

Appendices

Appendix 1: Fully Executed Settlement Agreement Between Cresskill and FSHC.

SETTLEMENT AGREEMENT BETWEEN FAIR SHARE HOUSING CENTER AND
THE BOROUGH OF CRESSKILL

**RE: In the Matter of the Borough of Cresskill, County of Bergen
Docket No. L-6274-15**

The following memorializes the terms of an agreement reached between the Borough of Cresskill (the "Borough" or "Cresskill"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

Background

Cresskill filed the above-captioned matter on July 6, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. The Honorable Menelaos W. Toskos, J.S.C. granted the Borough Initial immunity from builder remedy lawsuits and appointed Shirley M. Bishop, P.P., LLC to serve as Special Master. The Borough and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

Settlement Terms

The Borough and FSHC hereby agrees to the following terms:

1. Cresskill, through the adoption of a revised Housing Element and Fair Share Plan including a spending plan, an Affordable Housing Ordinance including other necessary ordinances, Affirmative Marketing Plan and Resolution of Intent to Bond within 120 days, and the implementation of the Plan and this agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025). The revised Housing Element and Fair Share Plan will delete the Townhouse Residence zone as applied to Block 88 Lots 2 & 3 and apply the former zone designation. The revised plan will take this action as these lots no longer represent a realistic opportunity for the construction of low-and moderate-income housing.
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.

3. FHSC and Cresskill hereby agree that Cresskill's affordable housing obligations are as follows:

Rehabilitation Share (per Structural Conditions Survey)	4
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	70
Third Round Prospective Need (per Kinsey Report, as adjusted through this settlement agreement)	230

FHSC and Cresskill agree that Cresskill does not accept the basis of the methodology or calculations proffered by FSHC's consultant, David N. Kinsey PhD, P.P.,F.A.I.C.P. The parties agree to the terms in this Agreement solely for the purposes of settlement of the within action. Although Cresskill does not accept the basis of the methodology or calculations proffered by FSHC's consultant, FHSC contends (and is free to take the position before the Court) that the 230 unit obligation should be accepted by the Court because it is based on the Prior Round methodology and reflects the 30% reduction of Dr. Kinsey's calculation of Cresskill's Third Round fair share obligation.

4. For purposes of this agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in its January 18, 2017 decision in In re Declaratory Judgment Actions Filed By Various Municipalities, ___ N.J. ___, 2017 WL 192895 (Jan. 18, 2017).
5. The Borough's efforts to meet its present need through a municipally-sponsored rehabilitation program to rehabilitate existing, dilapidated dwellings occupied by low or moderate income households will be administered by an experienced rehabilitation consultant, the Borough will have an executed contract in place prior to the Compliance Hearing. Cresskill's affordable housing trust fund has a current balance of \$1,100,100.00 as of December 31, 2016. Cresskill understands and is aware it must spend or commit its affordable housing trust money within four (4) years of receiving a Judgment of Repose. The cost of implementing the rehabilitation program will be offset by the use of the affordable housing trust fund.
6. As noted above, Cresskill has a Prior Round prospective need of 70 affordable housing units. It is noted that this obligation has been fully discharged. The mechanisms employed to fulfill this obligation include:

Daibes Park/Hoke Site	18 affordable dwellings
Regional Contribution Agreement with the City of Bayonne	26 units transferred
Regional Contribution Agreement with the Township of Weehawken	8 units transferred
Rental Bonus credits from Daibes/Hoke Site	18

TOTAL CREDITS FOR AFFORDABLE HOUSING ACTIVITY = 70

7. The Borough will retain the services of an experienced Administrative Agent (AA) to handle the advertising, affirmative marketing and income qualifying of prospective households. In addition, the AA will update the CTM system and insure that all rentals have affordable rents. Copies of the deed restrictions for all restriction units should be included.

8. Cresskill is a fully developed suburban community and has completed a vacant land analysis pursuant to Second Round COAH rules which determined that there are 8.62 developable acres in the Borough. Vacant Land Inventory and Map are attached hereto as Exh. A. To attempt to capture potential redevelopment activity and affordable housing activity undertaken since satisfaction of the Prior Round obligation, Cresskill has determined its Realistic Development Potential ("RDP") is 41 affordable housing units. Cresskill will satisfy the RDP obligation by a combination of sites as detailed below:

<u>Name of Development</u>	<u># of Family Units</u>	<u>Status of Site</u>
Cresskill Plaza	6	Complete
Wolfer Mixed Use	1	Complete
Riverview Associates	1	Complete
North Jersey Community Bank	2	Pending
S&K Auto	1	Pending
Rental Bonus Credits	11	Pending
Accessory Apartments	9	Pending
Sunrise Assisted Living	10	Complete
TOTAL	41	

9. The RDP of 41 units, subtracted from the FSHC adjusted Third Round obligation of 230 results in an Unmet Need obligation of 189 units. Cresskill will address its unmet need through:
 - P and L Professional Office and Research, Design, and Development Laboratories Zone (Block 182, Lots 29 and 30 – 1.29 acres) which will allow a density of 15 units per acre and a 15% set-aside for a rental project and a 20% set-aside in a for-sale project.
 - Hamrah's Site – Block 184, Lots 1, 2-7 – This overlay zoning will allow a density of 15 units per acre and a 15% set-aside for a rental project and a 20% set-aside in a for-sale project.
 - Downtown Commercial Zone -The Borough has rezoned much of the downtown (over 16 acres) to permit 2nd and 3rd Floor apartments over commercial space. The Borough is hopeful that the overlay zoning will incentivize the redevelopment of many storefronts in the downtown and create affordable housing opportunities. The parties agree that the standards and requirements in the current zoning, including mandatory parking requirements, may be cost-generative and

preventing affordable housing construction. New standards and requirements for this zoning will be provided with the adoption of the Housing Element and Fair Share Plan.

- Crestron Electronics -The adoption of overlay zoning on Block 181 Lot 1 on the north side of Broadway. This lot totals 2.57 acres. The overlay zoning will permit 15 units per acre and a 15% set-aside for rental units or 20% set-aside for for-sale units.
- The parties recognize that the Borough currently holds \$1,100,100.00 in its affordable housing trust fund which needs to be committed or spent within four (4) years of receiving its final judgment. The Borough proposes to meet a portion of its unmet need through use of its trust funds to support additional affordable housing either through a market to affordable program, providing funds for a group home, or additional accessory apartments. The Borough's exact use of these funds will be provided with the adoption of the Housing Element and Fair Share Plan and Spending Plan.
- Cresskill will seek to capture additional affordable housing opportunities by requiring through an amendment to its Affordable Housing ordinance, all future developments of greater than 5 units to include an affordable housing set aside of 20% of the total dwelling count. The affordable units generated under this provision will be family style units. This provision does not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of Cresskill or its Boards and agencies to grant such rezoning, variance or other relief to a developer.

10. The parties agree that many standards and requirements included in the existing zoning ordinance need to be updated including; permitted densities, affordable housing set-aside requirements, breakdown of affordable units, height limits, and mandatory parking requirements. These changes will be included in the adoption of the final Housing element and Fair Share Plan. Among the revisions to Cresskill's HE&FSP, will be a provision that the Very Low Income affordable housing obligation will be complied with as affordable units are created through the unmet need mechanisms detailed elsewhere herein.
11. Cresskill agrees to require 13% of all units referenced in this plan, with the exception of units constructed as of July 1, 2008, and units subject to preliminary or final site plan approval, to be very low income units, with half of the very low income units being available to families. Cresskill will meet this by requiring 13% of units as very low-income for any units created through the overlay zoning listed in Paragraph 8 and as further detailed in Paragraph 10 above.
12. Cresskill shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above.
 - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d)

- b. At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low income and low-income households with the remainder affordable to moderate-income households.
 - c. At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.
 - d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
 - e. The Borough agrees to comply with the age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.
13. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Bergen County NAACP, Bergen Urban League, Bergen County Housing Coalition, and the Latino Action Network and shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
14. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. Cresskill, as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied.
15. All new construction units shall be adaptable in conformance with P.L. 2005, c.350/N.J.S.A. 52:27D-311a and 311b and all other applicable law.
16. As an essential term of this settlement, within one hundred and twenty (120) days of Court's approval of this Settlement Agreement, the Borough shall introduce an ordinance providing for the amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this settlement agreement and the zoning contemplated herein.

17. The parties agree that if a decision of a court of competent jurisdiction in Bergen County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than twenty (20%) percent that the total prospective Third Round need obligation established in this agreement, and if that calculation is memorialized in an unappealable final judgment, the Borough may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Borough shall be obligated to implement the fair share plan attached hereto, including by leaving in place any site specific zoning adopted or relied upon in connection with the Plan approved pursuant to this settlement agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms to address unmet need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Borough's obligation below that established in this agreement does not provide a basis for seeking leave to amend this agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its prospective need for the Third Round, the Borough may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.
18. Cresskill will prepare a spending plan which shall be included within the Housing Element and Fair Share Plan, which will be reviewed before adoption by FSHC and the Special Master. The parties to this agreement agree that this spending plan, will be prepared in accordance with accepted standards to be approved by the Court, and that the expenditures of funds contemplated under the agreement constitute "commitment" for expenditure pursuant to N.J.S.A. 52:270-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgement approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super 565 (Law Div. 2015) (aff'd 442 N.J. Super 563). On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, COAH, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center using forms developed for this purpose by the New Jersey Department of Community Affairs, COAH, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
19. On the first anniversary of the execution of this agreement, and every anniversary thereafter through the end of this agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy provided to FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

20. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection provided in this agreement. Cresskill agrees to comply with those provisions as follows:
- a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:270-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
 - b. For the review of very low income housing requirements required by N.J.S.A. 52:270-329.1, within 30 days of the third anniversary of this agreement, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
21. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
22. This settlement agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East /West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees not to challenge the draft Plan) at the fairness hearing. In the event FSHC contends that the municipality should receive "the judicial equivalent of substantial certification and accompanying protection as provided under the FHA", Cresskill contends that it is entitled to a Judgment of Compliance and Repose for a period of not less than ten (10) years. Both parties agree to let the trial judge make a final determination as to the form of judgment entered at the fairness hearing, which shall in either form extend Cresskill's immunity from "builders remedy" lawsuits through July 1, 2025, and not appeal any determination. If this settlement agreement is rejected by the Court at a fairness hearing, it shall be null and void.

23. If an appeal is filed of the Court's approval or rejection of the Settlement Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of the Settlement Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful at which point, the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
24. This settlement agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Bergen County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
25. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
26. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
27. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
28. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
29. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
30. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
31. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.

30. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
31. No member, official or employee of the Borough shall have any direct or indirect interest in this Settlement Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
32. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
33. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO FSHC:

Kevin D. Walsh, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 663-8182
Telecopier: (856) 663-8182
E-mail: kevinwalsh@fairsharehousing.org

TO CRESSKILL:

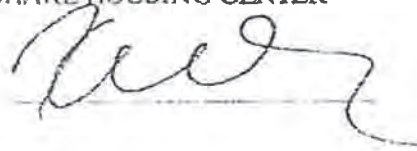
Vincent M. Salvatore, Esq.
260 Columbia Avenue
P.O. Box 3240
Fort Lee, NJ 07024
Phone: (201) 224-0330
Telecopier: (201) 224-0572
E-mail: vsalvat740@aol.com

WITH A COPY TO THE MUNICIPAL CLERK:

Barbara A. Nasuto
67 Union Avenue
Cresskill, NJ 07626
Phone: (201) 569-5400
Telecopier: (201) 569-3714
E-mail: bnasuto@cresskillboro.org

FAIR SHARE HOUSING CENTER

BY:



On behalf of the Borough of Cresskill, with the authorization
of the Governing Body and Planning Board.

BOROUGH OF CRESSKILL

BY:



Benedict Romeo, Mayor

Appendix 2: Final Unconditional Declaratory Judgement of Compliance and Repose

Christine Gillen, Esq. – 016551989
DIKTAS GILLEN, P.C.
596 Anderson Avenue, Suite 301
P.O. Box 2199
Cliffside Park, New Jersey 07010
*Attorneys for Plaintiff/Petitioner
Borough of Cresskill*

FILED

FEB 18 2021

GREGG A. PADOVANO, J.S.C.

	X	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION – BERGEN COUNTY
	:	
IN THE MATTER OF THE	:	DOCKET NO.: BER-L-6274-15
APPLICATION OF THE BOROUGH	:	
OF CRESSKILL, a Municipal	:	CIVIL ACTION
Corporation of the State of New Jersey,	:	(Mount Laurel)
	:	
Plaintiff/Petitioner.	:	FINAL UNCONDITIONAL
	:	DECLARATORY JUDGMENT OF
	X	COMPLIANCE AND REPOSE

THIS MATTER having been opened to the Court by Plaintiff/Petitioner Borough of Cresskill (Christine Gillen, Esq., of Diktas Gillen, P.C. appearing), in the presence of the Court-appointed Special Master, Shirley M. Bishop, P.P., and Joshua D. Bauers, Esq., attorney for Intervenor/Defendant Fair Share Housing Center, Inc. ("FSHC"); and the parties having signed a Settlement Agreement on May 1, 2017 which permits Plaintiff to request that the Court enter a Judgment of Compliance and Repose with immunity through July 1, 2025 at a Compliance Hearing, in accordance with East/West Venture v. Borough of Fort Lee, 286 N.J. Super 311 (App. Div. 1996); and the Court having conducted a Compliance Hearing on May 21, 2018, and having determined for the reasons set forth on the record on May 21, 2018 that all criteria set forth in East/West Venture have been satisfied and that Plaintiff's compliance plan, Housing Element and Fair Share Plan, adopted by the Planning Board on February 27, 2018 and endorsed by the Mayor and Council on March 14, 2018 ("2018 HEFSP"), along with various attachments, as well as the various implementing ordinances and resolutions (all such documents together

referred to as the "2018 Compliance Plan"), subject to the conditions set forth in the Special Master's Report, create the realistic opportunity to achieve Plaintiff Borough of Cresskill's Affordable Housing Obligations under the Mount Laurel doctrine and specifically under the procedures set forth in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 30 (2015) (Mount Laurel IV); and the Court having entered a Declaratory Judgment of Compliance and Repose With Conditions on March 19, 2019 (the "Conditional Judgment"); and the Court having entered a Declaratory Judgment of Compliance and Repose with Supplemental Conditions on May 31, 2019 (the "Supplemental Conditional Judgment"); and in lieu of the execution of Professional Services Agreement between the Borough's Administrative Agent and the owner of the Subject Property identified in condition number 3 of the Supplemental Conditional Judgment, said condition has been satisfied by the certification conferred by Rutgers University upon staff employed by the owner of the Subject Property which certification qualifies staff to serve as Administrative Agent of the Subject property; and the Special Master having reported to the Court on December 15, 2020 that all conditions set forth in the Conditional Judgment and the Supplemental Conditional Judgment have been satisfied; and the Special Master having recommended in her December 15, 2020 report that a Final Judgment of Compliance and Repose without Conditions be entered; and the Court having considered the report and recommendation of the Special Master and for good cause shown;

IT IS THEREFORE, ON THIS 18TH **DAY OF** FEBRUARY 2021,


ADJUDGED, DECLARED AND ORDERED that the Borough of Cresskill has fully satisfied the conditions imposed by the Conditional Judgment and the Supplemental Conditional Judgment; and it is further

ADJUDGED, DECLARED AND ORDERED that Final Unconditional Declaratory Judgment of Compliance and Repose be and is hereby entered in favor of Borough of Cresskill pursuant to the judicial standards established in East/West Venture v. Borough of Fort Lee and the Mount Laurel line of cases and shall remain in effect through July 1, ~~2016~~²⁰²⁵ (the "Judgment Period"; and is further

ADJUDGED, DECLARED AND ORDERED that during the Judgment Period the Borough of Cresskill shall have repose and immunity from any and all exclusionary zoning lawsuits including but not limited to "constitutional compliance" lawsuits and "builder's remedy" lawsuits; and it is further

ORDERED that if a court of competent jurisdiction in Bergen County (i.e., the Law Division of Bergen County, the Appellate Division of the New Jersey Superior Court, or the New Jersey Supreme Court) or an administrative agency responsible for implementing the Fair Housing Act and COAH regulations makes a decision which, if applied to Cresskill would reduce its obligation more than twenty (20%) percent of the total Prospective Need Number of 230, as agreed to in the Settlement Agreement, the Borough may move pursuant to the terms of the Settlement Agreement to amend this Final Unconditional Judgment to reduce its fair share obligation. Notwithstanding any such reduction, the Borough of Cresskill shall be obligated to complete and leave in place any site-specific zone changes made in connection with the plan approved pursuant to the Settlement Agreement and otherwise continue to implement all aspects of the plan approved pursuant to the Settlement Agreement and this Final Judgment. The Borough may carry over any resulting extra credits to future rounds; and it is further

ORDERED that a copy of this Final Unconditional Declaratory Judgment of Compliance and Repose be served upon all interested parties via eCourts and upon the Special Master via electronic mail.



HON. GREGG A. PADOVANO, J.S.C.

Appendix 3: Mediation Agreement

PREPARED BY THE AFFORDABLE HOUSING PROGRAM:

In the Matter of the Application of the Borough of Cresskill, County of Bergen	Superior Court of New Jersey Law Division, Civil Part Docket No. BER-L-400-25 Program Settlement Recommendation - Housing Element and Fair Share Plan
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THIS MATTER, having come before the Affordable Housing Dispute Resolution Program (Program), pursuant to the Complaint for Declaratory Judgment filed in this matter on January 17, 2025 (DJ Complaint) by the Petitioner, The Borough of Cresskill (Municipality), pursuant to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (FHA), and in accordance with Administrative Directive #14-24 and its Addenda, seeking a certification of compliance with the FHA;

AND IT APPEARS that on May 16, 2025, the Hon. Gregg A. Padovano entered an Order as follows:

(a) Establishing the Municipality’s Fourth Round “present need” at 0 units ;

(b) Establishing the Municipality’s Fourth Round “prospective need” at 155 units;

(c) Directing the Municipality to prepare and adopt a Housing Element and Fair Share Plan on or before June 30, 2025; and

(d) Granting the Municipality immunity from exclusionary zoning litigation; and

AND IT APPEARS that the Municipality timely adopted and filed the Municipality's Proposed Fourth Round Housing Element and Fair Share Plan (HEFSP);

AND IT APPEARS that a challenge(s) to the Municipality's Fourth Round Housing Element and Fair Share Plan was timely filed by interested party: Fair Share Housing Center ("FSHC");

AND the Program having appointed Special Adjudicator Christine A. Nazzaro-Cofone;

AND the Program Member having conducted a settlement conference(s) on October 10th, 2025; November 18th, 2025; and December 12th, 2025 at which time all parties reached a settlement. The settlement terms were placed on the record and include, but are not limited to the following:

(a) The Municipality's Present Need (Rehabilitation) Obligation is

0 units ;

(b) The Municipality's Prospective Need Obligation (2025-2035) is 155

units ;

(c) The Municipality’s First and Second Rounds Obligation is 221 units ;

(d) The Municipality’s Third Round Obligation (1999-2025) is 230 units, with

a Realistic Development Potential (“RDP”) of 41;

(e) The Municipality shall satisfy its Third Round Obligations as follows:

Third Round Obligations

NAME	TYPE	UNITS	BONUSES	TENURES	STATUS
Cresskill Plaza	Inclusionary Family Rental	6			Complete
Wolfer Mixed Use	Inclusionary Family Rental	1			Complete
Riverview Associates	Inclusionary Family Rental	1			Complete
North Jersey Community Bank	Inclusionary Family Rental	1			Complete
Sunrise Assisted Living	Inclusionary assisted living	10			Complete
BCUW East Madison Ave	Family/Special Needs Rental	9			Complete
S&K Auto	Inclusionary Family Rental	1			Zoned
Rental Bonus Credits			11		
Accessory Apartment Ordinance (Unmet Need)					Zoned

478 Knickerbocker (Unmet Need)	1 affordable unit from an inclusionary project subject to the mandatory set aside	1			Complete
Block 182, Lots 29 and 30 Overlay (Unmet Need)	15du/acre; 15% rental set-aside, 20% ownership set-aside				Zoned
Block 184, Lots 1, 2-7 (Unmet Need)	15du/acre; 15% rental set-aside, 20% ownership set-aside				Zoned
Downtown Commercial Zone (Unmet Need)	2 nd and 3 rd floor apartments over commercial space				Zoned
Block 181, Lot 1 (Unmet Need)	15du/acre; 2.57 acres 15% rental set-aside, 20% ownership set-aside				Zoned
Total		30	11		

(f) The Municipality shall satisfy its Fourth Round Obligations as follows:

Fourth Round Obligations

NAME	TYPE	STATUS
Block 27 Lots 69.01 & 70 Overlay	15du/acre with a 25% set aside	Proposed
Block 181, Lot 1 Overlay Revisions	Density of 22du/acre with 25% set-aside	Proposed

Downtown Overlay Ordinance Revisions	Minimum lot area of 7,500, maximum building coverage of 60%, minimum lot frontage of 75 feet, density of 18du/acre. Zone extended to include all lots within Block 74 and Block 80.	Proposed
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AND the parties have executed a written settlement agreement or consent order memorializing the settlement terms and filed it with the court;

AND the Municipality having represented it intends to adopt an Amended HEFSP in accordance with the terms of the settlement;

AND the Program Member having determined that the terms of the settlement are fair, reasonable and adequately protects the interests of low and moderate-income residents of the Municipality;

AND the Program Member having determined that the terms of the settlement are constitutionally compliant and provide a fair and reasonable opportunity for the Municipality to meet its obligations under the FHA and Mount Laurel doctrine;

AND for all those reasons, as well as those set forth in the attached Statement of Reasons, the Program Member hereby recommends an ORDER directing that:

- (a) The settlement terms as set forth above are approved; and
- (b) In accordance with N.J.S.A. §52:27D-304.1(f)(2)(c), on or before March 15, 2026, the Municipality shall adopt and file its Amended HEFSP that contains the terms of the settlement as well as the implementing ordinances and resolutions proposed within the Amended HEFSP; and

- (c) Thereafter, the Court shall schedule a HEFSP Confirmation Hearing (or, if and as may later be determined necessary by the Mt. Laurel judge, a Fairness and/or Compliance Hearing) to consider approval of the Municipality's Amended HEFSP and the issuance of a Certification of Compliance and Repose; and
- (d) Grant the Municipality continued immunity from exclusionary zoning litigation for the duration of the compliance process conditioned upon the Municipality's compliance with its order and good faith implementation of the Amended HEFSP and good faith participation in the compliance process.

Respectfully Submitted by the Program:

By: */s/ Ronald E. Bookbinder*

Hon. Ronald Bookbinder, J.S.C. Ret.

Dated: February 10, 2026

PREPARED BY THE AFFORDABLE HOUSING PROGRAM:

In the Matter of the Application of the Borough of Cresskill, County of Bergen	Superior Court of New Jersey Law Division, Civil Part Docket No. BER-L-400-25 STATEMENT OF REASONS
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The Fair Housing Act declared that the State’s “preference for the resolution of existing and future disputes involving exclusionary zoning is the mediation and review process set forth in this act and not litigation, and that it is the intention of this act to provide various alternatives to the use of the builder’s remedy as a method of achieving fair share housing.” N.J.S.A. §52:27D-303. To that end, the FHA directed the Program to facilitate settlement between a municipality and any interested parties that filed a challenge to the municipality’s HEFSP and give the municipality until December 31, 2025, to commit to revise its HEFSP or provide an explanation for why it will not make all or some of the requested changes. N.J.S.A. §52:27D-304.1 (f)(2)(b). Upon resolution of a challenge, the Program shall issue a compliance certification conditioned upon the municipality’s “commitment, as necessary, to revise its fair share plan and housing element in accordance with the resolution of the challenge.” Ibid.

Despite the Legislature’s preference for settlement, it is still incumbent upon the Program to determine whether the municipality’s proposed amended HEFSP

enables the municipality to satisfy its fair share obligation and is compliant with the FHA and the Mount Laurel doctrine. See N.J.S.A. §52:27D-304.1 (f)(2)(b). The Program is mindful of the fact that the municipality is permitted to use a variety of means and techniques to provide for its fair share of affordable housing as set forth in N.J.S.A. §52:27D-311 and that courts should employ flexibility in assessing a municipality's HEFSP for compliance with the FHA and Mount Laurel doctrine. In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ. 1, 29-33 (2015).

Having reviewed all the submissions of the parties (including the original HEFSP and the proposed Amended HEFSP), the recommendation of the Special Adjudicator and having presided over the settlement conferences, this Program member is satisfied that the Municipality's proposed Amended HEFSP provides a realistic opportunity for the construction of its fair share of low and moderate income housing and thus is compliant with the FHA and in accordance with S. Burlington Cnty, NAACP v. Mount Laurel, 92 NJ. 158-220-22 (1983). This Program member is also satisfied that the terms of the settlement between the Municipality and interested party/ies Fair Share Housing Center are fair, reasonable and adequately protect the interests of low and moderate-income residents of the municipality. (see attached exhibit Mediation Agreement) Matter of Twp. Of Bordentown, 471 NJ. Super. 196, 218 (App. Div. 2022).

Therefore, it is recommended that the settlement terms be approved by the Bergen County Mt. Laurel Judge in accordance with the attached recommendation.

Respectfully Submitted by the Program:

Dated: February 10, 2026 /s/ Ronald E. Bookbinder
Hon. Ronald E. Bookbinder, AJSC (Ret.)

FAIR SHARE HOUSING CENTER

Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
Joshua D. Bauers, Esq.
Ashley J. Lee, Esq.
Esmé M. Devenney, Esq.
Ariela Rutbeck-Goldman, Esq.
Joelle L. Paull, Esq.

February 2, 2026

Via e-courts

IMO Borough of Cresskill
Docket No. BER-L-400-25

Dear Judge Bookbinder:

Attached, please find a fully executed copy of the Mediation Agreement between Cresskill and Fair Share Housing Center. With any questions, please do not hesitate to reach out at the email address or phone number listed below.

Respectfully submitted,

Ariela Rutbeck-Goldman, Esq.

Ariela Rutbeck-Goldman

arielarutbeck@fairsharehousing.org

BOROUGH OF CRESSKILL

RESOLUTION

WHEREAS the New Jersey State Legislature adopted a new process for municipalities to come into compliance with their affordable housing obligations under the Fair Housing Act and established the Affordable Housing Dispute Resolution Program within the New Jersey State Judiciary for the purpose of resolving disputes associated with the Fair Housing Act; and

WHEREAS, in compliance with the new legislation, the Administrative Director of the Courts established procedures for operation of the Affordable Housing Dispute Resolution Program which procedures allow municipalities to seek a certification of compliance with the Fair Housing Act and immunity from exclusionary zoning litigation by initiating an action in the form of a declaratory judgment action; and

WHEREAS, the Borough of Cresskill initiated a declaratory action in the Affordable Housing Dispute Resolution Program (the "Program") seeking certification of compliance and immunity from exclusionary zoning litigation; obtained an Order of the Court fixing Cresskill's obligation for present need as zero (0) units and for prospective need as one hundred fifty-five (155) for the Fourth Round housing cycle; and adopted a Housing Element and Fair Share Plan (HE/FSP) for compliance with that obligation; and

WHEREAS, Fair Share Housing Center filed with the Program a Challenge to Cresskill's HE/FSP seeking certain information and documentation regarding Cresskill's compliance with Third Round housing affordable housing obligations and seeking to enforce its interpretation of a new provision of the FHA pertaining to the prospective need obligation of municipalities such as Cresskill which received an adjustment to its prospective need obligation due to a lack of vacant land; and

WHEREAS, in accordance with Program procedures, Fair Share Housing Center has engaged in settlement negotiations with Cresskill representatives and professionals under the oversight of Program Adjudicator Christine Cofone and Program Member, Hon. Ronald Bookbinder; and

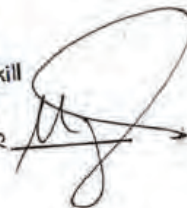
WHEREAS, as a result of the negotiation process, terms of settlement of the Challenge have been set forth in a Mediation Agreement which is annexed hereto; and

WHEREAS, the Borough Planner and Borough Attorney parties have recommended that the governing body of Cresskill approve the terms of settlement set forth in the Mediation Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Cresskill, that the Mediation Agreement be and is hereby approved and Mayor John Morgan is hereby authorized to execute the Mediation Agreement between the Fair Share Housing Center and the Borough of Cresskill.

December 17, 2025

Certified copy
adopted by the
Mayor & Council
Borough of Cresskill
on 12-17-25
Maulesca
Borough Clerk



MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE
RESOLUTION PROGRAM

In the Matter of the Application of the Borough of Cresskill, County of Bergen
Docket No. BER-L-400-25

WHEREAS, the Borough of Cresskill (the “Borough” or “Cresskill”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-301 et. seq. (the “Fair Housing Act”) on January 17, 2025; and

WHEREAS, the Court entered an order on May 16, 2025, setting the Borough’s Fourth Round fair share obligations as a Present Need of 0 units and a Prospective Need of 155 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

WHEREAS, the Borough having filed its HEFSP on May 15, 2025 (“Adopted HEFSP”);
and

WHEREAS, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s HEFSP on August 29, 2025; and

WHEREAS, the Borough and FSHC have agreed to amicably resolve the issues set forth in the challenge through this mediation agreement and present this agreement for review by the Program and referral to the Mount Laurel judge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, which if approved will result in a compliance certification for the Borough for the Fourth Round;

THEREFORE, the Borough and FSHC agree:

Fair Share Obligations

- The Borough's Fourth Round Present Need or Rehabilitation Obligation is 0, the Borough's Prior Round Obligation (1987-1999) is 70, the Borough's Third Round Obligation (1999-2025) is 230, the Borough's Fourth Round Prospective Need (2025-2035) is 155.

Satisfaction of Fair Share Obligations

- The Borough's Prior Round Obligation is 70 and has been met with the following mechanisms:

Daibes Park/Hoke Site	18 affordable dwellings
Regional Contribution Agreement with the City of Bayonne	26 units transferred
Regional Contribution Agreement with the Township of Weehawken	8 units transferred
Rental Bonus credits from Daibes/Hoke Site	18

- The Borough's Third Round Obligation is 230 with an RDP of 41 which has been met with the following mechanisms:

MECHANISM	SPECIFICATIONS	UNITS	BONUS	STATUS
Cresskill Plaza	Inclusionary family rental	6		Complete
Wolfer Mixed Use	Inclusionary family rental	1		Complete
Riverview Associates	Inclusionary family rental	1		Complete
North Jersey Community Bank	Inclusionary family rental	1		Complete
Sunrise Assisted Living	Inclusionary assisted living	10		Complete
BCUW East Madison Ave	Family/Special Needs Rental	9		Complete

S&K Auto	Inclusionary family rental	1		Zoned
Rental Bonus Credits			11	
Accessory Apartment Ordinance (Unmet Need)				Zoned
478 Knickerbocker (RDP)	1 affordable unit from an inclusionary project subject to the mandatory set aside	1		Complete
Block 182, Lots 29 and 30 Overlay (Unmet Need)	15du/acre; 15% rental set-aside, 20% ownership set-aside			Completed by payment in lieu
Block 184, Lots 1, 2-7 (Unmet Need)	15du/acre; 15% rental set-aside, 20% ownership set-aside			Zoned
Downtown Commercial Zone (Unmet Need)	2 nd and 3 rd floor apartments over commercial space			Zoned
Block 181, Lot 1 (Unmet Need)	15du/acre; 2.57 acres 15% rental set-aside, 20% ownership set-aside			Zoned
Total		30	11	

4. The Borough's Fourth Round Prospective Need Obligation is 155 units, with an RDP of 0. Cresskill's obligation to provide a realistic opportunity for the development of 155 units of affordable housing consistent with N.J.S.A. 52:27D-310.1 shall be addressed by adoption of the following mechanisms:

MECHANISM	SPECIFICATIONS	STATUS
Block 27 Lots 69.01 & 70 Overlay	15du/acre with a 25% set aside	Proposed

Block 181, Lot 1 Overlay Revisions	Density of 22du/acre with 25% set-aside	Proposed
Downtown Overlay Ordinance Revisions	Minimum lot area of 7,500, maximum building coverage of 60%, minimum lot frontage of 75 feet, density of 18du/acre. Zone extended to include all lots within Block 74 and Block 80.	Proposed

Unit Type and Income Distribution Requirements

5. The Borough and FSHC agree that the Borough’s HEFSP, amended in accordance with the foregoing, satisfies the standards set forth in P.L. 2024, c. 2, including but not limited to the following. It is further agreed that the Borough shall adhere to such requirements for the Fourth Round:
 - a. Age Restricted Cap. The Borough agrees that it shall not exceed the age-restricted cap found in N.J.S.A. 52:27D-311(l).
 - b. Family units. The Borough shall comply with the requirements set forth in N.J.S.A. 52:27D-311(l) pertaining to the availability of housing to families with children and otherwise comply with the requirements and controls established pursuant to Section 21 of P.L.1985, c.222 (C.52:27D-321).
 - c. Very low-income units. The Borough shall comply with the requirements set forth in N.J.S.A. 52:27D-329.1 pertaining to very low-income units.
 - d. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311(a) and (b), and all other applicable law.
 - e. All Prior Round and Third Round compliance shall continue to meet the standards and requirements for bonuses, family and senior housing, rental and family rental, very low-income units, and adaptability set forth in any prior settlement agreement

between FSHC and the Borough, in statutory requirements, and in the Prior Round and Third Round regulations.

6. In all developments that produce affordable housing, the Borough and FSHC agree that, unless varied by a prior court order of the trial court, the below terms shall apply:
 - a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls in effect at the time of development, including but not limited to the required bedroom and income distribution, length of affordability controls, and phasing of affordable units.
 - b. The applicability of the updated form of UHAC versus the prior form of UHAC shall be as set forth in the statute and most current form of UHAC adopted by HMFA. Any terms of a prior agreement, judgment, or grant of substantive certification as to prior round of obligations modifying UHAC as to affordability controls longer than the now current regulations or as to very low-income units shall remain in effect as to those prior rounds of obligations.
 - c. The Borough agrees that in order to meet the low-income and very low-income requirement of the Fair Housing Act, it shall adopt an ordinance which complies with N.J.S.A. 52:27D-329.1.
 - d. The Borough agrees to review its Affordable Housing Ordinance and other ordinances to ensure that it complies with the most up to date requirements of UHAC and revise those ordinances accordingly as part of its Fourth Round HEFSP and implementing ordinances.
 - e. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable

units on the New Jersey Housing Resource Center website in accordance with applicable law. The affirmative marketing plan shall include the following community and regional organizations: FSHC; the Latino Action Network; the New Jersey State Conference of the NAACP; the Bergen County NAACP; Bergen Urban League; and Bergen County Housing Coalition.

Process for Approval and Implementation

7. Pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24, the municipality and FSHC recognize that the Program and/or county level housing judge must still review this agreement and the resulting HEFSP and implementing ordinances and resolutions for compliance with the Fair Housing Act prior to issuing a compliance certification, as follows:
 - a. The Borough and FSHC shall present this mediation agreement to the Program member for review upon full execution by both parties.
 - b. The Program Member shall review the agreement and if satisfied with compliance with the Fair Housing Act shall refer this matter to the Mount Laurel judge for review and entry of certification of compliance, conditioned on adoption of all implementing ordinances and resolutions.
 - c. The Borough shall adopt all implementing ordinances and resolutions no later than March 15, 2026, including but not limited to the outstanding items identified in the next paragraph. No later than 48 hours after adoption or March 15, 2026, whichever is sooner, the Borough shall file the information required by Paragraph 8 and any other adopted ordinances and resolutions on eCourts.

- d. No later than April 15, 2026, the Borough and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
 - e. If a final, unappealable judgment of compliance and repose consistent with this Agreement is not entered by the New Jersey Court, the parties reserve their right to rescind any action taken in anticipation of such judgment and return to status quo ante. Upon entry of said judgment, the terms of this agreement may be enforced through an enforcement motion in this declaratory judgment or a separate action before the Program or the Superior Court, Law Division.
8. The Borough and FSHC agree that following conditions remain to be met prior to March 15, 2026 as conditions of compliance certification, and that the municipality shall provide these documents to FSHC in draft form for comment by January 15, 2026:
- a. The Borough will adopt a Fourth Round Spending Plan in accordance with P.L. 2024, c. 2 and applicable regulations.
 - b. The Borough will update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents in accordance with applicable regulations as necessary to comply with this Agreement and N.J.S.A. 52:27D-304.1.
 - c. The Borough will adopt revised zoning ordinances for Block 181, Lot 1, and the Downtown Overlay Zone.
 - d. The Borough will adopt an overlay zoning ordinance for Block 27 Lots 69.01 & 70.

- e. The Borough will provide FSHC with a copy of the 478 Knickerbocker Road deed restriction as well as proof of affirmative marketing.
9. The Borough and FSHC recognize that substantial changes in circumstances affecting the Borough's RDP are possible pursuant to the holding in *Fair Share Housing Center v. Cherry Hill*, 173 N.J. 393, (2002) and related law. In the event such a substantial changed circumstance occurs, the Borough shall have one hundred twenty (120) days to present to the trial court and FSHC a plan to address such change in circumstances on notice and opportunity to be heard from FSHC. The Borough agrees that any additional RDP generated due to changed circumstances must be addressed in a manner that is consistent with controlling law.
10. The Borough's Compliance Certification shall be subject to required ongoing monitoring requirements imposed by statute and/or regulation.
11. This Agreement may be executed in counterparts, all of which together shall constitute the same agreement, and any exhibits or schedules attached hereto shall be hereby made a part of this Agreement. This Agreement shall not be modified, amended or altered in any way except by a writing signed by each of the parties. Each party acknowledges that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each signatory is the proper person and possesses the authority to sign the Agreement, and that this Agreement was not drafted by any one of the parties, but was drafted, negotiated and reviewed by all parties, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining

articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections. No member, official or employee of the municipality shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

On behalf of the Borough of Cresskill:

On behalf of Fair Share Housing Center:


MAYOR JOHN MORGAN
Date:



Date: 12/13/2025



COFONE CONSULTING GROUP
LAND USE CONSULTANTS

Via eCourts and Electronic Mail

January 13, 2026

Hon. Ronald Bookbinder, J.S.C.

Affordable Housing Dispute Resolution Program
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625

Re: *In the Matter of the Application of the Borough of Cresskill, County of Bergen*
Docket No. BER-L-400-25

Your Honor:

I submit this letter in my capacity as Special Adjudicator to provide the Court with my professional review of the fully executed Mediation Agreement between the Borough of Cresskill (“Borough”) and Fair Share Housing Center (“FSHC”) under the Affordable Housing Dispute Resolution Program. The Borough’s Governing Body approved the Mediation Agreement by formal action adopted on December 17, 2025.

Procedural Posture

The Agreement reflects that the Borough instituted this declaratory judgment action on January 17, 2025, and that the Court entered an Order dated May 16, 2025 establishing the Borough’s Fourth Round obligations as zero (0) units of Present Need and one hundred fifty-five (155) units of Prospective Need, with no appeal taken. The Borough filed its adopted Housing Element and Fair Share Plan on May 15, 2025. Fair Share Housing Center filed a statutory challenge on August 29, 2025, which the parties have resolved through mediation and execution of the Agreement.

Obligations and Compliance Accounting

The Agreement states that the Borough’s Fourth Round Present Need (rehabilitation obligation) is zero (0) units. It further identifies the Borough’s Prior Round (1987–1999) obligation as seventy (70) units and its Third Round (1999–2025) obligation as two hundred thirty (230) units.

The Agreement includes a detailed accounting of the Borough’s satisfaction of its Prior Round obligation through on-site affordable housing production, Regional Contribution Agreements, and

bonus credit recognition. For the Third Round, the Agreement identifies a Realistic Development Potential (“RDP”) of forty-one (41) units supported by completed inclusionary family rental developments, an inclusionary assisted living development, and a family/special needs rental component, together with applicable credit recognition as set forth in the Agreement.

Fourth Round Compliance Strategy and Realistic Opportunity

For the Fourth Round, the Agreement confirms the Prospective Need obligation of one hundred fifty-five (155) units and provides that the Borough will address this obligation through ordinance-based mechanisms. The Agreement further states that the Fourth Round Prospective Need has a Realistic Development Potential (“RDP”) of zero (0).

The compliance framework relies on adoption of the following zoning-based mechanisms and standards:

1. Block 27, Lots 69.01 and 70 Overlay.
Density of fifteen (15) dwelling units per acre with a twenty-five percent (25%) affordable housing set-aside.
2. Block 181, Lot 1 Overlay Revisions.
Density of twenty-two (22) dwelling units per acre with a twenty-five percent (25%) affordable housing set-aside.
3. Downtown Overlay Zone Revisions.
Minimum lot area of 7,500 square feet; maximum building coverage of 60%; minimum frontage of 75 feet; density of eighteen (18) dwelling units per acre; and extension of the Downtown Overlay Zone to include all lots within Block 74 and Block 80.

Regulatory Compliance and Implementation

The Agreement requires that the Borough’s compliance conform to all applicable statutory and regulatory requirements, including age-restricted housing limitations, family housing requirements, very-low-income housing obligations (including adoption of a conforming ordinance), accessibility and adaptability standards for new construction, and adoption and maintenance of appropriate administrative mechanisms, affordability controls, affirmative marketing requirements, and related implementing documents consistent with applicable regulations, including UHAC.

The Agreement establishes a defined implementation schedule, including adoption of required implementing ordinances and resolutions by March 15, 2026; provision of draft implementing documents to Fair Share Housing Center by January 15, 2026; filing of a consent order seeking

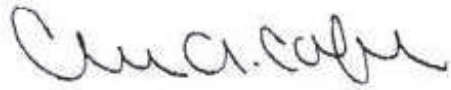
final compliance certification by April 15, 2026; adoption of required spending plan, ordinance updates, affirmative marketing materials, and zoning amendments; provision of required deed restriction and affirmative marketing documentation; and ongoing monitoring and substantial-change-in-circumstances provisions consistent with applicable law.

Professional Opinion and Recommendation

In my professional opinion, the Mediation Agreement is sufficiently detailed and structured to function as an enforceable compliance roadmap. It provides a clear statement of the Borough's obligations, an adequate accounting of prior compliance activity, identified ordinance-based mechanisms intended to create realistic opportunity for Fourth Round compliance, and a defined schedule of enactments, conditions, filing milestones, and monitoring provisions.

Accordingly, I respectfully recommend that the Court approve the Mediation Agreement for the Borough of Cresskill, subject to satisfaction of the Agreement's stated enactment requirements, conditions, and filing milestones, and permit the matter to proceed through the Affordable Housing Dispute Resolution Program toward final compliance certification.

Respectfully submitted,



Christine A. Nazzaro-Cofone, AICP, PP
Special Adjudicator

Appendix 4: Community Grants, Planning and Housing Monitoring Report

Cresskill Borough, Bergen County
Project/Unit Monitoring - June 3, 2024 (Page 1)

Site / Program Name	RCA Bayonne	RCA Weehawken	Housing Rehab Program	Cresskill Accessory Apartment Program	Cresskill: Market To Affordable
Project Type	RCA	RCA	Housing Rehabilitation Program	Inclusionary Family Rental	Inclusionary Family Rental
Block & Lot / Street	N/A	N/A	Various	Various	Various
Status	Completed	Completed	Completed	Proposed/Zoned	Proposed/Zoned
Date	12/1/1999	2/2/2000	Various	T.R.D.	N/A
Length of Affordability Controls	See Notes	See Notes	10 Years	10 Years	10 Years
Administrative Agent	N/A	N/A	Community Action Services, PO Box 6025, East Brunswick, NJ 08816, (732) 485-0756,	CGP&H, LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512, (609) 664-2769, https://www.affordablehomesnewjersey.com/	CGP&H, LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512, (609) 664-2769, https://www.affordablehomesnewjersey.com/
Contribution	26	8	N/A	N/A	N/A
Type of Units	RCA	RCA	Housing Rehabilitation Program	Family Rental	Family Rental
Total Affordable Units	0	0	4	9	0
Units Notes	Transferred \$520,000 For 26 Units for Prior Round	Transferred \$160,000 For 8 units Prior Round	5th unit completed 1/23/2021. 3 additional units completed over obligation. Not currently active as obligation is fully satisfied through 2025.	No Units have been created to date. Borough will endeavor to meet the obligation by 7/1/2025	Currently not being pursued in favor of Group Home program.
Income/Bedroom Distribution	Eff. Std. BR 1 BR 2 BR 3 BR 4	Eff. Std. BR 1 BR 2 BR 3 BR 4	Eff. Std. BR 1 BR 2 BR 3 BR 4	Eff. Std. BR 1 BR 2 BR 3 BR 4	Eff. Std. BR 1 BR 2 BR 3 BR 4
Very-Low-Income	- - - - -	- - - - -	- - - - -	- - - - -	- - - - -
Low-Income	- - - - -	- - - - -	- - - - -	- - - - -	- - - - -
Moderate-Income	- - - - -	- - - - -	- - - - -	- - - - -	- - - - -

Cresskill Borough, Bergen County

Project/Unit Monitoring - June 3, 2024 (Page 2)

Site / Program Name	6 & 10 Madison Ave: (Cresskill/Madison Plaza)	1 Tenakill Park East (Owner: 6 Madison Ave (Daibes Park/Hokes) North Building	Sunrise at Cresskill (Assisted Living)	35-39 Union Avenue: (Wolfer/Kearney)	39 Broadway: Riverview
Project Type	Inclusionary Family Rental	Inclusionary Family Rental	Inclusionary Assisted Living	Inclusionary Family Rental	Inclusionary Family Rental
Block & Lot / Street	B: 41 Lot: 1.02, 1.04, 2, 3, 4/ 6&10 Madison Avenue	B:41 L:1.04A/ One Tenakill Park Drive East	B: 41 L:1.05/ 3 Tenakill Park Drive East	B:74 L:42, 44/ 35-39 Union Avenue	B: 178 Lot:1-6/ 31-39 Broadway
Status	Completed	Completed	Completed	Completed	Completed
Date	6/13/2014 C/O	10/31/2002	10/29/2003	8/7/2015	10/25/2012
Length of Affordability Controls	30 Years	30 Years	Perpetual	30 Years	30 Years
Administrative Agent	Daibes, 1000 Portside Drive, Edgewater, NJ 07020, (201) 840-0050,	Daibes, 1000 Portside Drive, Edgewater, NJ 07020, (201) 840-0050,	Sunrise of Cresskill, 3 Tenakill Avenue East, Cresskill, NJ 07626, (201) 871-0300,	CGP&H, LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512, (609) 664-2769, https://www.affordablehomesnewjersey.com/	CGP&H, LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512, (609) 664-2769, https://www.affordablehomesnewjersey.com/
Contribution	N/A	N/A	N/A	N/A	N/A
Type of Units	Family Rental	Family Rental	Assisted Living	Family Rental	Family Rental
Total Affordable Units	6	18	10	1	1
Units Notes	D/R signed 8/21/2014 and recorded 7/10/2019. 6 Madison has 1 Affordable Unit: 2B-Mod; 5 other units at 10 Madison. They are self-administering.				
Income/Bedroom Distribution	Eff. Std. BR 1 BR 2 BR 3 BR 4	Eff. Std. BR 1 BR 2 BR 3 BR 4	Eff. Std. BR 1 BR 2 BR 3 BR 4	Eff. Std. BR 1 BR 2 BR 3 BR 4	Eff. Std. BR 1 BR 2 BR 3 BR 4
Very-Low-Income	- - - - -	- - - - -	- - - - -	- - - - -	- - - - -
Low-Income	3 - - - -	3 11 - - -	10 - - - -	1 - - - -	1 - - - -
Moderate-Income	- - - - -	- - - - -	- - - - -	- - - - -	- - - - -

**Cresskill Borough, Bergen County
Project/Unit Monitoring - June 3, 2024 (Page 3)**

Site / Program Name	Cresskill Affordable Project	38 Broadway: S&K Auto & 640 Transportation	Crestron Electronics	ConnectOne Bank (former North Jersey Community Bank)	2 Piermont LLC (former Hamrah)-Downtown Affordable Housing Overlay (DAHO) 2
Project Type	Inclusionary Special Needs Rental	Inclusionary Family Rental	Inclusionary Family Rental	Inclusionary Family Rental	Inclusionary Family Rental
Block & Lot / Street	E. Madison Avenue	B:182 L:18-28/ 38 Broadway	B:181 L:1/ 101 Broadway	B:74 L:47,47, B:74 L:47,03/ 1 Union Avenue	B:184 Lots: 1,2-7 Piermont Road
Status	Completed	Proposed/Zoned	Proposed/Zoned	Under Construction	Proposed/Zoned
Date	9/25/2023 - Deed Restriction	T.B.D.	12/20/2017- Final Rezoning Approval	12/7/21- Building Permit issued	12/20/2017- Final Rezoning Approval
Length of Affordability Controls	30 Years	30 Years	30 Years	30 Years	30 Years
Administrative Agent	Bergen County United Way, 6 Forest Ave., Suite 220, Paramus, New Jersey 07652, 201-291-4050, https://bergenunitedway.org/	CGR&H, LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512, (609) 664-2769, https://www.affordablehomesnewjersey.com/	CGR&H, LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512, (609) 664-2769, https://www.affordablehomesnewjersey.com/	CGR&H, LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512, (609) 664-2769, https://www.affordablehomesnewjersey.com/	CGR&H, LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512, (609) 664-2769, https://www.affordablehomesnewjersey.com/
Contribution	N/A	N/A	N/A	N/A	N/A
Type of Units	Special Needs Rental	Family Rental	Family Rental	Family Rental	Family Rental
Total Affordable Units	9	1	6	1	1
Units Notes	Project to consist of 3 apartments for developmentally disabled adults, 2 affordable housing units, and a 4 bedroom group home for developmentally disabled adults.	Proposed Distribution	Possible 6 Rental or 8 Sale to be created. Rental distribution below.		
Income/Bedroom Distribution	EFF. Std. BR 1 BR 2 BR 3 BR 4	EFF. Std. BR 1 BR 2 BR 3 BR 4	EFF. Std. BR 1 BR 2 BR 3 BR 4	EFF. Std. BR 1 BR 2 BR 3 BR 4	EFF. Std. BR 1 BR 2 BR 3 BR 4
Very-Low-Income	- 4 - - - -	- - - - -	- - - - -	- - - - -	- - - - -
Low-Income	- 2 2 - - -	- - 1 - -	- - 1 1 - -	- - - 1 - -	- - - - -
Moderate-Income	- - - 1 - -	- - - - -	- - 2 1 - -	- - - - -	- - - - -

Appendix 5: Ordinance No. 26-31-1687 to Amend TR Zone re Block 181 Lot 1

BOROUGH OF CRESSKILL

ORDINANCE NO. 26-31-1687

AN ORDINANCE TO AMEND THE TR ZONE, AND OTHERWISE AMEND THE
CRESSKILL ZONING ORDINANCE TO ACHIEVE CONSISTENCY WITH CRESSKILL'S
FOURTH ROUND COMPLIANCE CERTIFICATE
BOROUGH OF CRESSKILL,
BERGEN COUNTY, NJ

BE IT ORDAINED by the Mayor and Council of the Borough of Cresskill in the County of Bergen and State of New Jersey, that the following amendments and revisions are made to Chapter 275 Zoning as follows:

Section I:

Article XXI TR Townhouse Residence Zone §275-80. Permitted Uses shall be and is amended in the following particulars only:

C. Special note regarding affordable housing: For the TR Lot known as Block 181, Lot 1, permitted uses shall also include inclusionary (market-rate and affordable) housing developments in accordance with the conditions described herein, and in compliance with the applicable regulations of §275-81W.

Section 2:

§275-81. Regulations shall be and is amended in the following particulars only:

W. Regulations pertaining to the inclusionary development uses for Block 181 Lot 1 shall be and are amended in the following particulars only:

(1) Incentives for inclusionary development for the TR Lot Block 181, Lot 1:

- (a) Maximum permitted density is 22 dwelling units per acre. Said units can be arranged and included in a multi-family building. Market-rate units and affordable dwelling units shall be fully integrated within the development.
- (b) Developers are permitted to exceed the height restriction in Code § 275-81B provided that the structure does not exceed a height of 38 feet or three stories.
- (c) Deleted and no longer part of the ordinance.

(2) Affordable residential dwelling units. All affordable dwelling units shall be constructed, marketed and administered in compliance with the requirements of the State of New Jersey, Housing Mortgage Finance Agency, and the Uniform Housing Affordability Controls as well as all applicable local ordinances. Furthermore, all such affordable housing shall be subject to agency certification and approval from the Borough's administrative agent and/or municipal housing liaison before certificates of occupancy will be issued. The developer shall include all facilities required by law that are necessary to be maintained as a jurisdictional agency-certifiable rental or ownership unit within an inclusionary development so that the agency's restrictions are legally enforceable. All such developments shall conform to Article XXIX, Affordable housing, and Article XXX, Development fees for affordable housing, of the Borough of Cresskill Municipal Code. The terms "moderate-income", "low-income" and "very-low income" as used below are as defined by the jurisdictional agency.

- (a) Affordable residential dwelling units may be offered as rental or as for-for sale housing in strict conformance with all ratios as proscribed in §275-125.
- (b) Affordable housing as defined herein shall comprise not less than 25% of all housing units proposed.

(d) No less than 50% of all COAH creditworthy units shall be affordable to low-income households, with 13% of rental units affordable to very-low-income households. The remaining 50% can be offered to moderate-income households.

(3) Market-rate residential dwelling units. Market-rate dwelling units will be permitted as described above on Block 181, Lot 1, only in conjunction with a proposal to construct a minimum of 25% of the total as deed restricted affordable housing as described above. These market-rate dwelling units may be offered for either or both rent or ownership. An applicant must be able to demonstrate that the quantity of parking stalls as required by the New Jersey Residential Site Improvement Standards (RSIS) is available for use by residents and guests of these dwelling units.

(a) Market-rate housing shall comprise no more than 75% of all housing units constructed in any one project.

Section 3:

Article §275-124 Inclusionary zoning shall be and is amended in the following particulars only:

B. (1). A minimum of 25% of the total number of units shall be set aside as affordable housing units if the affordable units are for rent. If the calculation of the total number of affordable units required yields a fraction of less than 0.5, then either a prorated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction greater than 0.5, the obligation shall be rounded up, and the additional affordable unit shall be provided.

(2) A minimum of 25% of the total number of units shall be set aside as affordable housing units if the affordable housing units are for sale. If the calculation of the total number of affordable units required yields a fraction of less than 0.5, then either a prorated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction greater than 0.5, the obligation shall be rounded up, and the additional affordable unit shall be provided.

C. Any townhouse, garden apartment, mixed-use development or other multiple-family residential development, including PURDS, within a designated redevelopment property identified in the Amended and Restated Cresskill Redevelopment Plan shall provide a minimum affordable housing set-aside of 25% of the total number of units, if the total number of affordable housing units will be for sale or for rent. The provisions of Subsection B(3) above shall also apply.

D. Any property in the Borough of Cresskill that is currently zoned for nonresidential use and that is subsequently zoned for residential purposes or receives a use variance to permit residential development, or that is currently zoned residential use and that receives a zoning change or a density variance to permit higher-density multifamily residential development at a density of at least six units per acre and no less than twice the previously permitted density, shall provide an affordable housing density of 25% regardless if the affordable housing dwellings are offered for sale or for rent. The provisions of Subsection B(3) above shall also apply.

Section 4:

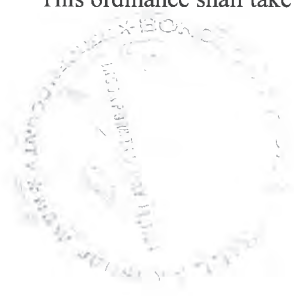
All ordinances of the Borough of Cresskill which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 5

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

Section 6:

This ordinance shall take effect upon final passage, approval and publication as provided by law.



Certified copy
adopted by the
Mayor & Council
Borough of Cresskill
on 3.4.26
Borough Clerk

Appendix 6: Ordinance No. 26-32-1688 Downtown Affordable Housing Overlay II Zone

BOROUGH OF CRESSKILL

ORDINANCE NO. 26-32-1688

AN ORDINANCE TO CREATE THE DOWNTOWN AFFORDABLE HOUSING OVERLAY II
 ZONE APPLICABLE TO BLOCK 27 LOTS 69.01 AND 70 AND
 AMEND THE ZONING MAP OF THE
 BOROUGH OF CRESSKILL,
 BERGEN COUNTY, NJ

BE IT ORDAINED by the Mayor and Council of the Borough of Cresskill in the County of Bergen and State of New Jersey, as follows:

Section I:

Cresskill is a municipality that has fully participated in the procedures and policies of the Affordable Housing Dispute Resolution Program (“Program”) created pursuant to the Fair Housing Act amendments of 2024. As a result of this participation, the assigned Program Judge, the Honorable Ronald Bookbinder, J.S.C. retired, has recommended Cresskill receive a compliance certificate protecting Cresskill from exclusionary zoning litigation for the balance of the current housing cycle which will continue until June 30, 2035.

Cresskill was assigned an affordable housing new construction obligation of 155 affordable housing units to be constructed between now and June 30, 2035. The assignment of this affordable housing new construction obligation was from and by the Department of Community Affairs (“DCA”) After completing a thorough review of its land resources, Cresskill was convinced it lacked the land resources to generate this number of affordable housing units within 10 years. To demonstrate the lack of land resources, Cresskill prepared a Vacant Land Assessment (“VLA”) in accordance with all applicable rules. Based on the VLA, Cresskill determined its Realistic Development Potential (“RDP”) is zero (0). This determination was ratified by all Program participants, including the Fair Share Housing Center (“FSHC”) and most importantly, Judge Bookbinder.

As a municipality relying on a reduced RDP, Cresskill is required to address at least 25 percent of the prospective need obligation that has been reduced and adopt realistic zoning that allows for the construction of such adjusted obligation. 25 percent of the DCA assigned prospective need obligation of 155 affordable housing units is 39 units of Unmet Need affordable housing.

Section II:

Section II: Cresskill is constitutionally obligated to provide a reasonable opportunity to comply with its affordable housing obligation. Creating an overlay zone and applying said overlay to Block 27 Lots 69.01 and 70 creates a reasonable opportunity for the construction of affordable housing on said parcels.

Section III: Article III. §275-4. Zones established is hereby revised to include:
 Downtown Affordable Housing Overlay II Zone

Section IV: Article X. is hereby amended by the inclusion of the following sections and subsections.

§275-40.3. A. DOWNTOWN AFFORDABLE HOUSING OVERLAY II ZONE (DAHO-II)**§275-40.3. B. Permitted Uses.**

No building or premises shall be used and no building or part of a building shall be erected which is arranged, intended or designed to be used, in whole or in part, for any purpose, except the following. Such approval shall also be required for the erection or enlargement of all related accessory

structures and prior to issuance of certificates of occupancy for a change of use. Permitted uses are as follows:

- 1 Residential market rate and family rental affordable dwelling units specifically including multi-family buildings at the density, height and bulk prescribed below. Affordable housing units shall be constructed, marketed and deed restricted in strict conformance with Cresskill’s Affordable Housing Ordinance, all applicable state statutes and regulations, including but not limited to, the Fair Housing Act and its amendments, NJ HFMA, and all requirements contained within the Uniform Housing Affordability Controls (“UHAC”) as these documents may be amended, revised and supplemented so that no less than 13% of all rental affordable housing units are to be available and affordable to very low-income households earning 30% of median income or less.

§275-40.3. C Performance standards.

All uses are subject to performance standards as set forth in Article XIV. Applicants may develop properties in the DAHO-II zone either in accordance with this affordable housing overlay zone or in accordance with the underlying zone affecting the site which will remain in effect unaltered by adoption of this overlay zone.

§275-40.3. D Site development plan approval.

Site development plan approval, in accordance with Chapter 218, Site Development Plan, shall be required prior to the issuance of construction permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy.

§275-40.3. E. The following area and bulk standards are applicable in the DAHO-II zone:

<p>A. Regulations</p> <p>Lot area</p> <p>Lot frontage</p> <p>Lot depth</p> <p>Minimum required</p> <p style="padding-left: 20px;">Front Yards</p> <p style="padding-left: 20px;">Side Yards, each</p> <p style="padding-left: 20px;">Rear Yard</p> <p style="padding-left: 20px;">Parking</p> <p>Maximum Permitted Building Height</p> <p style="padding-left: 20px;">Stories</p> <p style="padding-left: 20px;">Feet</p> <p>Building Coverage (%)</p>	<p>Inclusionary Developments</p> <p>22,000 square feet</p> <p>125 feet</p> <p>100 feet</p> <p>18 feet</p> <p>6 feet</p> <p>20 feet</p> <p>Not permitted in req. front yard, three (3) foot buffers from all other lot lines required.</p> <p>3 stories</p> <p>41</p> <p>45</p>
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B. Additional Regulations Applicable to the DAHO-II Zone.

1. In recognition of the requirement to minimize or remove unnecessary development cost-generating requirements, the following minimum parking standards are applicable to residential development, but only in the DAHO-II zone.

Dwelling Unit	Must achieve RSIS compliance based upon number of bedrooms per unit.
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2. All developments constructed within the DAHO-II zone shall be structured so that no less than twenty-five (25) percent of the entire development is comprised of deed-restricted credit-worthy family rental affordable housing dwellings. No less than fifty (50) percent of all credit-worthy units shall be affordable to low-income households, with 13% of all rental affordable units available to very low-income family households. The balance can be affordable to moderate-income households.

3. Affordable housing in the DAHO-II zone shall be structured so no more than twenty (20) percent of the units are studio or one-bedroom units and no fewer than twenty (20) percent are three-bedroom units. At least 30% of the dwelling units must be two-bedroom units. Bedroom count for the remainder of the affordable units is at the discretion of the developer.
4. Density for the DAHO-II zone shall be no greater than fifteen (15) units per acre.
5. All affordable dwelling units shall be constructed, maintained and priced in compliance with applicable requirements state requirements such as New Jersey HMFA, UHAC and the Compliance Certificate in the matter of the Borough of Cresskill, County of Bergen Docket No. L-400-25 before certificates of occupancy will be issued. The developer shall include all facilities required by law which are necessary to be maintained. Furthermore, all such developments shall conform to Article XXIX, Special Mount Laurel Requirements of the Borough of Cresskill Municipal Code.
6. Deed-restricted control periods, consistent with UHAC regulations, shall be a minimum of fifty (50) years in length and Cresskill retains all its rights and obligations to extend such deed restrictions after fifty (50) years. Such provisions shall be explicitly included in each restriction.

Section V: The Zoning Map of the Borough of Cresskill is and shall be amended to depict and reflect Block 27 Lots 69.01 and 70 are in the DAHO-II zone.

Section VI:

All ordinances of the Borough of Cresskill which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section VII:

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

Section VIII:

This ordinance shall take effect upon final passage, approval and publication as provided by law.



Certified copy
adopted by the
Mayor & Council
Borough of Cresskill
on 3.4.26
Francesca [Signature]
Borough Clerk

Appendix 7: Ordinance No. 26-33-1689 Downtown Affordable Housing Overlay III Zone

BOROUGH OF CRESSKILL

ORDINANCE NO. 26-33-1689

AN ORDINANCE TO CREATE THE DOWNTOWN AFFORDABLE HOUSING OVERLAY III
ZONE APPLICABLE TO BLOCK ALL OF BLOCK 74 AND 80 AND TO AMEND THE
ZONING MAP OF THE
BOROUGH OF CRESSKILL,
BERGEN COUNTY, NJ

BE IT ORDAINED by the Mayor and Council of the Borough of Cresskill in the County of Bergen and State of New Jersey, as follows:

Section 1:

Cresskill is a municipality that has fully participated in the procedures and policies of the Affordable Housing Dispute Resolution Program (“Program”) created pursuant to the Fair Housing Act amendments of 2024. As a result of this participation, the assigned Program Judge, the Honorable Ronald Bookbinder, J.S.C. retired, has recommended Cresskill receive a compliance certificate protecting Cresskill from exclusionary zoning litigation for the balance of the current housing cycle which will continue until June 30, 2035.

Cresskill was assigned an affordable housing new construction obligation of 155 affordable housing units to be constructed between now and June 30, 2035. The assignment of this affordable housing new construction obligation was from and by the Department of Community Affairs (“DCA”) After completing a thorough review of its land resources, Cresskill was convinced it lacked the land resources to generate this number of affordable housing units within 10 years. To demonstrate the lack of land resources, Cresskill prepared a Vacant Land Assessment (“VLA”) in accordance with all applicable rules. Based on the VLA, Cresskill determined its Realistic Development Potential (“RDP”) is zero (0). This determination was ratified by all Program participants, including the Fair Share Housing Center (“FSHC”) and most importantly, Judge Bookbinder.

As a municipality relying on a reduced RDP, Cresskill is required to address at least 25 percent of the prospective need obligation that has been reduced and adopt realistic zoning that allows for the construction of such adjusted obligation. 25 percent of the DCA assigned prospective need obligation of 155 affordable housing units is 39 units of Unmet Need affordable housing.

Section 2:

Cresskill is constitutionally obligated to provide a reasonable opportunity to comply with its affordable housing obligation. Creating an overlay zone and applying said overlay to the entirety of Block 74 and 80 creates a reasonable opportunity for the construction of affordable housing on said parcels.

Section 3

Article III. §275-4. Zones established is hereby revised to include:
Downtown Affordable Housing Overlay III Zone

Section 4:

Article X. is hereby amended by the inclusion of the following sections and subsections.

§275-40.4. A. DOWNTOWN AFFORDABLE HOUSING OVERLAY III ZONE (DAHO-III)**§275-40.4. B. Permitted Uses.**

No building or premises shall be used and no building or part of a building shall be erected which is arranged, intended or designed to be used, in whole or in part, for any purpose, except the following. Such approval shall also be required for the erection or enlargement of all related accessory

structures and prior to issuance of certificates of occupancy for a change of use. Permitted uses are as follows:

- A. Residential market rate and family rental affordable dwelling units specifically including multi-family buildings at the density, height and bulk prescribed below. Affordable housing units shall be constructed, marketed and deed restricted in strict conformance with Cresskill’s Affordable Housing Ordinance, all applicable state statutes and regulations, including but not limited to, the Fair Housing Act and its amendments, NJ HFMA, and all requirements contained within the Uniform Housing Affordability Controls (“UHAC”) as these documents may be amended, revised and supplemented so that no less than 13% of all rental affordable housing units are to be available and affordable to very low-income households earning 30% of median income or less.

§275-40.4. C. Performance standards.

All uses are subject to performance standards as set forth in Article XIV. Applicants may develop properties in the DAHO-III zone either in accordance with this affordable housing overlay zone or in accordance with the underlying zone affecting the site which will remain in effect unaltered by adoption of this overlay zone.

§275-40.4. D. Site development plan approval.

Site development plan approval, in accordance with Chapter 218, Site Development Plan, shall be required prior to the issuance of construction permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy.

§275-40.4 E. The following area and bulk standards are applicable in the DAHO-III zone:

A. Regulations	Inclusionary Developments
Lot area	7,5000 square feet
Lot frontage	30 feet
Lot depth	100 feet
Minimum required	
Front Yards	5 feet
Side Yards, each	6 feet
Rear Yard	10 feet
Parking	Not permitted in req. front yard.
Maximum Permitted Building Height	
Stories	3 stories
Feet	41
Building Coverage (%)	60

B. Additional Regulations

- (1) In recognition of the requirement to minimize or remove unnecessary development cost-generating requirements, the following minimum parking standards are applicable to residential development, but only in the DAHOI-III zone.

Dwelling Unit, per # of bedrooms	1.25 parking space per dwelling unit with parking spaces being either on-site or within 300 feet of the extreme boundaries of the site.
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- (2) All mixed-use or residential developments constructed within the DAHO-III zone shall be structured so that no less than twenty-five (25) percent of the entire development is comprised of deed-restricted credit-worthy family rental affordable housing dwellings. No less than fifty (50) percent of all credit-worthy units shall be affordable to low-income households, with 13% of all affordable units available to very low-income family households. The balance can be affordable to moderate-income households.

- (3) Affordable housing in the DAHO-III zone shall be structured so no more than twenty (20) percent of the units are studio or one-bedroom units and no fewer than twenty (20) percent are three-bedroom units. At least 30% of the dwelling units must be two-bedroom units. Bedroom count for the remainder of the affordable units is at the discretion of the developer.
- (4) Density for the DAHO-III zone shall be no greater than eighteen (18) units per acre.
- (5) All affordable dwelling units shall be constructed, maintained and priced in compliance with applicable requirements state requirements such as New Jersey HMFA, UHAC and the Compliance Certificate in the matter of the Borough of Cresskill, County of Bergen Docket No. L-400-25 before certificates of occupancy will be issued. The developer shall include all facilities required by law which are necessary to be maintained. Furthermore, all such developments shall conform to Article XXIX, Special Mount Laurel Requirements of the Borough of Cresskill Municipal Code.
- (6) Deed-restricted control periods for all affordable units shall, consistent with UHAC regulations, be a minimum of fifty (50) years in length and Cresskill retains all its rights and obligations to extend such deed restrictions after fifty (50) years. Such provisions shall be explicitly included in each restriction.

Section 5: The Zoning Map of the Borough of Cresskill is and shall be amended to depict and reflect Blocks 74 and 80 are in the DAHO-III zone.

Section 6:

All ordinances of the Borough of Cresskill which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 7:

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

Section 8:

This ordinance shall take effect upon final passage, approval and publication as provided by law.



Certified copy
adopted by the
Mayor & Council
Borough of Cresskill
on 3.4.26
Maiese
Borough Clerk

Appendix 8: Ordinance No. 26-35-1691 Affordable Housing Ordinance

BOROUGH OF CRESSKILL
ORDINANCE NO. 26-35-1691

BOROUGH OF CRESSKILL FOURTH ROUND AFFORDABLE HOUSING
ORDINANCE

A. Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in the Borough of Cresskill consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act ("FHA") at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services ("LPS") at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing ("COAH") at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls ("UHAC") at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan ("HEFSP").
2. This Ordinance is intended to ensure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The Cresskill Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways Cresskill will address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. Applicability
 - a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality's most recently adopted HEFSP.
 - b. This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
 - c. Projects receiving federal Low Income Housing Tax Credit financing and are proposed for credit shall comply with the low/moderate split and bedroom distribution requirements, maximum initial rents and sales prices requirements, affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

B. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Commissioner" means the Commissioner of the Department of Community Affairs.

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

certification" shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c. 222 (C.52:27D-313).

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

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

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

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

"Department" means the New Jersey Department of Community Affairs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Non-residential development" means:

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

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

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

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

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

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

"Prospective need" means a projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L.2024, c. 2 (C.52:27D-304.2 and C.52:27D-304.3) for the fourth round and all future rounds of housing obligations.

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

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

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

"Prior round unit" means a housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2

(N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Supportive housing household" means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or

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

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

"Supportive housing unit" means a restricted rental unit that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. A supportive housing unit is intended to provide long-term, community-based housing for individuals with intellectual or developmental disabilities, as defined at N.J.S.A. 30:6D-25(b). Such units must be leased subject to the affordability controls established herein; remain subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) and the project's Affirmative Marketing Program. A supportive housing unit may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services. Supportive housing units are also referred to as permanent supportive housing units.

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

"Treasurer" means the Treasurer of the State of New Jersey.

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

"UHORP" means the Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

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

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

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

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

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

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

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

C. Monitoring and Reporting Requirements

1. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:

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

D. Municipality-wide Mandatory Set-Aside

- 1. A development, other than single-family detached, providing a minimum of five new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six units per acre, is required to include an affordable housing set-aside of 25%.
- 2. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
- 3. All such affordable units shall be governed by this ordinance with the controls on affordability, including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.
- 4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.
- 5. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.
- 6. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.
- 7. In the event that the inclusionary set-aside of 25% of the total number of residential units does not result in a full integer, the developer shall choose one of two options for addressing the fractional unit:
 - a. The developer may round the set-aside upward to construct a whole additional affordable unit; or
 - b. If the set-aside includes a fractional unit equal to 0.49 or less, the developer may round the set-aside downward and construct the lesser whole number of affordable units and shall also contribute the fractional subsidy payment ("fractional subsidy payment") to be made to the municipality and deposited in the municipal Affordable Housing Trust Fund. The fractional subsidy payment amount shall be calculated as the fractional unit multiplied by the base subsidy payment amount currently established by the municipality as the average subsidy reflected in financial pro formas for 100% affordable housing or subsidized developments in the municipality or region on file with the municipality. For example, if seven total units are developed at an inclusionary site, a 25% set-aside would require 1.75 affordable units. Per the requirements above:

The developer shall round up the 0.75unit to one whole affordable unit so as to construct a total of two (2) affordable housing units.

E New Construction (per N.J.A.C. 5:93 as may be updated per various sections in N.J.A.C. 5:97 and N.J.S.A. 52:27D-301 et seq.). Per the definition of "New Construction," this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

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

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

50	50
75	75
90	100

3. Design. The following design requirements apply to affordable housing developments, excluding prior round units.
- a. Design of 100 percent affordable developments:
 - i. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
 - ii. Each bedroom in each restricted unit must have at least one window.
 - iii. Restricted units must include adequate air conditioning and heating.
 - b. Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.
 - i. Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - ii. Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations.
 - iii. Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iv. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - v. Restricted units must include adequate air conditioning and heating and must use the same type of cooling and heating sources as market-rate units of the same unit type. This shall apply to prior round units.
 - vi. Each bedroom in each restricted unit must have at least one window.
 - vii. Restricted units must be of the same unit type as market-rate units within the same building.
 - viii. Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
 - c. Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted sale units shall comply with the requirements listed below:
 - i. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.
 - iv. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

- v. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
 - vi. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - vii. Each bedroom in each restricted unit must have at least one window; and
 - viii. Restricted units must include adequate air conditioning and heating.
4. Utilities.
- a. Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
 - b. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.AC 5:80-26.13(e).
5. Low/moderate split and bedroom distribution.
- a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 - b. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units.
 - c. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
 - d. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
 - i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down of the total number of low- and moderate-income units. Cresskill has chosen to not allow rounding.
 - iv. At least 30% of all low-and moderate-income units, shall be two-bedroom units.
 - v. At least 20% of all low-and moderate-income units, rounded up
 - vi. The remaining units may be allocated among two-and three-bedroom units at the discretion of the developer.
 - e. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.
6. Accessibility requirements.
- a. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.
 - b. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multi-floor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;

- iii. An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
- iv. An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
- v. If not all of the foregoing requirements in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
- vi. An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - (a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (b) To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
 - (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.
- vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site-impracticable" to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

F. Affordable Housing Programs

1. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, "All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions." The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.
2. Rehabilitation Programs (per N.J.A.C. 5:93-5.2 with updated provisions herein per N.J.A.C. 5:97-6.2 related to credit towards a municipal present need obligation)
 - a. The rehabilitation program shall be designed to renovate deficient housing units occupied or intended to be occupied by very low-, low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28-1.1 et seq or the Rehabilitation Subcode, N.J.A.C. 5:23-6 to the extent applicable.
 - b. Both ownership and rental units shall be eligible for rehabilitation funds.
 - c. All rehabilitated units shall remain affordable to very low-, low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period shall be enforced with a mortgage and note and for renter-occupied units the control period will be enforced with a deed restriction.
 - d. The municipality shall dedicate a minimum average hard cost of \$10,000 for each unit to be rehabilitated through this program and in addition shall dedicate associated rehabilitation program soft costs such as case management, inspection fees and work write-ups.
 - e. The municipality shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with P.L. 2024, Chapter 2. The Administrative Agent(s) shall provide rehabilitation manuals for ownership and rental rehabilitation programs. Manuals shall be adopted by resolution of the governing body. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and on the municipal affordable housing web page.
 - f. Households determined to be very low-, low-, or moderate-income may participate in a rehabilitation program. Rehabilitated units shall be exempt from the very low-income

requirements, low/mod split, and bedroom distribution requirements of UHAC, but shall be administered in accordance with the following:

- i. If a unit is vacant at the time of rehabilitation, or if a rehabilitated unit becomes vacant and is re-rented before the expiration of the affordability controls, the deed restriction shall require that the unit be rented to a low- or moderate-income household at an affordable rent.
 - ii. If a rental unit is occupied by a tenant at the time rehabilitation is completed, the rent charged after rehabilitation shall not exceed the lesser of the tenant's current rent or the maximum rent permitted under UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in UHAC.
 - iv. At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.
3. Accessory Apartment program (per N.J.A.C. 5:93-5.9 as may be updated per various sections in N.J.A.C. 5:97-6.8).
 - a. An accessory apartment program shall provide low- and moderate-income units or may be limited to only low- or only moderate-income units .
 - b. Per N.J.A.C. 5:97-6.8(c)1, at the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to income eligible households consistent with the income category and rent structure of the unit.
 - c. Rents of accessory apartments shall be established using the same methodology of affordable rental units discussed herein. Rents of accessory apartments shall be established for low-income units to be affordable to households earning no more 44 percent of median income .Rents of accessory apartments shall be established for moderate-income units to be affordable to households earning no more 60 percent of median income.
 - d. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental for the duration of the control period.
 - e. The municipal accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
 - f. Per N.J.A.C. 5:97-6.8(b)2, the municipality shall provide a minimum of \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
 4. Market to Affordable program (per N.J.A.C. 5:97-6.9).
 - a. The market to affordable program permits the purchase or subsidization of unrestricted units through a mortgage write-down provided to an income-certified buyer or through a sale or rental as a low- or moderate-income unit to an income-eligible household. The market to affordable program may produce both low-and moderate-income units, with no less than half of all such units be affordable to low-income households.
 - b. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
 - c. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 - d. A minimum subsidy of \$25,000 per moderate-income unit and/or \$30,000 per low-income unit shall be provided, with additional subsidy depending on the market prices or rents in a municipality.
 - e. The units shall comply with UHAC with the following exceptions:
 - i. Bedroom distribution (N.J.A.C. 5:80-26.4).
 - ii. Low/moderate income split (N.J.A.C. 5:80-26.4).
 - f. Affordability average (N.J.A.C. 5:80-26.4); however:
 - i. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
 - ii. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.
 5. Extension of Controls Program (for ownership units per N.J.A.C. 5:97-6.14 and UHAC at N.J.A.C. 5:80-26.6(h) through (k) and (m); and for rental units per N.J.A.C. 5:97-6.14 and N.J.A.C. 5:80-26.12(h) through (k)).
 - a. An extension of affordability controls program is established to maintain and extend the affordability of deed restricted units scheduled to come out of their affordability control period, subject to N.J.A.C. 5:97-6.14 and UHAC, including the following:

- i. The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits set forth in N.J.A.C. 5:97.
 - ii. The affordability controls for the unit are scheduled to expire in the current round; or in the next round of housing obligations if the municipal election to extend controls is made no earlier than one year before the end of the current round;
 - iii. The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.
 - iv. If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.
 - v. The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100% affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.
6. Assisted Living Residence (per N.J.A.C. 5:97-6.11).
- a. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.
 - b. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
 - c. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
 - d. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
 - e. Low- and moderate-income residents cannot be charged any upfront fees.
 - f. The units shall comply with UHAC with the following exceptions:
 - i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
 - ii. The deed restriction may be on the facility, rather than individual apartments or rooms;
 - iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
 - g. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.
7. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
- a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - i. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - ii. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - iii. Occupancy shall not be restricted to youth under 18 years of age.
 - iv. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.
 - v. The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
 - vi. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification

by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.

- vii. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.
- viii. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
 - (a) An Affirmative Marketing Plan in accordance with D1 above; and
 - (b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.
- ix. The sponsor/owner shall complete annual monitoring as directed by the MHL.

G. Regional Income Limits.

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

H. Maximum Initial Rents And Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
2. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
3. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income. The maximum rent may be increased to no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units; however, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent (rounded up) of the restricted units.
4. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.
5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
6. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
7. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and

- e. A four-bedroom unit shall be affordable to a six-person household.
8. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.
9. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
10. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.
11. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." Rent increases for units constructed pursuant to Low-Income Housing Tax Credit regulations shall be indexed pursuant to the regulations governing Low-Income Housing Tax Credits.

Affirmative Marketing.

1. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 1 and is required to be followed throughout the period of deed restriction.
3. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
 - a. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 - b. There shall be a regional preference for all households that live and/or work in Housing Region 1.
 - c. Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
 - d. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing

of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.

5. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.
6. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
7. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.
8. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
9. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
10. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.

J Selection of Occupants of Affordable Housing Units.

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

K Occupancy Standards.

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

L Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

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

determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

8. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
9. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to price-restricted ownership units.

M. Price Restrictions for Restricted Ownership Units and Resale Prices.

1. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, including:
 - a. The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.
 - b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C. 5:80-26.7.
 - i. If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.
 - ii. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3
 - c. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be:
 - i. those that render the unit suitable for a larger household or the addition of a bathroom.
 - ii. The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d);
 - d. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase but shall be separate and apart from any contract of sale for the underlying real estate. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price of the air conditioning equipment, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The seller and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

N. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household

shall retain the required pricing and pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;
 - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments

O Limitations on Indebtedness Secured by Ownership Unit; Subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
2. With the exception of original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.7(c).

P. Control Periods for Restricted Rental Units.

1. Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.
2. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
3. The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.
4. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.
5. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
6. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.

7. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - a. Sublease or assignment of the lease of the unit;
 - b. Sale or other voluntary transfer of the ownership of the unit;
 - c. The entry and enforcement of any judgment of foreclosure on the property containing the unit, or
 - d. The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

Q. Rent Restrictions for Rental Units; Leases and Fees.

1. The initial rent for a restricted rental unit shall be set by the Administrative Agent.
2. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be retained on file by the Administrative Agent.
3. No additional fees, operating costs, or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
 - a. Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.
4. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
5. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.
6. Pet fees may not exceed \$30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
7. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
8. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

R. Tenant Income Eligibility.

1. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
 - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

- e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of any of the circumstances in 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.
- S. Municipal Housing Liaison.
1. The Municipal Housing Liaison shall be approved by municipal resolution.
 2. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in N.J.A.C. 5:99-1 et seq.
 3. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:
 - a. Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.
 - b. The oversight of the Affirmative Marketing Plan and affordability controls.
 - c. When applicable, overseeing and monitoring any contracting Administrative Agent.
 - d. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
 - e. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
 - f. Coordinating meetings with affordable housing providers and administrative agents, as needed.
 - g. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.
 - h. Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.
 - i. Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.
 - j. Listing on the municipal website contact information for the MHL and Administrative Agents.
- T. Administrative Agent.
1. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
 2. The fees for administrative agents shall be paid as follows:
 - a. Administrative agent fees related to rental units shall be paid by the developer/owner.
 - b. Administrative agent fees related to initial sale of units shall be paid by the developer.
 - c. Administrative agent fees related to resales shall be paid by the seller of the affordable home.
 - d. Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.
 3. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
 4. Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
 - a. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
 - b. Affirmative marketing:
 - i. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
 - ii. Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.
 - c. Household certification.

- i. Soliciting, scheduling, conducting and following up on interviews with interested households.
 - ii. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
 - iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - v. Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
 - vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
- d. Affordability controls.
- i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
 - ii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.
 - iii. Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
 - iv. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
- e. Records retention.
- i. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
 - ii. Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
- f. Resales and re-rentals.
- i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
 - ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
- g. Processing requests from unit owners.
- i. Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this ordinance.
 - ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems.
 - iii. Notifying the municipality of an owner's intent to sell a restricted unit.
 - iv. Making determinations on requests by owners of restricted units for hardship waivers.
- h. Enforcement.
- i. Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - iii. Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
 - iv. Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and

- v. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.
 - i. The Administrative Agent(s) shall, as delegated by the municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.
- U. Responsibilities of The Owner of a development containing affordable units.
 1. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
 - a. Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - b. The total number of units in the project and the number of affordable units.
 - c. The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - d. Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
 - e. A projected construction schedule.
 - f. The location of any common areas and elevators.
 - g. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.
 2. In addition to A above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
 - a. Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
 - b. Provide to the administrative agent a description of any applicable fees.
 - c. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
 - d. Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
 - e. Provide to the administrative agent a proposed form of lease for any rental units.
 - f. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
 - g. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
 3. In addition to A, above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
 - a. Proposed pricing for all units, including any purchaser options and add-on items.
 - b. Condominium or homeowner association fees and any other applicable fees.
 - c. Estimated real property taxes.
 - d. Sewer, water, trash disposal, and any other utility assessments.
 - e. Flood insurance requirement, if applicable.
 - f. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.
- V. Enforcement of Affordable Housing Regulations
 1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than \$1,000 or imprisonment for a period not to exceed 30 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.
4. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - a. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
 - b. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
 - c. Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
 - d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.
 - e. Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase

being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.

- f. The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.
5. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.
6. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
7. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.
8. Appeals
 - a. Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

W. Development Fees.

1. Purpose
 - a. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.
2. Basic Requirements
 - a. The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund
 - b. The municipality shall not spend development fees until the court has approved a plan for spending such fees.
3. Residential Development Fees
 - a. Imposed fees
 - i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
 - ii. When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6.0% the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two

additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

- b. Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
 - ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
 - iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
 - iv. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.
4. Non-Residential Development Fees
 - a. Imposition of fees
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
 - b. Eligible exactions, ineligible exactions and exemptions for non-residential development
 - i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
 - ii. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
 - d. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - e. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.
5. Collection Procedures
 - a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption," to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
 - c. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
 - d. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
 - e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
 - f. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
 - g. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
 - h. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.
- 6 Appeal of development fees
- a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - b. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- 7 Affordable Housing Trust Fund
- a. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
 - b. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 - ii. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - iii. Rental income from municipally operated units;
 - iv. Repayments from affordable housing program loans;
 - v. Recapture funds;
 - vi. Proceeds from the sale of affordable units; and
 - vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
 - c. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.

- d. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
 - i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 - ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
 - iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 - iv. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 - v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 - vi. Revocation of compliance certification or a judgment of compliance and repose;
 - vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
 - viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
 - e. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.
8. Use of Funds
- a. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.
 - b. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees
 - c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - ii. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
 - d. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.
9. Monitoring
- a. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024

statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

10. Ongoing Collection of Fees

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

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

Repealer

All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Severability

If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

Effective Date

This ordinance shall take effect upon its passage and publication, as required by law

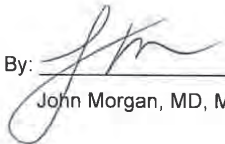


ATTEST:

BOROUGH OF CRESSKILL
COUNTY OF BERGEN
STATE OF NEW JERSEY



 Francesca Maragliano, Borough Clerk

By: 

 John Morgan, MD, Mayor

Appendix 9: Resolutions Endorsing HE&FSP, Affirmative Marketing Plan & Municipal Housing Liaison

BOROUGH OF CRESSKILL

RESOLUTION

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF CRESSKILL ENDORSING AN AMENDMENT TO THE HOUSING ELEMENT AND FAIR SHARE PLAN ADOPTED BY THE PLANNING BOARD ON MARCH 3, 2026

WHEREAS, on January 17, 2025, the Borough of Cresskill (“Borough” or “Cresskill”) filed a Declaratory Judgment Action pursuant to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.as amended (“FHA II”); and

WHEREAS, on May 16, 2025, the Superior Court entered an Order setting the Borough’s Fourth Round Present Need obligation at 0 and its Round 4 Prospective Need obligation at 155 and directing the Borough to file its Housing Element and Fair Share Plan (“HEFSP”) no later than June 30, 2025; and

WHEREAS, on May 13, 2025, the Borough filed a HEFSP duly adopted by the Planning Board and sought approval of same; and

WHEREAS, before June 30, 2025, the Borough endorsed the HEFSP previously adopted by the Planning Board; and

WHEREAS, prior to August 31, 2025, Fair Share Housing Center (“FSHC”) wrote a letter challenging the Borough’s plan pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b); and

WHEREAS, the Borough and FSHC participated in mediation sessions before the Program, an entity created by FHA II, and negotiated a Mediation Agreement, dated December 13, 2025 resolving all issues raised by FSHC’s challenge; and

WHEREAS, to implement the Mediation Agreement, certain changes need to be made to the Borough’s HEFSP; and

WHEREAS, accordingly, the Borough’s professionals have prepared an amendment to the HEFSP the Borough endorsed and filed with the Program in June of 2025; and

WHEREAS, that Amendment is attached hereto as Exhibit A; and

WHEREAS, on March 3, 2026, the Cresskill Borough Planning Board adopted the Amendment; and

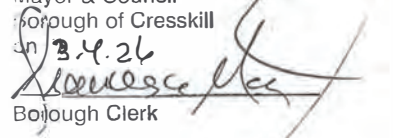
WHEREAS, after considering the comments of the public, the Borough of Cresskill finds the Amendment to be in the best interest of the Borough;

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

1. The Borough of Cresskill hereby endorses the Amendment to the Housing Element and Fair Share Plan adopted by the Planning Board on March 3, 2026.
2. The Borough hereby authorizes the Borough’s professionals to make any non-substantive or *de minimis* revisions or clarifications as may be reasonably required to effectuate the intent of this Resolution and to facilitate review and approval of the Housing Element and Fair Share Plan as amended.
3. The Borough’s professionals are hereby authorized to file such supplementary material as they deem appropriate to secure approval of the HEFSP as amended.
4. This Resolution shall take effect immediately upon adoption.

March 4, 2026



Certified copy
 adopted by the
 Mayor & Council
 Borough of Cresskill
 on 3.4.26

 Borough Clerk

BOROUGH OF CRESSKILL

RESOLUTIONRESOLUTION OF THE COMMITTEE/COUNCIL OF THE BOROUGH OF
CRESSKILL ADOPTING AN "AFFIRMATIVE MARKETING PLAN"
FOR THE BOROUGH OF CRESSKILL

WHEREAS, in accordance with P.L. 2024, Chapter 2 and the New Jersey Uniform Housing Affordability Controls ("UHAC")(N.J.A.C. 5:80-26.1 *et seq.*), the Borough of Cresskill is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created are affirmatively marketed to very low-, low- and moderate-income households, particularly those living and/or working within Housing Region 1, the Housing Region encompassing the Borough of Cresskill.

NOW, THEREFORE, BE IT RESOLVED, that Mayor and Council of the Borough of Cresskill, County of Bergen, State of New Jersey, does hereby adopt the following Affirmative Marketing Plan:

Affirmative Marketing Plan

- A. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Borough of Cresskill is located in Housing Region 1, consisting of Bergen, Hudson, Passaic and Sussex Counties.
- B. The Borough of Cresskill has a plan to address both its Prior Round Obligation (1987-2025) and its Fourth Round Obligation (2025-2035). This Affirmative Marketing Plan shall apply to all developments that contain or will contain very low-, low- and moderate-income units, including those that are part of the municipality's Housing Element and Fair Share Plan, and those that may be constructed in future developments not yet anticipated by the Housing Element and Fair Share Plan.
- C. The Affirmative Marketing Plan shall be implemented by the Administrative Agent under contract to the Borough of Cresskill, or the Administrative Agent of any specific developer approved by the municipality.
- D. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developers/sellers/owners of affordable unit(s), and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Administrative Agent.
- E. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days prior to expected occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very low-, low- and moderate-income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.

- F. The Affirmative Marketing Plan is a continuing program that shall be followed throughout the entire period of affordability restrictions. In implementing the Affirmative Marketing Plan, the Administrative Agent, whether acting on behalf of the Borough of Cresskill or on behalf of a specific developer, shall meet the following requirements at a minimum:
1. The primary marketing and advertising must be employed at the start of the marketing program and continue until all units are leased or sold or until the number of applications received is at least three times the number of units. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.
 2. The advertisements shall, at a minimum, include:
 - a. The name and location of the housing project;
 - b. An address sufficient to find directions to the housing units;
 - c. A range of prices or rents for the affordable housing units;
 - d. The sizes, as measured in number of bedrooms of the affordable housing units;
 - e. The types (that is, family, age-restricted, or supportive) and number of affordable units available;
 - f. The number of units available to very low-, low-, and moderate-income households;
 - g. The accessibility features, if any, of the affordable housing units;
 - h. The maximum income permitted to qualify for the affordable housing units;
 - i. The population(s), if any, given preference in the selection process pursuant to N.J.A.C. 5:80-26.17(k)2;
 - j. Where applications (paper and online) for the affordable housing units may be found;
 - k. The expected lease-up/closing date(s) for the affordable housing units;
 - l. The expected date of the random selection;
 - m. The business hours when interested households may obtain paper applications for the affordable housing units;
 - n. Contact information, including an email address and phone number that are regularly monitored by the administrative agent;
 - o. The name of the sales agent and/or rental manager; and
 - p. Application fees, if any.
 3. Affirmative fair marketing of affordable units must be completed in accordance with the requirements set forth in UHAC at N.J.A.C. 5:80-26.16 in all media and outlets required by the rules. All newspaper articles, announcements, advertisements and requests for applications for very low-, low- and moderate-income units shall appear in the Bergen Record and Star Ledger once a week for four consecutive weeks. Additional advertising and publicity shall be on an "as needed" basis. Additionally, newspaper articles, announcements and information on where to request applications for low- and moderate-income housing shall

appear at least one a week for four consecutive weeks in at last four locally oriented weekly newspapers within the region, one of which shall be circulated primarily in Bergen County and the other three of which shall be circulated primarily outside of Bergen County but within the housing region. Four or more regional cable television stations or regional radio stations shall be used during the first month of advertising.

1. Each affordable housing development must complete worksheet substantially in the form of the model affirmative marketing worksheet published by the state.
2. Affordable units must be listed on the New Jersey Housing Resource Center's website (www.njhrc.gov) in accordance with N.J.A.C. 5:80-26.16(f)1 at least 60 days before the random selection.
3. Applications, or notices thereof, used as part of the affirmative marketing program must be available in the following locations:
 - a. All county administration buildings in the Region
 - b. All county libraries in the Region
 - c. Cresskill Municipal Building
 - d. Cresskill Municipal Library
 - e. Developer's Sale/Rental Office (if applicable)
4. Notice of available housing units shall be sent to the following additional community and regional organizations:
 - Fair Share Housing Center
 - Bergen County Housing Coalition
 - New Jersey State Conference of the NAACP
 - Bergen Urban League
 - The Latino Action Network
8. The municipality's Administrative Agent, or the Administrative Agent of a specific developer, shall comply with all requirements set forth in N.J.S.A. 52:27D-321.3 et seq. with regard to the affirmative marketing of affordable housing units.
- G. The municipality's Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Bergen, Hudson, Passaic, and Sussex Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers.
- H. The municipality's Administrative Agent shall develop, maintain and update a list of major employers in Bergen, Hudson, Passaic, and Sussex Counties that will aid in the affirmative marketing program.
- I. A random selection method to select occupants of very low-, low- and moderate-income housing will be used by the municipality's Administrative Agent, or the Administrative Agent of any specific developer, in conformance with N.J.A.C. 5:80-26.16(d). This Affirmative Marketing Plan provides a state-wide and regional preference for very low-, low- and moderate-income households that live and/or work in Housing Region 1, which is comprised of Bergen, Hudson, Passaic and Sussex Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided

an agreement to this effect has been executed between the developer or landlord and the municipality prior to the affirmative marketing of the units.

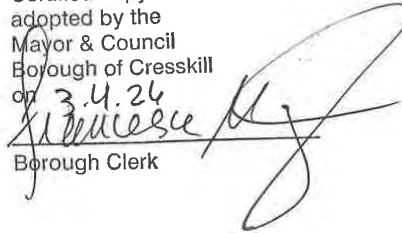
- J. All developers/owners of very low-, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the municipality's Administrative Agent. [OPTIONAL: If there is a different administrative fee structure for resales, it should be outlined here.]

BE IT FURTHER RESOLVED that the appropriate municipal officials and professionals are authorized to take all actions required to implement the terms of this Resolution.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

March 4, 2026

Certified copy
adopted by the
Mayor & Council
Borough of Cresskill
on 3.4.26
Borough Clerk



BOROUGH OF CRESSKILL

RESOLUTION

RESOLUTION APPOINTING A MUNICIPAL HOUSING LIAISON IN THE
BOROUGH OF CRESSKILL, COUNTY OF BERGEN, NEW JERSEY

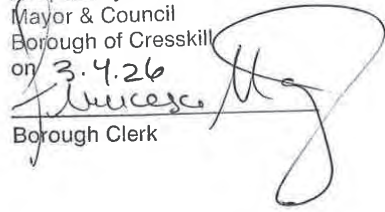
WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., the Borough of Cresskill is required to appoint a Municipal Housing Liaison for the administration of Cresskill's affordable housing program; and

WHEREAS, the Municipal Code of the Borough of Cresskill, §275-125.12, establishes the position of Municipal Housing Liaison for the Borough of Cresskill; and

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Cresskill in the County of Bergen, and the State of New Jersey that Borough Clerk Francesca Maragliano is hereby appointed by the Governing Body of the Borough of Cresskill as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Chapter 275 Section 125.12 of the Municipal Code.

March 4, 2026

Certified copy
adopted by the
Mayor & Council
Borough of Cresskill
on 3.4.26
Borough Clerk



Appendix 10: Affirmative Marketing Plan Worksheet

AFFIRMATIVE FAIR HOUSING MARKETING PLAN For Affordable Housing in (REGION 1)

I. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

Administrative Agent Name, Address, Phone Number CGP&H, LLC 1249 South River Road, Suite 301 Cranbury, NJ 08512 609-664-2769		Development or Program Name, Address 	
Number of:		Affordable Rental Units	Affordable For-Sale Units
Affordable Units Total			
Affordable Age Restricted Units			
Affordable Non-Age Restricted Units			
Affordable Supportive Housing Units			
Price or Rental Range	Approximate Starting Dates		
From:	Advertising:	Occupancy:	
To:			
Counties:	Preferences, if any: (veteran, regional, NJ)		
Bergen, Hudson, Passaic, Sussex	Veteran, Regional, NJ		
Accessibility Features, if any:			
Managing/Sales Agent's Name, Address, Phone Number			
Application Fees (if any):			

Attach a copy of the pricing calculator and a spreadsheet with information about all units, including number of bedrooms, income level, accessibility features, and square footage to this plan.

(Sections II through V should be consistent for all affordable housing developments and programs within the municipality and with the municipal Affordable Housing Ordinance. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

II. RANDOM SELECTION

<p>Describe the random selection process that will be used once applications are received.</p> <p>The Administrative Agent will assign random numbers to each applicant through a computerized random number generator.</p> <p>After the list of applications submitted during the initial lottery period is exhausted, the priority of preliminary applications is established by the date the household submitted their preliminary application (Interest Date).</p> <p>In addition to the random number assigned to the household and/or the interest date, there are other factors impacting waiting priority which are described below:</p>
--

- **Regional Preference:** Applicants that indicated that they lived or work in the Affordable Housing Region will be contacted first. Once those applicants are exhausted, applicants outside the region, but still within the state, will be contacted.
- **State Preference:** Subordinate to regional preference, applicants that indicated that they lived or work in the State of New Jersey will be contacted. Once those applicants are exhausted, applicants outside the state will be contacted.
- **Veterans Preference:** If there is an executed agreement between the developer or landlord and the Township, duly quailed veterans will also be given preference according to the terms of the agreement.
- **Household Size:** Whenever possible, there will be at least one person for each bedroom. If the waiting list is exhausted and there are no in or out of region or state households with a person for each bedroom size, units will be offered to smaller sized households that do not have a person for each bedroom. The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor. A household can be eligible for more than one unit category.

III. MARKETING

Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

- White (non-Hispanic)
 Black (non-Hispanic)
 Hispanic
 American Indian or Alaskan Native
 Asian or Pacific Islander
 Other group:

REQUIRED

5:80-26.16(g)1 requires you to advertise your project on the New Jersey Housing Resource Center for at least sixty days before conducting the random selection.

HOUSING RESOURCE CENTER (www.njhousing.gov) A free, online listing of affordable housing

Regional Newspapers

5:80-26.16(g)3 requires you to advertise your project in at least one regional newspaper (either online or in print). You may also select several papers with partial regional coverage, as long as all counties in the region are covered.

TARGETS ENTIRE HOUSING REGION 1				D-Digital or ND-Non-Digital
<input checked="" type="checkbox"/>	The Record	https://www.northjersey.com/	Bergen, Hudson, Passaic	
<input type="checkbox"/>	Herald News	https://www.njherald.com/	Passaic	
<input type="checkbox"/>	New Jersey Herald	https://www.njherald.com/	Sussex	

TARGETS PARTIAL HOUSING REGION 1

<input type="checkbox"/>	Bergen County Review	https://www.bergenreview.com/bergen-county-blog	Bergen	
<input type="checkbox"/>	Hudson County View	https://hudsoncountyview.com/	Northern Bergen	
<input type="checkbox"/>	Jersey City Times	https://jcitytimes.com/	Hudson	
<input type="checkbox"/>	The Observer	https://www.theobserver.com/	Hudson	
<input type="checkbox"/>	RLS Media	https://www.rlsmedia.com/	Passaic	
<input type="checkbox"/>	Township Journal	https://www.townshipjournal.com/	Hudson/Sussex	

Housing Search Websites – D – Digital

5:80-26.16(g)4 requires you to advertise your project on at least one housing search website in addition to the NJHRC. **“Housing search website”** means any publicly accessible internet-based platform used to advertise residential dwelling units to the general public, including but not limited to:

- *Online real estate sections of newspapers or news organizations;*
 - *Internet websites operated or maintained by a municipal AA or affordable housing service provider that advertise affordable units in one or more municipalities;*
 - *Commercial real estate listing platforms; and*
 - *Other comparable online platforms customarily used to market rental or ownership housing.*
- List below all housing search websites to be used:

ELECTIVES

If you selected a print newspaper(s) as your regional paper above, select TWO additional strategies below with AT LEAST ONE NON-DIGITAL MARKETING STRATEGY.

If you selected a digital newspaper(s) as your regional paper above, select AT LEAST TWO NON-DIGITAL MARKETING STRATEGIES below.

Specific Radio and Television Stations – ND – Non-Digital

5:80-26.16(e)1 lists specific radio stations, and television stations throughout the housing region as marketing opportunities. If choosing this option, make sure your proposed stations cover the entire region. You may add more if desired. List the selected publications below or attach a list from the Marketing Outreach Tool.

<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

AND Paid Targeted Digital Advertising (must be selected in addition to stations above) – D – Digital

5:80-26.16(e)1 offers paid targeted digital advertising as an option. Some common platforms are listed below.

<input type="checkbox"/>	Google Ads
<input type="checkbox"/>	Microsoft Ads
<input type="checkbox"/>	Bing Ads
<input type="checkbox"/>	Other (please list)

Specific Newspapers and Other Publications

5:80-26.16(e)2 lists “specific newspapers and other publications circulated within the housing region” as an option, including neighborhood-oriented weekly papers, religious publications, and organizational newsletters. If choosing this option, make sure your proposed publications cover the entire region. You may add more if desired. List the selected publications below or attach a list from the Marketing Outreach Tool.

		D-Digital or ND-Non-Digital
X	Star Ledger	D
<input type="checkbox"/>		
<input type="checkbox"/>		

<input type="checkbox"/>	
<input type="checkbox"/> Employers Throughout the Housing Region – ND – Non-Digital	
5:80-26-16(e)3 offers outreach to regional employers as an option. A comprehensive and regularly updated list of employers is available in the Marketing Outreach Tool. Please reach out to each listed employer in the region; you may add more if desired. If an employer no longer exists or has moved, please inform DCA.	
<input type="checkbox"/> Community Organizations Throughout the Housing Region – ND – Non-Digital	
5:80-26-16(e)4 offers community and regional organizations as an option, including nonprofit, religious, governmental, fraternal, civic, and other organizations. A comprehensive and regularly updated list of organizations is available in the Marketing Outreach Tool. Please reach out to each listed organization in the region. You may add more if desired. If an organization no longer exists or has moved, please inform DCA.	
<input type="checkbox"/> Municipal and County Websites – D – Digital	
5:80-26-16(e)5 offers municipal and county website advertising as an option. Insert the URL for the municipality. To ensure regional outreach, advertise in all county websites listed below.	
Municipality:	
https://www.hcnj.us/	
https://bergencountynj.gov/	
https://www.passaiccountynj.org/	
https://sussex.nj.us/	
<input type="checkbox"/> Social Media – D – Digital	
5:80-26.16(e)6 offers social media as an option. Some common platforms are listed below. You may place ads on these platforms or market for free on your own page.	
<input type="checkbox"/>	Facebook
<input type="checkbox"/>	TikTok
<input type="checkbox"/>	Instagram
<input type="checkbox"/>	Reddit
<input type="checkbox"/>	YouTube
<input type="checkbox"/>	Snapchat
<input type="checkbox"/>	Other (please list)
<input type="checkbox"/> Public Transit Stops – ND – Non-Digital	
A comprehensive and regularly updated list of NJ Transit stops is available at https://www.nj.gov/dca/hmfa/about/has/ , or in map form at njogis-newjersey.opendata.arcgis.com . Note that you must get permission from NJ Transit to post flyers.	
<input type="checkbox"/> Other Advertising Efforts to Groups Least Likely to be Reached	

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IV. SUMMARY

Non-Digital Outreach	Digital Outreach

V. APPLICATIONS

Applications for affordable housing or notices thereof, if offered online, for the above units will be available in all County Administration Buildings and Libraries for all counties in the housing region		
	BUILDING	LOCATION
<input type="checkbox"/>	Sussex County Administration Building	1 Spring Street, Newton, NJ 07860 (973)579-0200
<input type="checkbox"/>	Sussex County Main Library	125 Morris Turnpike, Newton, NJ 07860 (973)948-3660
<input type="checkbox"/>	Hudson County Administration Building	595 Newark Avenue, Jersey City, NJ 07306 (201) 795-6000
<input type="checkbox"/>	Passaic County Administration Building	401 Grand Street, Paterson, NJ 07505 (973) 225-3632
<input type="checkbox"/>	Passaic County Library	195 Gregory Avenue, Passaic, NJ 07055 (973) 779-0474
<input type="checkbox"/>	Bergen County Administration Building	One Bergen County Plaza, Hackensack, NJ 07601 (201)336-6000
<input type="checkbox"/>	Bergen County	21-00 Route 208 South, Suite 130, Fair Lawn, NJ 07410 bccls@bccls.org
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)		
Cresskill Municipal Building Address: 67 Union Ave, Cresskill, NJ 07626 Contact Person: Current Municipal Housing Liaison		
Cresskill Public Library Address: 53 Union Ave, Cresskill, NJ 07626 Contact Person: Current Head Librarian/Director		
4c. Sales/Rental Office for units (if applicable)		

V. CERTIFICATIONS AND ENDORSEMENTS

<p>I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality’s substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI/CHOICE funding).</p> <p><u>Melissa Langer</u> Name (Type or Print)</p> <p><u>Affordable Housing Manager</u> Title/Municipality</p>
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<i>Melissa Langer</i> Signature	03/04/2026 Date
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Appendix 11: Fourth Round Spending Plan

#1

BOROUGH OF CRESSKILL**RESOLUTION****SPENDING PLAN****INTRODUCTION**

The Borough of Cresskill, Bergen County has prepared a Housing Element and Fair Share Plan in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act, as amended in 2024, (N.J.S.A. 52:27D-301) and the affordable housing regulations of the New Jersey Department of Community Affairs (the Department) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by the Department on July 9, 1997. This ordinance was amended by Cresskill on September 5, 2018 through the adoption of Ordinance 18-16-1528. This ordinance regulates the collection of and establishes restrictions on the expenditure of funds from the affordable housing development trust fund in accordance with regulations established by New Jersey.

This 2026 Spending Plan is designed to ensure all collection of funds for, and all future expenditure from the Cresskill Affordable Housing Trust Fund is pursuant to standards adopted by the State of New Jersey. This Spending Plan is intended to supplement Cresskill's adopted Fourth Round Housing Element and Fair Share Plan adopted by the Planning Board and endorsed by the Governing Body in June 2025 and then revised following mediation lead by the Affordable Housing Dispute Program.

1. REVENUES FOR CERTIFICATION PERIOD

As of September 30, 2025, the Borough of Cresskill maintained a balance of \$1,215,400 from its development fee ordinance, development fees, interest earned and other income into the borough's affordable housing trust fund. At the end of 2021, the trust fund held \$2,701,179 in its account. Funds were withdrawn to partner with the Bergen County United Way in the construction of a nine (9) unit building for developmentally disabled adults. In recent years, particularly after 2021, Cresskill has experienced a significant decrease in deposits into the affordable housing trust fund. Cresskill collected \$564,312 in 2021 by 2024, Cresskill deposited just \$113,342 into the affordable housing trust account.

These trends are notable and Cresskill believes the collection of funds in 2022, 2023 and 2024 were the beginning of a new normal rate of collections for the affordable housing trust fund. The Borough is both small and very nearly built-out. There are not many remaining opportunities for developers to build in Cresskill.

Cresskill maintains its affordable housing trust fund account at NVE Bank located at 189 County Road, Cresskill. All affordable housing trust funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9, as described in the sections that follow. As of September 30, 2025 there was a balance of \$1,215,400 dollars in the trust fund account. All affordable housing trust funds will be spent in strict accordance with N.J.A.C. 5:97-8.7-8.9, as described in the sections that follow.

To calculate a projection of revenue anticipated during the period of Fourth Round substantive certification, the Borough of Cresskill considered the following:

(a) Development fees:

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.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction from developers as follows:

The Borough of Cresskill does not anticipate collecting significant payments in lieu of affordable housing construction during the Fourth Round housing cycle. If a development application generating an affordable housing obligation is filed with the Borough, Cresskill anticipates that the affordable housing obligation will be satisfied by the developer on the property which is the subject of the development application, thus it would be improper for the Borough to also collect a payment in lieu of construction. If a site in question could not function as an affordable housing site, Cresskill expects the developer would provide actual affordable housing opportunities elsewhere in Cresskill.

It is recognized that if a development generated an affordable housing obligation with a fractional obligation, say 2.2 affordable units, the 0.2 affordable housing obligation would be satisfied through the collection by Cresskill of a payment in lieu of construction, so, there is some possibility that Cresskill would, in limited circumstances, collect payment in lieu of construction. Cresskill's projected revenues reflect an expectation that \$120,000 will be collected through this mechanism.

(c) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate. It is very difficult to project future interest levels, especially for a ten (10) year period. For the sake of estimating funding levels in the trust fund, this Spending Plan will assume Cresskill will collect no more than \$12,000 dollars per year, on the high side and as little as \$8,000 per year on the low side.

These projections are slightly lower than collected for the first three quarters of 2025 but generally are in line with recent interest payments received by the trust fund.

SOURCE OF FUNDS											
	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
(a) Development fees:											
Approved Development											
Development Pending Approval											
Projected Development	\$185,000	\$140,000	\$135,000	\$135,000	\$135,000	\$125,000	\$115,000	\$115,000	\$85,000	\$85,000	\$1,255,000
(b) Payments in Lieu of Construction						\$120,000					\$ 120,000
(c) Other Funds (Specify source(s))											
Collection of Loan from Rehabilitation program	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$350,000
(d) Interest	\$ 12,000	\$ 12,000	\$ 10,000	\$10,000	\$8,000	\$ 8,000	\$ 8,000	\$10,000	\$10,000	12,000	\$100,000
Total	\$232,000	\$187,000	\$180,000	\$180,000	\$178,000	\$288,000	\$158,000	\$160,000	\$130,000	\$132,000	\$1,825,000

The Borough of Cresskill projects a total of \$1,825,000 in revenue to be collected between July 1, 2025 and June 30, 2035. This projected amount, when added to Cresskill's trust fund balance as of September 30, 2025, results in an anticipated revenue total of \$3,040,400 available to fund and administer its affordable housing plan during the Fourth Round housing cycle. All interest earned on the account shall be retained in the affordable housing trust fund and be used only in strict conformance with all affordable housing regulations and for the purposes of furthering affordable housing in Cresskill.

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 the Borough of Cresskill:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Cresskill's development fee ordinance for both residential and non-residential developments in accordance with the Department's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7) as these rules may be amended from time to time.

(b) Distribution of development fee revenues:

Distribution of funds out of the affordable housing trust fund will only occur after authorization from the Mayor and Council. Each request for funds will need to identify the type of project, the cost of the proposed improvement and the property involved.

Requests for security assistance, rental assistance or converting low-income units to very low-income rental units will be available only to qualified, affordable households. The Borough's administrative agent will process and monitor all such requests.

The Borough may utilize a portion of the money in the affordable housing trust fund to create a market-to-affordable program wherein market rate apartments are purchased and made available to income qualified households. Potential additional use of affordable housing trust funds might fund, in part, construction of a second group home to provide affordable housing for people with disabilities. Cresskill seeks to provide as many opportunities for the creation of credit-worthy affordable housing units as practical.

Cresskill will match spending of affordable housing fees to the collection of affordable housing fees. Should the amount of funds in Cresskill's affordable housing trust fund be less than anticipated, Cresskill will reduce anticipated future expenditures so the total amount of funds in the affordable housing trust fund will never drop to \$0.00. Cresskill anticipates it may need to periodically update and refine the Spending Plan in order to ensure expenditures never outstrip the resources contained within the affordable housing trust fund.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)**

As described in several locations within the Housing Element and Fair Share Plan, Cresskill was assigned a zero (0) unit Present Need obligation by the Department of Community Affairs. Cresskill agrees with this determination and has established through an existing conditions survey that there are no dwellings in a deteriorated condition in Cresskill that are occupied by an income qualified household. Understanding the status of the Borough's housing stock is unlikely to change dramatically during the life of this spending plan,

Should conditions in the field warrant funding for a rehabilitation program, Cresskill will reexamine its position on this subject and reserves the ability to provide funding with the limitations of the affordable housing trust fund. Both owner-occupied and rental housing will be eligible for funding, if conditions warrant.

Rehabilitation program:

New construction project(s): Due to the lack of available, approval, developable and suitable land in Cresskill as demonstrated by the vacant land inventory, the Borough does not anticipate funding in part or whole any large new affordable housing projects. However, the Borough does recognize the lack of group homes for at-risk populations in

Cresskill. The Borough has in the past located an appropriate property and partner with an experienced group home operator. Within the Fourth housing cycle, Cresskill is receptive to contributing necessary funding to such a group home project if an experienced entity agrees to own and operate the resulting group home consistent with all affordable housing and UHAC regulations and requirements, including affirmative marketing, tenant selection and applicable income limitations. For the Fourth Round housing cycle, any new group home will most likely involve the conversion of an existing dwelling into a licensed group home and not the conversion of vacant property.

Cresskill will use a portion of its affordable housing trust fund to make units more affordable, especially for very-low income tenants. This will primarily be implemented by offering the developer of low-income rental units an upfront payment for the rental differential over a fifty (50) year timeframe between a low-income unit and a very low-income unit. In exchange for this upfront rental differential payment, the particular rental unit will be required to be deed restricted in a manner that will allow for occupancy only by a very low-income households.

Cresskill will also offer several avenues of affordability assistance including down payment assistance, security deposit assistance, emergency rent assistance and emergency mortgage assistance. Each of these programs will be administered by the Borough's Administrative Agent. These programs will include a security deposit program focused on the needs of very-low-income renters.

(b) **Affordability Assistance (N.J.A.C. 5:97-8.8)**

AFFORDABILITY ASSISTANCE CALCULATION

Actual development fees through 12/31/2024		\$1,740,011
Actual interest earned through 12/31/2024	+	\$ 65,998
Development fees projected 2025-2035	+	\$1,255,000
Interest projected 2025-2035	+	\$ 100,000
Less housing activity expenditures through 6/30/2025	-	\$ 2,323,830
Total	=	\$837,179
Calculate 30 percent	x .30 =	\$251,153
Less Affordability assistance expenditures through 6/30/2025	-	\$ 189,000
PROJECTED MINIMUM Affordability Assistance Requirement 7/1/2025 through 6/30/2035	=	\$ 62,153
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 7/1/2025 through 6/30/2035	÷ 3 =	\$ 20,717

The Borough of Cresskill will dedicate not less \$62,153 to render units more affordable, including \$20,717 to render units more affordable to households earning 30 percent or less of median income by region, as follows: converting low-income units to very low-income units, security deposit assistance and rental assistance.

(c) **Administrative Expenses (N.J.A.C. 5:97-8.9)**

ADMINISTRATIVE EXPENSE CALCULATION

Actual dev fees and interest thru 6/30/2025		\$ 1,806,009
Projected dev fees and interest 2025 thru 2035	+	\$ 1,355,000
Payments-in-lieu of construction and other deposits thru 6/30/2025	+	\$ 120,000
Less RCA expenditures thru 6/30/2025	-	\$ -0-
Total	=	\$ 3,281,009
Calculate 20 percent	x .20 =	\$ 656,201
Less admin expenditures thru 6/30/2025	-	\$ 609,382

PROJECTED MAXIMUM available for administrative expenses 7/1/2025 thru 6/30/2035	=	\$ 46,819
--	----------	------------------

The Borough of Cresskill projects that \$46,819 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:

Cresskill anticipates administrative expenditure withdrawals from the affordable housing trust fund will be used to cover the planning expenses of preparing a housing element and fair share plan, participating in the Declaratory Judgement process, legal fees associated with both activities, office supplies, the cost of preparing ancillary planning documents associated with the Judgement of Compliance and Repose and the costs of services provided by the administrative agent retained by the Borough.

5. EXCESS OR SHORTFALL OF FUNDS

In the event more funds than anticipated are collected, projected funds exceed the amount necessary to implement the Fair Share Plan, or Borough of Cresskill is reserving funds for affordable housing projects to meet a future potential affordable housing obligation, these excess funds will be used to subsidize security deposits of low-and moderate-income households and to make low-income units affordable to very low-income households. If there is less money captured in the affordable housing trust fund than anticipated, then this spending plan will be revised to reduce affordable housing spending to ensure the money spent by Cresskill on affordable housing purposes is never greater than the resources contained within the affordable housing trust fund.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough of Cresskill's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

SUMMARY

The Borough of Cresskill intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the Cresskill Housing Plan and Fair Share Element dated January 30, 2026. Cresskill recognizes that its housing stock is limited and there are few opportunities to create new affordable housing units in the Borough due to its unique land use patterns. In response to these constraints, Cresskill will employ a flexible spending approach focusing on the potential construction as a municipal construction project a group home for low-and moderate-income members of the population in need of such specialized housing or potential a small 100% affordable housing development limited to income qualified households. The Borough will also explore the limited potential of establishing a market to affordable housing program, although because of limited housing stock a market to affordable program will not have a primary focus and the limited funds earmarked for this activity might be reallocated to the supportive needs or 100% affordable efforts.

Cresskill has a balance of \$1,215,400 in its affordable housing trust fund as of September 30, 2025, and anticipates an additional potential \$1,825,000 in revenues through June 2035 for a total of \$3,040,400. The municipality will dedicate a minimum of \$2,231,428 towards supportive and special needs housing, with an additional \$700,000 potentially spent on a market to affordable housing program, \$62,153 towards affordability assistance, and \$46,819 to administrative costs. Any shortfall of funds will be offset by appropriate reductions in spending as reflected in a revised spending plan. The municipality will dedicate any excess funds or remaining balance toward making low-income dwellings affordable to very low-income households and additional affordability assistance consistent with all applicable regulations.

SPENDING PLAN SUMMARY	
Balance as of September 30, 2025	\$1,215,400
PROJECTED REVENUE 2025-2035	
Development fees	+ \$1,255,000
Payments in lieu of construction	+ \$ 120,000
Other funds	+ \$ 350,000
Interest	+ \$ 100,000
TOTAL REVENUE	= \$3,040,400
PROJECTED EXPENDITURES 2012-2018	
Funds used for Rehabilitation	- \$ 0
Funds used for New Construction	
1. Market to Affordable	- \$ 700,000
2. Accessory apartments	- \$ 0
3. Supportive and Special Needs	- \$2,231,428
4.	- \$
5.	- \$
6.	- \$
7.	- \$
8.	- \$
9.	- \$
Affordability Assistance	- \$ 62,153
Administration	- \$ 46,819
Excess Funds or Remaining Balance Reserved for Additional Affordable Housing Activity	= \$ 0
TOTAL PROJECTED EXPENDITURES	= \$3,040,400
REMAINING BALANCE	= \$ 0.00

March 4, 2026

Updated January 2026

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Certified copy
 adopted by the
 Mayor & Council
 Borough of Cresskill
 on 3.4.26
 [Signature]
 Borough Clerk

