance.
  2. Affordability assistance to households earning 30% or less of regional median income may include offering a subsidy to developers of inclusionary or 100 percent affordable housing developments or buying down the cost of low- or moderate-income units in the Municipal Fair Share Plan to make them affordable to households earning 30% or less of regional median income, including special needs and supportive housing opportunities.
- d. 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. The Borough 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 or any program or activity for which the Borough expends development fee proceeds, in accordance with N.J.S.A. 52:27D-301 *et seq.* and N.J.A.C. 5:99-1 *et seq.*
- e. No more than 20% of the revenues collected from development fees each year shall be expended on administration in accordance with N.J.A.C. 5:99-2.4. Administrative expenses may include costs reasonably related to the determination of the fair share obligation and the development of a municipal housing element and fair share plan and may include fees necessary to develop or implement affordable housing programs, an affirmative marketing program, and/or expenses that are reasonably necessary for compliance with the processes of the Program, including, but not limited to, the costs to the Borough of resolving a challenge pursuant to the Program. Administrative expenses may also include costs associated with functions carried out in compliance with UHAC, including activities related to the marketing program and waitlist management, administering the placement of occupants in housing units, income qualification



of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with the Division's monitoring requirements. The proportion of a municipal employee's salary related to the MHL or RCA administrator functions and fees for required educational programs, may be paid as an administrative expense from the municipal affordable housing trust fund.

**§ 22A-10. MONITORING.**

Bogota shall comply with the monitoring and reporting requirements set forth in N.J.S.A. 52:27D-329.2 and N.J.S.A. 52:27D-329.4, and as set forth at N.J.A.C. 5:99-5.

**SECTION 2: SEVERABILITY.**

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

**SECTION 3: INCONSISTENCY.**

Any and all ordinances, or parts thereof, in conflict or inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent.

**SECTION 4: EFFECTIVE DATE**

This ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

**CERTIFICATION**

✓

ATTEST:

Deputy Clerk

APPROVED:

Mayor

I, Melissa Baque, Deputy Clerk of the Borough of Bogota, Bergen County, New Jersey, do hereby certify that the foregoing is a correct and true copy of an Ordinance adopted by the Borough of Bogota at a meeting held on 02-05-26.



**BOROUGH OF BOGOTA**

**ORDINANCE NO. 1652**

**PUBLIC HEARING & ADOPTION**

**DATE: 02-05-26**

**AN ORDINANCE AMENDING CHAPTER 22B OF THE BOGOTA CODE, ENTITLED  
"AFFORDABLE HOUSING"**

**PUBLIC HEARING OPENED**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter			✓				
Councilmember W. Hordern	✓		✓				
Councilmember P. McHale			✓				
Councilmember J. Mitchell			✓				
Councilmember D. Vergara		✓	✓				

**COMMENTS:**

- Borough Attorney provided a brief summary.
- A member of the public asked about the town's obligation to pass or implement these ordinances.
- The same resident asked for a brief synopsis of how the ordinances differ from the previous ones.

**PUBLIC HEARING CLOSED**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter	✓		✓				
Councilmember W. Hordern			✓				
Councilmember P. McHale			✓				
Councilmember J. Mitchell			✓				
Councilmember D. Vergara		✓	✓				

**ADOPTION:**

COUNCIL	MOTION	SECOND	YES	NO	RECUSE	ABSTAIN	ABSENT
Council President L. Kohles			✓				
Councilmember C. Carpenter			✓				
Councilmember W. Hordern		✓	✓				
Councilmember P. McHale			✓				
Councilmember J. Mitchell	✓		✓				
Councilmember D. Vergara			✓				



**AN ORDINANCE AMENDING CHAPTER 22B OF THE  
BOGOTA CODE, ENTITLED "AFFORDABLE HOUSING"**

WHEREAS, Chapter 22B of the Bogota Code sets forth the rules and regulations pertaining to affordable housing in the Borough; and,

WHEREAS, the Mayor and Council seek to amend the language in Chapter 22B to conform it to the terms of a settlement reached between the Borough of Bogota and Fair Share Housing Center.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Bogota, that Chapter 22B of the Bogota Code is hereby deleted in its entirety and replaced with the following:

**SECTION 1: AMENDMENT TO CHAPTER 22B, ENTITLED "AFFORDABLE HOUSING".**

Chapter 22B, entitled "Affordable Housing" is hereby deleted in its entirety and replaced with the following:

**§ 22B-1. COMPLIANCE WITH REQUIREMENTS FOR AFFORDABLE HOUSING**

**§ 22B-1.1. Purpose.**

The purpose of this section is to provide for and regulate affordable housing in the Borough of Bogota to address the Borough's constitutional obligation to provide for its fair share of low- and moderate-income housing as directed by the Administrative Director of the Courts and as stipulated by P.L.2024, c. 2 and N.J.S.A. 52:27D-301 *et seq.* (the amended Fair Housing Act). N.J.A.C. 5:99-1 *et seq.*, as amended and supplemented, establishes procedures to be used by municipalities in addressing and implementing the requirements set forth in the Amended Fair Housing Act. P.L. 2024, c.2 also established the Affordable Housing Dispute Resolution Program ("Dispute Resolution Program"), which provides a new process for municipalities to come into constitutional compliance with their affordable housing obligations. This chapter is intended to assure compliance with the foregoing provisions and with the regulations of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 *et seq.*, as amended and supplemented, including provisions for unit affordability controls as well as eligibility for low- and moderate-income households. This chapter shall apply except where inconsistent with applicable law.

**§ 22B-1.2. Definitions.**

The following terms, when used in this section, shall have the meanings given in this subsection:

ACT — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 *et seq.*), as amended through P.L. 2024, c.2.

ADAPTABLE — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT — The individual or entity designated by the Borough and approved by the Division as pursuant to N.J.A.C. 5:99-7, responsible for the administration of affordable units in accordance with this section, and as set forth within N.J.S.A. 52:27D-321 and UHAC (N.J.A.C. 5:80-26.1 *et seq.*).



**AFFIRMATIVE MARKETING** — A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.16.

**AFFORDABILITY AVERAGE** — The average percentage of regional median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

**AFFORDABLE** — A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.S.A. 52:27D-301 et seq. 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. 5:80-26.7, 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. 5:80-26.13, as may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT** — A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

**AFFORDABLE HOUSING PROGRAM(S)** — Any method of creating or preserving actual housing units available to low- and moderate-income households or creating a realistic opportunity for the construction of such units, and any mechanism in a Municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE HOUSING MONITORING SYSTEM or AHMS** — The Department of Community Affairs (DCA) or Department's cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

**AFFORDABLE UNIT** — 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.

**AGE-RESTRICTED UNIT** — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the adult member of the family who is the head of the household for the purposes of determining income eligibility and rent is a minimum age of either 62 years, or 55 years and meets the provisions of 42 U.S.C. §§ 3601 through 3619, except that due to death, a surviving spouse of less than 55 years of age is permitted to continue to reside in the unit.

**AGENCY** — The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

**ALTERNATIVE LIVING ARRANGEMENTS** — 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** — 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.

**BARRIER-FREE ESCROW** — The holding of funds collected to adapt affordable unit entrances to be accessible in accordance with N.J.S.A. 52:27D-311a et seq. Such funds shall be held in a municipal affordable housing trust fund pursuant to N.J.A.C. 5:99-2.6.

**BOROUGH** — The Borough of Bogota, in Bergen County, New Jersey.



**CERTIFIED HOUSEHOLD** — A household that has been certified by an administrative agent as a very-low-income household, low-income household or moderate-income household.

**CHOICE** — The no-longer-active Choices in Homeownership Incentives for Everyone Program, as it was authorized by the Agency.

**COAH OR THE COUNCIL** — The Council on Affordable Housing, as previously established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) or the Superior Court of the State of New Jersey pursuant to the New Jersey Supreme Court case known as "Mount Laurel IV.", abolished effective March 20, 2024 pursuant to Section 3 at through P.L.2024, c.2 (N.J.S.A. 52:27D-304.1).

**COMPLIANCE CERTIFICATION** — The certification issued to a municipality by the Dispute Resolution Program or by a county-level housing judge pursuant to section 3 at P.L. 2024, c. 2, that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next affordable housing round begins, which is also known as a "judgment of compliance" resulting in an "order for repose." The term "compliance certification" includes a judgment of repose granted in an action filed pursuant to section 13 at P.L. 1985, c. 222 (N.J.S.A. 52:27D-313).

**COMPLIANT MUNICIPALITY** — A municipality that is in the process of seeking compliance certification pursuant to the directives issued by the Administrative Office of the Courts, has obtained compliance certification, or who has filed for, or has obtained, a Judgment of Compliance, Order for Repose, or other court approval pursuant to the Act.

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

**CONTINUUM OF CARE or CoC** — One of the 16 local planning bodies in New Jersey that coordinate service providers and other interested parties to prevent and end homelessness, as authorized by subtitle C of title IV of the McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11431 through 11435.

**COUNTY-LEVEL HOUSING JUDGE** — A judge appointed pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2), to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal fair share plans and housing elements with the Act.

**DCA or DEPARTMENT** — The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT** — 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** — 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** — 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.

**DEVELOPMENT APPLICATION** — The application form and all accompanying documents required by ordinance for approval of a subdivision plat, a site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D-36.

**DISPUTE RESOLUTION PROGRAM** - The Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c.2 (N.J.S.A. 52:27D-313.2). The Dispute Resolution Program is established within the Judiciary of the State, for the purpose of resolving disputes associated



with the Fair Housing Act with respect to municipalities seeking to obtain a certification of compliance of their adopted Housing Element & Fair Share Plan.

**DIVISION** — The Division of Local Planning Services in DCA.

**EMERGENT OPPORTUNITY** — A circumstance that has arisen whereby affordable housing will be able to be produced through a delivery mechanism not originally contemplated by or included in a fair share plan that has been the subject of a compliance certification.

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

Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

**EXCLUSIONARY ZONING LITIGATION** — Litigation challenging the fair share plan, housing element, ordinances, or resolutions that implement the fair share plan or housing element of a municipality based on alleged noncompliance with the Act or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder's remedy.

**EXTENSION OF EXPIRING CONTROLS** — Extending the deed restriction period on units where the controls will expire in the current round of a housing obligation, so that the total years of a deed restriction is at least 60 years.

**FAIR SHARE OBLIGATION or AFFORDABLE HOUSING OBLIGATION** — The total of the present need and prospective need as determined by the Affordable Housing Dispute Resolution Program, or a court of competent jurisdiction.

**FAIR SHARE PLAN** — The plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of P.L.1985, c.222 (N.J.S.A. 52:27D-301 et seq.).

**HOUSING ELEMENT** — The portion of the Borough's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.S.A. 52:27D-301 et seq., and establishes the Borough's fair share obligation.

**HOUSEHOLD INCOME** — A household's gross annual income calculated in a manner consistent with the determination of annual income pursuant to section 8 of the United States Housing Act of 1937 (Section 8), not in accordance with the determination of gross income for Federal income tax liability.

**HOUSING PROJECT** — A project, or distinct portion of a project, which is designed and intended to provide decent, safe, and sanitary dwellings, apartments, or other living accommodations for persons of low- and moderate-income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes. The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

**HOUSING REGION** — A geographic area established pursuant to N.J.S.A. 52:27D-304.2b

**INCLUSIONARY DEVELOPMENT** — A development containing both affordable units and market-rate units, in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate- income households. This term includes, but is not limited to: new construction, the conversion of a nonresidential structure to residential use, and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

**JUDGMENT OF COMPLIANCE OR JUDGMENT FOR REPOSE** — A determination issued by the Superior Court approving a municipality's fair share plan to satisfy its affordable housing obligation for a particular 10-year round.



**LOW-INCOME HOUSEHOLD** — A household with a household income equal to 50% or less of the regional median income.

**LOW-INCOME UNIT** — A restricted unit that is affordable to a low-income household.

**MAJOR SYSTEM** — The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building, which include, but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load-bearing structural systems.

**MARKET-RATE UNITS** — Housing not restricted to low- and moderate-income households that may sell or rent at any price.

**MODERATE-INCOME HOUSEHOLD** — A household with a household income in excess of 50% but less than or equal to 80% of the regional median income.

**MODERATE-INCOME UNIT** — A restricted unit that is affordable to a moderate-income household.

**MONI** — The no-longer-active Market Oriented Neighborhood Investment Program, as it was authorized by the Agency.

**MULTIFAMILY UNIT** — A structure containing five or more dwelling units.

**MUNICIPAL HOUSING LIAISON or MHL** — An appointed municipal employee who is, pursuant to N.J.A.C. 5:99-6, responsible for oversight and/or administration of the affordable units created within the municipality, and oversight of the authorization of individuals being provided access to the AHMS.

**MUNICIPAL HOUSING TRUST FUND** — A separate, interest-bearing, account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing, barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and as governed at N.J.A.C. 5:99-2.

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

**NONEXEMPT SALE** — Any sale or transfer of ownership of a restricted unit to one's self or to another individual other than the transfer of ownership between spouses or civil union partners; the transfer of ownership between former spouses or civil union partners ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary; and the transfer of ownership by court order.

**ORDER FOR REPOSE** — The protection a municipality has from a builder's remedy lawsuit for a period of time from the entry of a judgment of compliance by the Superior Court. A judgment of compliance often results in an order for repose.

**PAYMENT IN LIEU OF CONSTRUCTING AFFORDABLE UNITS** — The payment of funds to the municipality by a developer when affordable units are not produced on a site zoned for an inclusionary development.

**PRESENT NEED** — The number of substandard existing deficient housing units in the municipality currently occupied by low- and moderate-income households, which is calculated pursuant to N.J.S.A. 52:27D-329.1 et seq. Also known as the "rehabilitation obligation."

**PRICE DIFFERENTIAL** — The difference between the controlled sale price of a restricted unit and the contract price at the exit sale of the unit, determined as of the date of a proposed contract of sale for the unit. If there is no proposed contract of sale, the price differential is the difference between the controlled