

# **Master Plan Amendment Housing Plan Element and Fair Share Plan Round 4**

**Borough of Emerson  
Bergen County, New Jersey**

**Prepared:**  
June 8, 2025

**Prepared for:**  
Borough of Emerson Land Use Board

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Adopted on June 19, 2025 by the Borough of Emerson Land Use Board  
Endorsed on \_\_\_\_\_ by the Emerson Borough Council.

*The original of this document has been signed and sealed in accordance with Law.*

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## Housing Element

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The Borough of Emerson, Bergen County, has prepared this Housing Element and Fair Share Plan as an amendment to the municipal master plan in accordance with the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and the New Jersey Fair Housing Act 2 (N.J.S.A. 52:27D-301 et seq.).

The Municipal Land Use Law requires that a municipal master plan include a housing element to enable the municipality to exercise the power to zone and regulate land use. The housing element is adopted by the municipal planning board and endorsed by the municipal governing body, and is drawn to achieve the goal of meeting the municipal obligation to provide for a fair share of the regional need for affordable housing.

This Housing Element and Fair Share Plan amends the Borough's master plan to address affordable housing planning requirements for the time period known as Round 4, which includes the decade between July 2025 and July 2035. It addresses the Borough's cumulative fair share obligation for the period from 1987 through 2035. The Borough last adopted a Round 3 Housing Element on December 6, 2018. This plan will replace the 2018 Round 3 plan.

### **Affordable Housing in New Jersey**

The Mt. Laurel II doctrine requires that all municipalities provide a realistic opportunity for their fair share of low and moderate income housing. The Emerson Fair Share Plan is the Borough's proposal for satisfying its share of the regional affordable housing needs under applicable affordable housing regulations.

This Plan provides the Borough's fair share obligation and details its strategies for addressing its present, prior, and prospective housing needs. The New Jersey Fair Housing Act established the New Jersey Council on Affordable Housing (COAH). COAH was responsible for developing rules and regulations on affordable housing, as well as approving municipalities' submitted affordable housing plans. The COAH approval process was known as Substantive Certification.

COAH adopted its first set of rules, known as 'Round 1,' for the period of 1987 through 1993. COAH 'Round 2' covered the 1993 to 1999 time period. These rounds are now combined and collectively referred to as the 'Prior Round,' which covers the 1987 to 1999 time period.

COAH adopted its first Round 3 rules in 2005. The Round 3 rules included a new methodology for calculating affordable housing, known as Growth Share. These rules were challenged, and the Appellate Division invalidated the Round 3 rules in 2007.

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COAH then adopted its second set of Round 3 rules in 2008; these rules also used the Growth Share methodology and were found invalid by the Appellate Division in 2010. COAH was directed to prepare new rules that used the Prior Round methodologies of establishing the statewide and regional affordable housing obligation and assigning municipalities their fair share of the regional affordable housing obligations.

COAH prepared new rules in 2014, but failed to adopt them. In response, a motion was filed with the New Jersey Supreme Court to enforce litigant's rights in response to COAH's lack of action. On March 10, 2015 the Supreme Court issued its decision to enforce litigant's rights and established a procedure for municipalities to transition their COAH applications to the Courts.

The Supreme Court established a new procedure that requires participating towns, such as Emerson, to submit a Declaratory Judgment action. The Borough of Emerson filed its action of Declaratory Judgment with the Court on or about July 8, 2015.

Fair Share Housing Center (FSHC), a nonprofit affordable housing advocacy group, was considered an "interested party" in all municipal Declaratory Actions. FSHC and the Borough engaged in a mediation process under the supervision of the court-appointed Special Master. Emerson and FSHC also settled its affordable housing litigation. Emerson's Settlement Agreement was executed on November 28, 2017.

#### Round 4 Affordable Housing

On March 20, 2024 Governor Murphy signed new legislation known as P.L.2024, c.2 that amended the state's Fair Housing Act and changed the affordable housing process in New Jersey.

The Fair Housing Act (FHA) Amendment ("FHA 2" or the "Act") eliminated the Council on Affordable Housing (COAH), directed the Department of Community Affairs (DCA) to prepare nonbinding affordable housing obligations, changed certain aspects of the vacant land process, eliminated and revised available bonus credits, and imposed strict deadlines on municipalities.

Pursuant to the FHA 2, municipalities must adopt a Housing Element and Fair Share Plan by June 30, 2025. This plan conforms to the requirements established in the legislation and FHA 2 and addresses Emerson's Prior Round, Round 3 and Round 4 affordable housing obligations.

## **Mandatory Contents of the Housing Element**

Pursuant to the New Jersey Fair Housing Act (FHA 2), "a municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low-and moderate-income housing." The essential plan components are:

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- An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level, and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1); and,
- A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
- An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);
- For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for P.L. 2024, redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

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This Housing Element and Fair Share Plan Amendment addresses the above requirements.

## **Analysis of Demographic, Housing, and Employment Characteristics**

As required by N.J.S.A. 52:27D-310, all housing elements must contain a discussion of the municipality's demographic, housing, and economic characteristics. The following subsections fulfill this requirement by providing a profile of information for the Borough of Emerson from the US Census Bureau, the New Jersey Department of Labor and Workforce Development, and the North Jersey Transportation Planning Authority.

### **Population Characteristics**

Table 1 shows the population trends for the Borough of Emerson and Bergen County from 1930 to 2020. As shown, Emerson's population increased by 5,896 residents during this period. The three greatest increases occurred in the periods from: 1950 to 1960, when the Borough's population increased by approximately 292.7 percent; 1960 to 1970, when there was an increase of approximately 23.1 percent; and between 1940 and 1950, when population increased by approximately 17.3 percent. There were decreases in population between 1970 and 1980, when the Borough's population decreased by about 7.5 percent; 1980 and 1990, when the Borough's population decreased by 11.1 percent; and 2010 and 2020, when the Borough's population decreased by about 1.5 percent.

Bergen County's population also increased over the period from 1930 to 2020. Indeed, the County's population increased by 590,755 residents over this period. As compared to the Borough, however, change in the County's population was never as great as in the Borough. Indeed, the maximum rate of change in the Borough's population was about 292.7 percent (between 1950 and 1960), but the change in the County's population never exceeded about 44.7 percent (also between 1950 and 1960) in any ten-year period.



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**Table 1**  
 POPULATION CHANGE, 1930 – 2020  
 Borough of Emerson and Bergen County

**Borough**

<u>Year</u>	<u>Population</u>	<u>Number</u>	<u>Change</u> <u>Percent</u>
1930	1,394	-----	-----
1940	1,487	93	6.7
1950	1,744	257	17.3
1960	6,849	5,105	292.7
1970	8,428	1,579	23.1
1980	7,793	-635	-7.5
1990	6,930	-863	-11.1
2000	7,197	267	3.9
2010	7,401	204	2.8
2020	7,290	-111	-1.5

**County**

<u>Year</u>	<u>Population</u>	<u>Number</u>	<u>Change</u> <u>Percent</u>
1930	364,977	-----	-----
1940	409,646	44,669	12.2
1950	539,139	129,493	31.6
1960	780,255	241,116	44.7
1970	897,148	116,893	15.0
1980	845,385	-51,763	-5.8
1990	825,380	-20,005	-2.4
2000	884,118	58,738	7.1
2010	905,116	20,998	2.4
2020	955,732	50,616	5.6

*Sources:*

1930 - 1950: "Number of Inhabitants, New Jersey."

<https://www2.Census.Gov/library/publications/decennial/1950/population-volume-2/23024255v2p30ch1.pdf>. U.S. Census Bureau, 1950;

1940 - 2000: "New Jersey Population Trends 1790 to 2000." Division of Labor Market and Demographic Research New Jersey State Data Center, August 2001.

<https://www.nj.gov/labor/labormarketinformation/assets/PDFs/census/2kpub/njsdcp3.pdf>;

2010: 2010 U.S. Census (Table P3); and,

2020: 2020 U.S. Census (Table DP1)

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## Population Composition by Age

Table 2 shows population by age cohort in the Borough of Emerson during 2010 and 2020. As can be seen, the population decreased by 111 residents or 1.5 percent between 2010 and 2020. The age-cohort with the largest decreases were 5-14, which decreased by 218 residents or about 20.5 percent; 85+, which decreased by 73 residents or about 20.3 percent; 45-54, which decreased by 220 residents or about 17.6 percent; and 35-44, which decreased by 156 residents or about 15.6 percent. The age cohorts with the largest increases were: 25-34, which increased by 153 residents or 26.7 percent; 15-24, which increased by 154 residents or 20.3 percent; 55-64, which increased by 199 residents or 22.4 percent; and 65-74, which increased by 75 residents or 11.9 percent.

**Table 2**

POPULATION BY AGE  
Borough of Emerson

Age Group	2010 Population		2020 Population		Change 2010-2020	
	Persons	Percent	Persons	Percent	Persons	Percent
Under 5	395	5.3	387	5.3	-8	-2.0
5-14	1,062	14.3	844	11.6	-218	-20.5
15-24	757	10.2	911	12.5	154	20.3
25-34	572	7.7	725	9.9	153	26.7
35-44	1,003	13.6	847	11.6	-156	-15.6
45-54	1,253	16.9	1,033	14.2	-220	-17.6
55-64	890	12.0	1,089	14.9	199	22.4
65-74	632	8.5	707	9.7	75	11.9
75-84	477	6.4	460	6.3	-17	-3.6
85+	360	4.9	287	3.9	-73	-20.3
<b>TOTALS</b>	<b>7,401</b>	<b>100.0</b>	<b>7,290</b>	<b>100.0</b>	<b>-111</b>	<b>-1.5</b>

*Sources:*

2010: 2010 U.S. Census (Table PCT12); and,  
2020: U.S. Census (Table DP1)

Table 2 shows considerable growth and decline in several age cohorts. The effects of the change in the distribution of Emerson's population among age cohorts can be summarized in the change in the median age of the Borough's population, which decreased by four-tenths (0.4) of a year, from 44.3 years to 43.9 years, in the period from 2010 to 2020. This represents a decrease of about 0.9 percent. By comparison, the median age of Bergen County's population increased by approximately 0.9 years, from 41.1 years to 42.0 years, which equates to an increase of about 2.2 percent. Table 3 summarizes the distribution of the Borough's and County's populations among age cohorts and the change in the median age of said populations.

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**Table 3**

PERCENTAGE POPULATION DISTRIBUTION, 2010 & 2020  
 Borough of Emerson and Bergen County

<u>Age Group</u>	<b>2010 Percentage of Population</b>		<b>2020 Percentage of Population</b>	
	<u>Borough</u>	<u>County</u>	<u>Borough</u>	<u>County</u>
Under 5	5.3	5.6	5.3	5.0
5-14	11.6	12.9	14.3	12.0
15-24	12.5	11.6	10.2	12.0
25-34	9.9	11.6	7.7	11.8
35-44	11.6	14.3	13.6	13.2
45-54	14.2	16.3	16.9	14.0
55-64	14.9	12.7	12.0	14.3
65+	19.9	15.1	19.8	17.7
<b>TOTALS</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
Median Age	44.3	41.1	43.9	42.0

*Sources:*

2010: 2010 U.S. Census (Tables PCT12, P13)

2020: 2020 U.S. Census (Tables DP1, P13)

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## Existing Housing Characteristics

### Type of Household

A household is a group of people who occupy a housing unit as their usual place of residence. As shown in Table 4, there were 2,482 households in the Borough of Emerson in 2020. The majority, or approximately 81.7 percent, of households consisted of two or more persons. The remaining 18.3 percent of households consisted of one person. Table 4 provides additional details on the types of households in Emerson Borough during 2020.

**Table 4**  
 TYPES OF HOUSEHOLDS, 2020

#### Borough of Emerson

<u>Type of Households</u>	<u>Total</u>	<u>Number in Subgroup</u>	<u>Percent of Total</u>
<b>TOTAL HOUSEHOLDS</b>	<b>2,482</b>		
<b>One Person</b>		<b>453</b>	<b>18.3</b>
Male Householder	160		6.4
65 years or older	77		3.1
Female Householder	293		11.8
65 years or older	215		8.7
<b>Two or More Persons</b>		<b>2,029</b>	<b>81.7</b>
<i>Married Couple Families</i>	1,627		65.6
With Own Children Under 18	717		28.9
<i>Cohabiting Couple</i>	79		3.2
With Own Children Under 18	30		1.2
<i>Male Householder Not living alone</i>	106		4.3
With Own Children Under 18	23		0.9
<i>Female Householder Not living alone</i>	217		8.7
With Own Children Under 18	69		2.8

Sources:

2020 U.S. Census (Table DP1)

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## Household Size

Table 5 provides further details on household size in the Borough of Emerson during 2020. As shown, the most frequent household size was two persons, which accounted for 27.7 percent of all households in Emerson and 29.1 percent of all households in Bergen County. The average household size in Emerson was 2.89, which is 0.19 more than the average household size of 2.70 in Bergen County during 2020.

**Table 5**  
HOUSEHOLD SIZE, 2020  
Borough of Emerson & Bergen County

Household Size	<u>Borough of Emerson</u>		<u>Bergen County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
1 Person	453	18.3	84,254	24.0
2 Persons	688	27.7	102,218	29.1
3 Persons	494	19.9	63,130	18.0
4 Persons	531	21.4	61,107	17.4
5 Persons	203	8.2	26,098	7.4
6+ Persons	113	4.6	13,857	4.0
<b>TOTALS</b>	2,482	100.0	350,664	100.0
<b>Average Household Size</b>	2.89		2.70	

Source: 2020 U.S. Census (Tables H12, DP1)

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## Per Capita and Household Income

Table 6 displays the per capita income, median household income, and population poverty status of Emerson, Bergen County and the State of New Jersey. This data is derived from the 2023 American Community Survey Five-Year Estimates and represents estimated average conditions over the five-year period ending in 2023.

As shown in Table 6, Emerson had a higher per capita income at \$68,008 than in Bergen County and New Jersey, where the per capita incomes were \$62,968 and \$53,118, respectively. Emerson also had a higher median household income at \$153,963 than Bergen County and New Jersey, where the median household incomes were \$123,715 and \$101,050, respectively. Additionally, the Borough had just 2.3 percent of its population living below poverty status, which is lower than the 6.7 percent and 9.8 percent exhibited by Bergen County and New Jersey, respectively.

**Table 6**

PER CAPITA AND HOUSEHOLD INCOME; POVERTY STATUS 2023  
 Borough of Emerson, Bergen County & New Jersey

	<u>Per Capita Income</u>	<u>Median Household Income</u>	<u>Percentage of Population Below Poverty Status</u>
<b>Borough of Emerson</b>	\$68,008	\$153,963	2.3
<b>Bergen County</b>	\$62,968	\$123,715	6.7
<b>New Jersey</b>	\$53,118	\$101,050	9.8

*Source:* 2023 American Community Survey 5-Year Estimates (Tables BP19301, S1901 and S1701)

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## Family Income Distribution

Table 7 details family income for the Borough and County as represented by 2023 American Community Survey Five-Year Estimates. Approximately 83.6 percent of Emerson’s families earned \$75,000 or more. By comparison, just 77.6 percent of Bergen County’s families earned \$75,000 or more.

**Table 7**

FAMILY INCOME DISTRIBUTION, 2023  
 Borough of Emerson & Bergen County

<u>Income Levels</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Less than \$10,000	22	1.0	4,882	1.9
\$10,000 - \$14,999	0	0.0	2,555	1.0
\$15,000 - \$24,999	0	0.0	6,022	2.4
\$25,000 - \$34,999	0	0.0	7,350	2.9
\$35,000 - \$49,999	138	6.3	12,602	5.0
\$50,000 - \$74,999	197	9.0	23,286	9.2
\$75,000 - \$99,999	266	12.2	23,706	9.4
\$100,000 - \$149,999	350	16.1	45,647	18.1
\$150,000 - \$199,999	434	19.9	36,887	14.6
\$200,000 or more	771	35.4	89,702	35.5
<b>TOTALS</b>	2,178	100.0	252,639	100.0

Source: 2023 American Community Survey 5-Year Estimates (Table DP03)

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## Housing Affordability

Table 8 identifies the maximum income limits for low, very low- and moderate-income households in Housing Region 1. All of Bergen, Hudson, Passaic and Sussex counties are in Housing Region 1.

Emerson is in Housing Region 1. As of 2025, the median household income for a three-person household in Housing Region 1 was \$114,500. A three-person moderate income household, defined as a household with an income in excess of 50 percent but less than 80 percent of the median income, would have an income that does not exceed \$91,600. A four-person low-income household, defined as a household with income equal to or less than 50 percent but more than 30 percent of the median income, would have an income that does not exceed \$63,600. A two-person very low-income household, defined as a household with an income equal to 30 percent or less of the median income, would have an income that does not exceed \$30,540. Finally, the 1.5 person, three-person and 4.5-person columns are used for calculating the pricing for one-, two- and three-bedroom affordable units.

**Table 8**  
2025 REGIONAL INCOME LIMITS  
HOUSING REGION 1

<u>Household Size</u>	<u>Median Income</u>	<u>Moderate Income</u>	<u>Low Income</u>	<u>Very Low Income</u>
1 Person	\$89,100	\$71,280	\$44,550	\$26,730
1.5 Person	\$95,450	\$76,360	\$47,725	\$28,635
2 Person	\$101,800	\$81,440	\$50,900	\$30,540
2.5 Person	\$108,150	\$86,520	\$54,075	\$32,445
3 Person	\$114,500	\$91,600	\$57,250	\$34,350
4 Person	\$127,200	\$101,760	\$63,600	\$38,160
4.5 Person	\$132,300	\$105,840	\$66,150	\$39,690
5 Person	\$137,400	\$109,920	\$68,700	\$41,220
6 Person	\$147,600	\$118,080	\$73,800	\$44,280
7 Person	\$157,800	\$126,240	\$78,900	\$47,340
8 Person	\$168,000	\$134,400	\$84,000	\$50,400

*Source:* 2025 Affordable Housing Regional Income Limits by Household Size, Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) – May 16, 2025



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## Housing Unit Data

In 2020, there were 2,600 housing units in Emerson, of which 2,482 or 95.5 percent were occupied. By comparison, the County had 367,383 housing units, of which 350,664 or 95.4 percent were occupied.

As shown in Table 9, owner-occupied housing stock comprised a greater percentage of the Borough's housing stock than in the County's housing stock. In 2020, approximately 87.6 percent of the Borough's housing stock, versus 63.1 percent of the County's housing stock, was owner-occupied.

**Table 9**  
 HOUSING UNIT DATA, 2020  
 Borough of Emerson & Bergen County

	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
<b>Unit Type</b>				
Occupied	2,482	95.5	350,664	95.4
Vacant, Seasonal & Migratory	118	4.5	16,719	4.6
<b>TOTALS</b>	2,600	100.0	367,383	100.0
<b>Owner vs Renter Occupied Units</b>				
Owner Occupied	2,173	87.6	221,274	63.1
Renter Occupied	309	12.4	129,390	36.9
<b>TOTALS</b>	2,482	100.0	350,664	100.0

Source: 2020 U.S. Census (Table DP1)

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## Year Householder Moved into Unit

Table 10 provides the year the current householders moved into the Emerson and Bergen County homes. As shown, 60.8 percent of the Borough's households moved into their current residences after 2000, compared to 74.2 percent countywide. Approximately 39.2 percent of the Borough's households and 25.8 percent of the County's households moved into their residences before 2000.

**Table 10**

YEAR HOUSEHOLDER MOVED INTO UNIT, 2023  
 Borough of Emerson & Bergen County

<u>Year Householder Moved into Unit</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
2021 or later	78	3.0	27,042	7.7
2010 - 2020	1007	38.1	165,730	46.9
2000 - 2009	522	19.8	69,267	19.6
1990 - 1999	613	23.2	42,548	12.0
1989 or earlier	421	15.9	48,720	13.8
<b>TOTALS</b>	2,641	100.0	353,307	100.0

Source: 2023 American Community Survey 5-Year Estimates (Table DP04)

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## **Housing Unit Information**

Table 11 includes a variety of information from the American Community Survey on the Borough of Emerson and Bergen County housing stocks, including when the housing unit was built, the number of units per structure, and the number of rooms and bedrooms per unit.

As shown, approximately 89.3 percent of the Borough’s housing stock consists of single-family detached structures. In contrast, single-family detached homes comprise approximately 53.2 percent of the County’s housing stock.

As shown in Table 11, the Borough’s housing stock contains more rooms than the County’s housing stock. In 2023, about 77.5 percent of Emerson’s housing units contained six (6) or more rooms, while approximately 54.7 percent of the County’s housing stock recorded the same number of rooms. On the other hand, about 40.5 percent of the Borough’s housing units contain four or more bedrooms, compared with approximately 27.2 percent of the County’s housing stock.

Finally, approximately 82.6 percent of the Borough’s housing stock was built before 1980. Similarly, about 74.6 percent of the County’s housing stock was built before 1980.

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**Table 11**

HOUSING UNIT INFORMATION, 2023  
 Borough of Emerson & Bergen County

	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
<b>Total Units</b>	<b>2,641</b>	<b>100.0</b>	<b>368,535</b>	<b>100.0</b>
<u>Units in Structure</u>				
One (Single Family Detached)	2,359	89.3	196,102	53.2
One (Single Family Attached)	0	0.0	22,284	6.0
Two+ Units	282	10.7	148,595	40.3
Mobile Home, Trailer, Other	0	0.0	1,554	0.4
<u>Number of Rooms</u>				
1 Room	51	1.9	10,090	2.7
2 or 3 Rooms	124	4.7	54,929	14.9
4 or 5 Rooms	418	15.8	101,934	27.7
6 or 7 Rooms	1157	43.8	103,786	28.2
8+ Rooms	891	33.7	97,796	26.5
<u>Number of Bedrooms</u>				
No Bedroom	51	1.9	11,192	3.0
1 Bedroom	143	5.4	58,568	15.9
2 or 3 Bedrooms	1,377	52.1	198,472	53.9
4+ Bedrooms	1070	40.5	100,303	27.2
<u>Year Structure Built</u>				
2020 - later	0	0.0	2,486	0.7
2010 - 2019	128	4.8	18,587	5.0
2000 - 2009	101	3.8	21,455	5.8
1990 - 1999	81	3.1	20,951	5.7
1980 - 1989	150	5.7	30,051	8.2
1960 - 1979	843	31.9	86,461	23.5
1940 - 1959	1,106	41.9	116,865	31.7
1939 or earlier	232	8.8	71,679	19.4

Source: 2023 American Community Survey 5-Year Estimates (Table DP04)

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## Housing Conditions

Housing conditions in Emerson are excellent. As shown in Table 12, none of the Borough's housing units lack complete plumbing facilities, kitchen facilities, or phone service, compared to 0.3, 0.7 and 0.8 percent, respectively, in the county overall.

In addition to the above, none of the Borough's housing stock has more than one person per room, compared to about 3.4 percent of the County's housing stock. Having more than one person per room is an indicator of overcrowding.

**Table 12**  
INDICATORS OF HOUSING CONDITIONS, 2023  
Borough of Emerson & Bergen County

	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
<u>Total Occupied Units</u>	2,641		353,307	
Units Lacking Complete Plumbing	0	0.0	899	0.3
Units Lacking Kitchen Facilities	0	0.0	2,541	0.7
No telephone service	0	0.0	2,797	0.8
 <u>Persons per Room, Occupied Units</u>				
1.00 or less	2,641	100.0	341,275	96.6
1.01 to 1.50	0	0.0	7,036	2.0
1.51 or more	0	0.0	4,996	1.4
<b>TOTALS</b>	1,053	100.0	353,307	100.0

Source: 2023 American Community Survey 5-Year Estimates (Table DP04)

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## Housing Values

Table 13 shows 2023 housing values for the Borough of Emerson and Bergen County. As indicated, approximately 98.0 percent of the Borough's owner-occupied housing units are valued at over \$300,000. This is higher than in the County, where only about 89.9 percent of the owner-occupied housing units are valued at over \$300,000. This higher percentage of units is reflected in the fact that the median value of owner-occupied units in Bergen County is lower than in the Borough. Indeed, the median value of owner-occupied units is \$593,200 in Bergen County, but \$626,000 in Emerson Borough.

**Table 13**

OWNER-OCCUPIED HOUSING VALUES, 2023  
Borough of Emerson & Bergen County

<u>Housing Value</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Less than \$50,000	0	0.0	4,241	1.8
\$50,000 - \$99,999	15	0.6	2,583	1.1
\$100,000 - \$149,999	0	0.0	2,366	1.0
\$150,000 - \$199,999	16	0.7	2,680	1.2
\$200,000 - \$299,999	15	0.6	11,285	4.9
\$300,000 - \$499,999	407	17.3	62,212	26.9
\$500,000 - \$999,999	1,816	77.2	115,000	49.8
\$1,000,000 or more	84	3.6	30,556	13.2
<b>TOTALS</b>	2,353	100.0	230,923	100.0
Median Value	\$ 626,000		\$ 593,200	

Source: 2023 American Community Survey 5-Year Estimates (Table DP04)

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## Contract Rents

Table 14 details the gross rents for renter-occupied units in Emerson and Bergen County. As shown, the median monthly rent in Emerson was \$1,926. In Bergen County overall, however, the median rent was \$1,863. In Emerson, about 5.4 percent of all cash rents were at least \$3,000, whereas in Bergen County only about 13.2 percent of all cash rents were \$3,000 or more.

**Table 14**

GROSS RENTS, 2023  
 OCCUPIED UNITS PAYING RENT  
 Borough of Emerson & Bergen County

<u>Contract Rents</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Less than \$500	0	0.0%	3,870	3.3
\$500 - \$999	0	0.0%	5,086	4.3
\$1,000 - \$1,499	11	4.3%	21,678	18.3
\$1,500 - \$1,999	138	53.7%	39,395	33.3
\$2,000 - \$2,499	66	25.7%	21,731	18.3
\$2,500 - \$2,999	28	10.9%	11,103	9.4
\$3,000 or more	14	5.4%	15,614	13.2
<b>TOTALS</b>	257	100.0	118,477	100.0
 Median Rent	 \$ 1,926		 \$ 1,863	

*Source:* 2023 American Community Survey 5-Year Estimates (Table DP04)

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## **Employment Data**

Table 15 details the occupational characteristics of Emerson residents as indicated by 2023 American Community Survey Five-Year Estimates. As indicated, the largest occupational group among Emerson residents aged 16 years and over engaged in the civilian labor force is “Management, Business Science & Arts” with about 59.1 percent. This was also the largest occupational group in Bergen County with about 53.3 percent of County residents aged 16 years and over engaged in the civilian labor force. The second largest occupational group was “Sales & Office Occupations,” which accounted for 22.1 percent and 20.4 percent of the Borough and County residents aged 16 years and over engaged in the civilian labor force, respectively. The third largest occupational group was “Service Occupations,” which accounted for 11.8 percent of the Borough residents and 12.4 percent of the County residents aged 16 years and over engaged in the civilian labor force. In total, these three occupational groups accounted for about 93.0 percent of the Borough residents and 86.2 percent of the County residents aged 16 years and over engaged in the civilian labor force.

With regard to the industry of employment, it is noted that the top-three industries of employment among Borough residents aged 16 years and over and engaged in the civilian labor force were “Educational Services, Health Care/Social Assist.” with 28.1 percent; “Professional, Scientific, Management” with 16.6 percent; and “Finance, Insurance, Real Estate” with 13.4 percent. Among County residents, the top-three industries of employment were “Educational Services, Health Care/Social Assist.” with 25.1 percent; “Professional, Scientific, Management” with 15.2 percent; and “Retail Trade” with 10.2 percent.



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**Table 15**  
OCCUPATIONAL CHARACTERISTICS, 2023  
Borough of Emerson & Bergen County

<u>Occupation Group</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Management, Business, Science & Arts	2,205	59.1	263,942	53.3
Service Occupations	439	11.8	61,574	12.4
Sales & Office Occupations	825	22.1	101,185	20.4
Nat. Resources, Construction & Maint.	123	3.3	25,740	5.2
Production, Transportation & Material	140	3.8	42,480	8.6
<b>TOTALS</b>	3,732	100.0	494,921	100.0

<u>Industry</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Agriculture, Forestry, Fishing	29	0.8	636	0.1
Construction	175	4.7	25,742	5.2
Manufacturing	169	4.5	38,180	7.7
Wholesale Trade	137	3.7	18,362	3.7
Retail Trade	285	7.6	50,517	10.2
Transportation & Warehousing	159	4.3	25,586	5.2
Information	106	2.8	14,303	2.9
Finance, Insurance, Real Estate	499	13.4	50,356	10.2
Professional, Scientific, Management	618	16.6	75,107	15.2
Edu. Services, Health Care/Social Assist.	1,047	28.1	124,338	25.1
Arts, Entertain., Recreation, Food Services	278	7.4	33,665	6.8
Other Services, Except Public Admin.	33	0.9	22,115	4.5
Public Administration	197	5.3	16,014	3.2
<b>TOTALS</b>	3,732	100.0	494,921	100.0

*Source:* 2023 American Community Survey 5-Year Estimates (Tables S2401, S2405)

Data from the New Jersey Department of Labor and Workforce Development indicates that there was an average total of 2,054 private sector jobs located in Emerson during 2023. This represents jobs located in Emerson, not the occupational characteristics of Emerson's residents.

Table 16 provides data on the sector of employment of 2,054 private jobs located within the Borough of Emerson. Of these jobs, 910 or 44.3 percent were classified as "Health/Social." An additional 410 jobs or 20.4 percent were classified as "Retail Trade," and an additional 152 jobs or 3.8 percent were classified as "Other Services." These three employment sectors account for about 72.1 percent of all jobs located within the Borough of Emerson. All other sectors for which data was provided accounted for less than five percent of all jobs.

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While the New Jersey Department of Labor and Workforce Development has provided information on the sector of employment for 98.8 percent of the private jobs located within the Borough of Emerson. It has not disclosed sector of employment for 1.2 percent of the 2,054 private jobs located within the Borough. Typical reasons why the New Jersey Department of Labor and Workforce Development would not provide the number of jobs in a particular sector include the presence of only one or very few employers in a particular sector, or the presence of a very limited number of jobs in a sector. In such cases, the New Jersey Department of Labor and Workforce Development withholds information so as to not release what could be perceived as confidential information.

**Table 16**  
**PRIVATE EMPLOYMENT BY SECTOR, 2023**  
**Borough of Emerson**

<u>Employee Sector</u>	<u>Borough</u>	
	<u>Number</u>	<u>Percent</u>
Agriculture	Undisclosed	Undisclosed
Construction	61	3.0
Manufacturing	60	2.9
Wholesale Trade	49	2.4
Retail Trade	419	20.4
Transportation/Warehousing	Undisclosed	Undisclosed
Information	Undisclosed	Undisclosed
Finance/Insurance	24	1.2
Real Estate	Undisclosed	Undisclosed
Professional/Technical	81	3.9
Admin/Waste Remediation	98	4.8
Education	Undisclosed	Undisclosed
Health/Social	910	44.3
Arts/Entertainment	73	3.6
Accommodations/Food	95	4.6
Other Services	152	7.4
Unclassified	8	0.4
<b>TOTAL</b>	<b>2,054</b>	<b>100.0</b>

*Source:* New Jersey Department of Labor and Workforce Development

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## Residential Construction

Table 17 contains data on dwelling units authorized by building permit and demolished with a demolition permit from 2012 through 2023. This data has been obtained from the New Jersey Department of Community Affairs.

In the reported period, a total of 197 new units were created and 14 units were demolished, resulting in a net increase of 183 units. The average annual net change in the reported period was slightly more than 15.3 units.

**Table 17**

NEW DWELLING UNITS AUTHORIZED BY BUILDING PERMIT & HOUSING UNITS  
 DEMOLISHED: 2012 - 2023  
 Borough of Emerson

<u>Year</u>	<u>New Units</u>	<u>Demolitions</u>	<u>Net Increase</u>
2012	1	0	1
2013	2	4	-2
2014	7	0	7
2015	14	2	12
2016	7	3	4
2017	1	3	-2
2018	3	0	3
2019	2	1	1
2020	2	0	2
2021	147	1	146
2022	11	0	11
2023	0	0	0
<b>TOTALS</b>	<b>197</b>	<b>14</b>	<b>183</b>

*Source:* "Development Trends Viewer." State of New Jersey Department of Community Affairs, September 16, 2024. Accessed February 4, 2025.  
[https://www.nj.gov/dca/codes/reporter/Development\\_Trend\\_Viewer.xlsb](https://www.nj.gov/dca/codes/reporter/Development_Trend_Viewer.xlsb).

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## Population and Household Projection

As has been previously mentioned, the Borough of Emerson’s population was 7,290 at the time of the 2020 United States Census.

The North Jersey Transportation Planning Authority has released 2050 population and household projections for its constituent municipalities. The 2050 population projection for Emerson is 8,783, which represents an increase of 1,493 residents over the 2020 United States Census population of 7,290 residents. The 2050 household projection for Emerson is 2,898, which represents an increase of 416 households over the 2020 United States Census count of 2,482 households.

N.J.S.A. 52:27D-310.b requires that Housing Elements and Fair Share Plans include a household projection for the next ten years. When the 2050 projections of the North Jersey Transportation Planning Authority are linearly adjusted to represent 2035 values, projections of 8,037 residents and 2,690 households result. This is summarized in Table 18.

**Table 18**

POPULATION AND HOUSEHOLD PROJECTION, 2015 - 2050  
Borough of Emerson

<u>2020 Census Population</u>	<u>2035 Population Projection (Adjusted from 2050)</u>	<u>2050 Population Projection</u>
7,290	8,037	8,783
<u>2020 Census Households</u>	<u>2035 Household Projection (Adjusted from 2050)</u>	<u>2050 Household Projection</u>
2,482	2,690	2,898

*Sources:*

2020: United States Census;

2035: Calculated by T&M based on 2050 values; and,

2050: North Jersey Transportation Planning Authority.

The foregoing information has been provided for informational purposes only and in response to N.J.S.A. 52:27D-310.b.

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## Employment Projection

The North Jersey Transportation Planning Authority (NJTPA) has released a 2050 employment projection for the Borough of Emerson of 2,683, which represents an increase of 324 jobs over the Borough’s 2023 average total of 2,359 public and private sector jobs (includes: 2,054 private sector jobs; 3 federal government jobs; and 302 local government jobs).

When the NJTPA’s 2050 employment projection is linearly adjusted to represent 2035 values, an adjusted 2035 employment projection of 2,503 jobs results. This is summarized in Table 19.

**Table 19**  
EMPLOYMENT PROJECTION, 2023 - 2050  
Borough of Emerson

<u>2023</u> <u>Public and Private</u> <u>Employment</u>	<u>2035</u> <u>Adjusted Employment</u> <u>Projection</u>	<u>2050</u> <u>Employment</u> <u>Projection</u>
2,359	2,503	2,683

*Sources:*

2023: New Jersey Department of Labor and Workforce Development;

2035: Calculated by T&M; and,

2050: North Jersey Transportation Planning Authority.

*Note:* 2023 average of 2,359 public and private sector jobs + ((2050 Employment Projection of 2,683 jobs – 2023 average of 2,359 public and private sector jobs) ÷ (2050 – 2023)) × 12 years = 2,503 jobs in 2035.

# Fair Share Plan

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## Affordable Housing Obligation

A municipality's affordable housing obligation is made up of both a present need (rehabilitation obligation) and a prospective need obligation. Obligations are calculated in time periods known as "rounds."

Previous Round obligations have either been determined by the New Jersey Council on Affordable Housing (COAH), or by Court decisions. However, pursuant to FHA 2, for Round 4 and subsequent rounds, the Department of Community Affairs (DCA) was directed to provide a non-binding calculation of regional need and municipal present and prospective need obligations in accordance with the formula contained in the Act.

DCA calculated a Round 4 present need obligation of zero (0) units and a prospective need obligation of 181 units for the Borough of Emerson. The Borough analyzed the data that resulted in the obligation and, as permitted under the FHA 2, calculated a prospective need obligation of 167 units. The Borough adopted a binding resolution stipulating its Round 4 affordable housing obligations on January 28, 2025.

The New Jersey Builders Association (NJBA) objected to the Borough's asserted prospective need obligation. A settlement was reached between the parties for a prospective need obligation of 174 units, as memorialized in a settlement agreement dated May 5, 2025.

Emerson's affordable housing obligations are as follows:

- Prior Round (Rounds 1 & 2, from 1987-1999) Obligation: 74 units
- Round 3 (from 1999-2025) Prospective Need Obligation: 234 Units
- Round 4 (from 2025-2035) Present Need (Rehabilitation Obligation): 0 units
- Round 4 (from 2025-2035) Prospective Need Obligation: 174 Units

The Borough's affordable housing obligation and the manner in which it has met and intends to meet it, is described in the following subsections.

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### **Prior Round Obligation<sup>1</sup>**

The Borough's 2017 Housing Element and Fair Share Plan states the following regarding Emerson's Prior Round Obligation.

- The Borough adopted a housing Element and Fair Share Plan in April 2001. This action occurred within the context of pending litigation.
- Trial proceedings were conducted in Superior Court in September 2001, which resulted in the April 2001 plan being invalidated.
- The Special Master then prepared a compliance plan dated December 31, 2001.
- The Court declined to approve the Special Master's plan in March 2002.

The final plan to meet the Prior Round obligation included a Vacant Land Adjustment (VLA). A VLA is utilized when a community does not contain sufficient land to build or to zone for its entire obligation.

The VLA results in the calculation of a Realistic Development Potential (RDP) of 20 units, with the remaining 54 units of obligation classified as Unmet Need.

The Prior Round RDP and unmet need were addressed as follows:

**Regional Contribution Agreement (RCA) with Ridgefield.** COAH's Prior Round rules permitted Emerson to transfer up to half of its RDP to a municipality in the same housing region through a Regional Contribution Agreement (RCA). Five (5) units of the Borough's RDP were addressed via an RCA with Ridgefield.

**New Concepts for Living Group Home.** Ten units of credit, and five (5) bonus credits were obtained via a group home.

The Borough addressed its unmet need obligation via overlay zoning and the collection of development fees.

### **Round 3 Prospective Need**

The Borough of Emerson's **Round 3 prospective need obligation is 234 units**. The Borough reached settlement with the FSHC in 2017. The settlement recognized that Emerson did not have sufficient vacant land to build or to zone for its entire obligation, and, therefore, received a Vacant Land Adjustment (VLA). The VLA resulted in the calculation of a Realistic Development Potential (RDP) of 53 units. The Borough's settlement agreement and the 2017 Housing Element & Fair Share Plan actually exceeded the 53-unit RDP.

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<sup>1</sup> Borough of Emerson 2017 Housing Element & Fair Share Plan.

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**Group Homes.** The Borough received **10 units of credit** for two separate group homes.

**Veterans' Housing.** The Veterans Housing development, located at 324 Main Street (Block 304, Lot 3) was an existing development at the time of the Round 3 plan. This development provided **14 units of affordable housing credit** toward the Round 3 obligation.

**Block 419.** The Block 419 project is located on Kinderkamack Road and includes Block 419, Lots 1, 2, 3, 4 6.01, 6.02, 7, 8, 9 and 10. The development is presently under construction. The project is the result of a Redevelopment Plan and Agreement. The Block 419 development is a mixed use development containing both retail use and 147 total residential units, of which 29 are affordable. The approval provided the option of seven (7) of the affordable units located off-site.

Block 419 provides **29 units of rental affordable housing.**

**Emerson Grand.** The Emerson Grand development is located at 55 Emerson Plaza East (Block 616, Lot 16). The site was approved for a mixed use development including 18 residential units. The approval included the provision of four (4) affordable units, which would be provided off-site, at 18 Emerson Plaza West (Block 603, Lot 3). However, the units were not deed restricted.

The Borough initiated litigation against the property owner. A settlement was reached whereby the owner agreed to deed restrict the four affordable units at 18 Emerson Plaza West (Block 603, Lot 3). The settlement agreement is included in Appendix F.

The Emerson Grand provides **four (4) units** of affordable rental housing.

**Bonus Credits:** The Borough received **14 units of bonus credit** toward its affordable housing obligation.

Therefore, the Borough provided 71 units of credit and actually exceeded the 53-unit RDP.

### Round 3 Unmet Need

The following compliance mechanisms were utilized to address the Borough's unmet need obligation.

- Surplus credits from Round 3.
- Adoption of a mandatory-set aside ordinance that provides for an affordable housing set-aside on future residential development.



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- Adoption of overlay zones, known as the Multi-Family Residential Affordable Housing Overlay Zone District North and the Multi-Family Residential Affordable Housing Overlay Zone District South.

It is important to note that the Multi-Family Residential Affordable Housing Overlay zone has been successful in the provision of affordable housing. The Borough Land Use Board approved an application for a property known as 161 Kinderkamack Road (Block 616, Lots 1 & 2), that included eight (8) residential units, of which two (2) are affordable. This development is constructed and occupied.

#### **Round 4 Present Need**

The present need is a measure of overcrowded and deficient housing that is occupied by low- and moderate-income households. The present need has previously been called “rehabilitation share.” **Emerson’s Round 4 present need obligation is zero (0) units.**

Emerson did have a Present Need obligation in Round 3, and the Borough has established a Rehabilitation Program. At this time, one Borough property has completed rehabilitation consisting of electrical work and roof and gutter system replacement; a total of \$15,850 was expended at this property. Two other properties are presently in the construction phase of the rehabilitation process.

#### **Round 4 Prospective Need**

**Emerson’s Round 4 prospective need obligation is 174 units.** The Borough does not have sufficient vacant land to zone for or build for its full Round 4 obligation.

#### Round 4 Vacant Land Adjustment

Because the Borough does not have sufficient vacant land to zone for or build for its full Round 4 obligation, it is entitled to a Vacant Land Adjustment (VLA) for Round 4. The Round 4 VLA table and associated mapping is included in Appendix A. The VLA was prepared pursuant to COAH Round 2 rules contained in N.J.A.C. 5:93-4.2 and the FHA 2.

In its preparation of the Round 4 VLA, the Borough relied upon all analyses and conclusions from its approved Round 3 VLA. The Round 4 VLA analyzed vacant lots with a tax assessment classification of 1, vacant land or 15C, public property. Full lots, or portions thereof, that contain environmental constraints, were excluded from the analysis. Properties that are listed on the Borough’s Recreation and Open Space Inventory (ROSI) were excluded, in addition to properties that are a Round 3 compliance mechanism or were identified as not buildable in Round 3. A six-unit per acre density was applied to the remaining lots or portions thereof.

The resulting RDP was zero (0) units.

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#### Round 4 Unmet Need

The Borough proposes the following unmet need mechanisms:

- Continuation of the mandatory set-aside ordinance.
- Continuation of collection of development fees.
- Four additional units have been approved at the Veterans' Housing site, 324 Main Street.
- Overlay zoning as described below.

The FHA 2 contains the following new requirement:

*Any municipality that receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a lack of vacant land shall as part of the process of adopting and implementing its housing element and fair share plan identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of **the prospective need obligation that has been adjusted, and adopt realistic zoning that allows for such adjusted obligation**, or demonstrate why the municipality is unable to do so. (emphasis added)*

The Borough's Round 4 obligation is 174 units. The Borough has a zero (0) unit RDP, resulting in 174 units of unmet need.

Four (4) additional units have been approved for the Veterans' Housing development located at 324 Main Street, which reduces the unmet need to 170 units. Therefore, the Borough needs to address 25% of its 170-unit unmet need obligation with realistic zoning. With a 170-unit unmet need requirement, the Borough needs to provide realistic zoning for 43 affordable units.

To address the unmet need obligation, the Borough proposes to create a new overlay zone district for the properties known as Block 1301, Lots 1.01 and 1.02. These properties are presently improved with commercial structures and uses and are situated in the Retail Commercial/RC Zone Districts that are located along Old Hook Road and Main Street. The combined acreage of the of these lots is approximately 7.8 acres. The proposed zoning ordinance is attached in Appendix E and would permit multifamily residential development at a density of 30 units per acre with a required 20% affordable housing set-aside. Therefore, the new overlay zoning offers the potential for 234 units, of which 47 would be affordable units. The proposed overlay zoning exceeds the 25% required as referenced above, and provides a realistic opportunity for the provision of affordable housing.

As required by affordable housing rules, the overlay zoning locations meet the definitions of approvable, available, developable and suitable. The property will be rezoned to permit inclusionary development, has access to water and sewer infrastructure, and is situated in an area where growth is identified to occur. There

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is public transportation available, and employment opportunities are within walking distance, including the Hackensack Meridian Health hospital on Old Hook Road.

### **Availability of Existing and Planned Infrastructure**

The majority of the site proposed to address the unmet need is located in State Planning Area 1. Emerson offers a developed infrastructure.

### **Consideration of Lands Appropriate for Affordable Housing**

Emerson is a developed community with no vacant land. The Borough anticipates that future development and growth will predominantly be limited to its downtown area and the location identified as a proposed overlay zone.

### **Consistency with the State Development and Redevelopment Plan**

The 2001 New Jersey State Development and Redevelopment Plan (SDRP) contains a series of smart growth goals and policies, and mapping that reflects desired growth patterns within a series of state planning areas.

As provided in the SDRP, the majority of the proposed overlay zone district is located within Planning Area 1, which is also known as the Metropolitan Planning Area. A small portion, in the southeast corner of the property, is located in Planning Area 5. In the Metropolitan Planning Area, the SDRP's intention is to:

- Provide for much of the State's future redevelopment;
- Revitalize cities and towns;
- Promote growth in compact forms;
- Stabilize older suburbs;
- Redesign areas of sprawl; and
- Protect the character of existing stable communities.

Additionally, it is noted that the 2001 SDRP outlines several policy objectives for the Metropolitan Planning Area, including:

- Land Use: Promote redevelopment and development in cores and neighborhoods of centers and in nodes that have been identified through cooperative regional planning efforts. Promote diversification of land uses, including housing where appropriate, in single-use developments and enhance their linkages to the rest of the community. Ensure efficient and beneficial utilization of scarce land resources throughout the Planning Area to strengthen its existing diversified and compact nature.

*Housing Plan Element and Fair Share Plan – Round 4*  
*Borough of Emerson, Bergen County, New Jersey*

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- Housing: Provide a full range of housing choices through redevelopment, new construction, rehabilitation, adaptive reuse of nonresidential buildings, and the introduction of new housing into appropriate nonresidential settings. Preserve the existing housing stock through maintenance, rehabilitation and flexible regulation.

Execution of this Housing Element and Fair Share Plan and, therewith, promotion of affordable housing development in the Metropolitan Planning Area would be consistent with the intent and aforementioned policy objectives of said planning area.

#### SDRP Update

It is noted that as of the preparation of this Housing Element and Fair Share Plan, the State of New Jersey was in the process of updating the SDRP. While a draft of an updated SDRP was released for public review and comment in December 2024, its finalization and adoption are not anticipated to occur before late 2025 or early 2026. Thus, the 2001 SDRP remained in effect as of the preparation and adoption of this Housing Element and Fair Share Plan.

Notwithstanding the above, it is noted that the draft SDRP incorporates the same planning areas as the 2001 SDRP and associated mapping indicates that the Borough would remain in the Metropolitan Planning Area.

In addition to the above, it is noted that the draft SDRP includes several “State Planning Goals.” One of these goals relates to housing and includes the following core objectives:

- Increase the Construction of Diverse Housing Types and the Amount of Affordable Housing: Promote varied housing options for all income levels, including rentals, starter homes, senior housing, and market-rate units in transit-rich and mixed-income communities.
- Focus on Retaining Residents and Increasing Sustainability: Support inclusionary zoning, green building standards, and Transit-Oriented Development, while reinforcing fair housing practices and preventing the displacement of residents.
- Address Housing Needs of Diverse Demographics: Facilitate multi-generational households, senior housing, and adaptable options to ensure all residents can age in place and access affordable housing.
- Promote Regional Housing Balance: Encourage diverse housing development in areas with strong job markets, educational opportunities, and other amenities which support socio-economic mobility and integrate communities.

Based on its continuation of the same planning areas as outlined in the 2001 SDRP and its promotion of affordable housing, it is concluded that this Housing Element and Fair Share Plan is generally consistent with the draft SDRP.

*Housing Plan Element and Fair Share Plan – Round 4  
Borough of Emerson, Bergen County, New Jersey*

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## **Minimums & Maximums**

The FHA2 stipulates certain requirements within C.52:27D-311.k(10)1 which the Emerson plan meets. Emerson has a zero-unit RDP. The following is noted:

- A maximum of 30% of a municipality's Round 4 prospective need obligation may be met with age restricted housing; the Borough's plan conforms. No Round 4 units are age-restricted housing.
- A minimum of 50% of a municipality's Round 4 prospective need obligation must be satisfied with the creation of housing available to families with children. All units proposed for the Round 4 overlay zone are available to families with children.
- A minimum of 25% of a municipality's Round 4 prospective need obligation must be satisfied through rental housing. The Veterans' Housing units are rentals, and it is anticipated that units created in the proposed overlay zone would be rentals. Regardless, the Borough has a Round 4 RDP of zero-units, which results in a zero-unit rental requirement.

## **Multigenerational Housing Continuity**

In 2021, the New Jersey Senate and General Assembly of the State of New Jersey enacted C.52:27D-329.20, which established the Multigenerational Family Housing Continuity Commission.

The commission's responsibilities include preparing and adopting recommendations on how to best advance the goal of "enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas of housing, land use planning, parking and streetscape planning, and other relevant areas." The commission members and associated staff shall conduct research, obtaining public input, and adopt recommendations on how to most effectively advance the goal of enhancing multigenerational family housing continuity.

We note that the Borough of Emerson's Round 4 Housing Element encourages inclusionary development in the Borough's downtown area and near Old Hook Road. The Borough's Senior Center is located on Palisade Avenue, which is proximate to Emerson's downtown. The Senior Center hosts educational and health related programs. Finally, the Borough's plan includes a variety of housing options. Therefore, the Borough's ordinances advance the goals of preserving multifamily generational continuity.

## **Conclusion**

Emerson will provide for its fair share of affordable housing despite having a vacant land deficiency. As shown, the Borough exceeded its Round 3 RDP and meets its

*Housing Plan Element and Fair Share Plan – Round 4*  
*Borough of Emerson, Bergen County, New Jersey*

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Round 4 RDP. The proposed overlay zone location is near employment opportunities and public transportation. This area is primarily located within Planning Area 1 of the State Plan, which is the location where such growth is encouraged.

All affordable units will conform to necessary rules, legislation and regulations, including but not limited to bedroom distribution and income distribution. At least 13% of all affordable housing units will be available to very low income households. This plan addresses Emerson's affordable housing obligation within the confines of sound planning, and while respecting its built environment and development characteristics.

*Housing Plan Element and Fair Share Plan – Round 4  
Borough of Emerson, Bergen County, New Jersey*

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## **Appendices**

This report contains the following appendices.

Appendix A: Vacant Land Adjustment Documentation

Appendix B: Affordable Housing Ordinance & Affirmative Marketing Plan. The Borough's existing ordinance, affirmative marketing plan and mandatory set-aside ordinance are included. Modifications will be made as needed to comply with any future Round 4 requirements.

Appendix C: Development Fee Ordinance. The Borough's existing ordinance is included. Modifications will be made as needed to comply with any future Round 4 requirements.

Appendix D: Resolutions Appointing the Municipal Housing Liaison and Administrative Agent.

Appendix E: Draft Ordinance & Map – RC Overlay Zone.

Appendix F: Emerson Grand Settlement Agreement

Appendix G: Spending Plan

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*Borough of Emerson, Bergen County, New Jersey*

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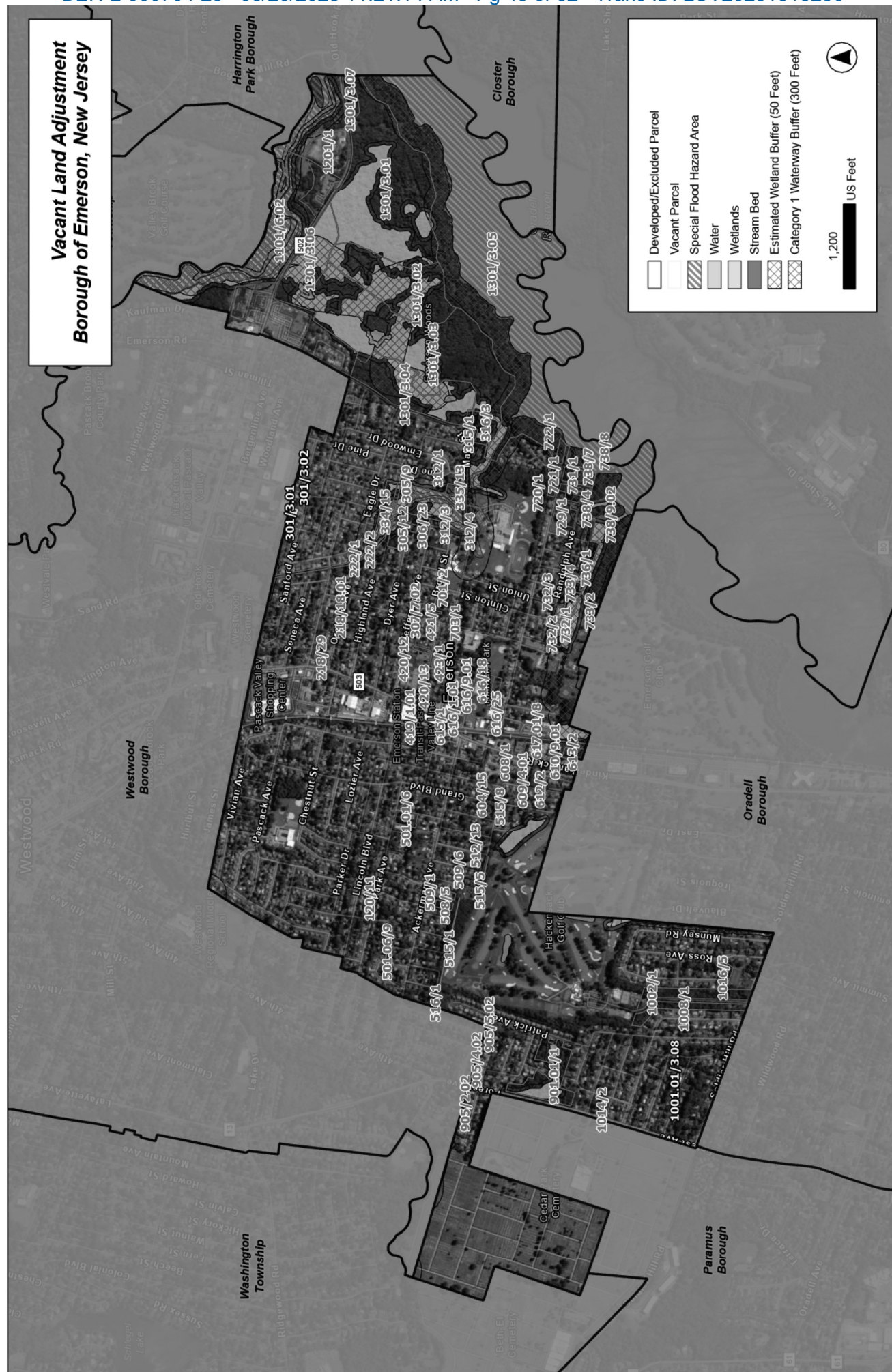
**Appendix A: Vacant Land Adjustment Documentation**



Block	Lot	Note	Class	Location	Owner	Total Acres	Special Flood Hazard Area	Water	Wetland	Historic Sites	Stream Bed	CL Water Buffer (4711)	Wetland Buffer (4711)	Encumbrances	Water	ROSI	Status	Adjacent Code	Assumed Density	Max. Yield	RIP		
501	300		Class 1 - Vacant Land	COPIES RD	W & UNIVERSITY LLC	0.05		-	-	-	-	-	-	-	0.05		NOT VACANT		1	6.00	0.00		
501	301		Class 1 - Vacant Land	COPIES RD	W & UNIVERSITY LLC	0.13		-	-	-	-	-	-	-	0.13		NOT VACANT		1	6.00	0.00		
738	2		Class 15C - Public Property	277 RANDOLPH AVE	BORG HALL	0.07	-	-	-	-	-	0.07	-	-	0.07		EXCLUDED (DETERMINED TO BE UNDEVELOPABLE IN ROUND 3)			6.00	4.00		
901-101	3		Class 15C - Public Property	175 FOREST AVE	BORG HALL OF EMERSON	8.52	-	-	3.02	-	-	-	2.50	5.02	-	0.02		VACANT (POTENTIAL SEWER USE/EXCLUSION)			6.00	1.30	
501-101	3.08		Class 15C - Public Property	COPIES RD	BORG HALL OF EMERSON	0.22	-	-	-	-	-	-	0.22	0.22	-	0.22		EXCLUDED (DETERMINED TO BE UNDEVELOPABLE IN ROUND 3)					
501-101	3.09		Class 15C - Public Property	COPIES RD	BORG HALL OF EMERSON	0.22	-	-	-	-	-	-	0.22	0.22	-	0.22		EXCLUDED (DETERMINED TO BE UNDEVELOPABLE IN ROUND 3)					
501-101	3.10		Class 15C - Public Property	151 PARK AVE	BORG HALL	1.86	0.02	-	0.07	-	-	-	0.95	0.95	-	0.95		NOT VACANT (R250)					
506	9		Class 15C - Public Property	10 REMINGTON AVE	BORG HALL	0.63	-	-	-	-	-	-	-	-	-	0.63		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509	1		Class 15C - Public Property	277 ACKERMAN AVE	BORG OF EMERSON	0.12	-	-	-	-	-	-	-	-	-	0.12		NOT VACANT (R250)					
509																							

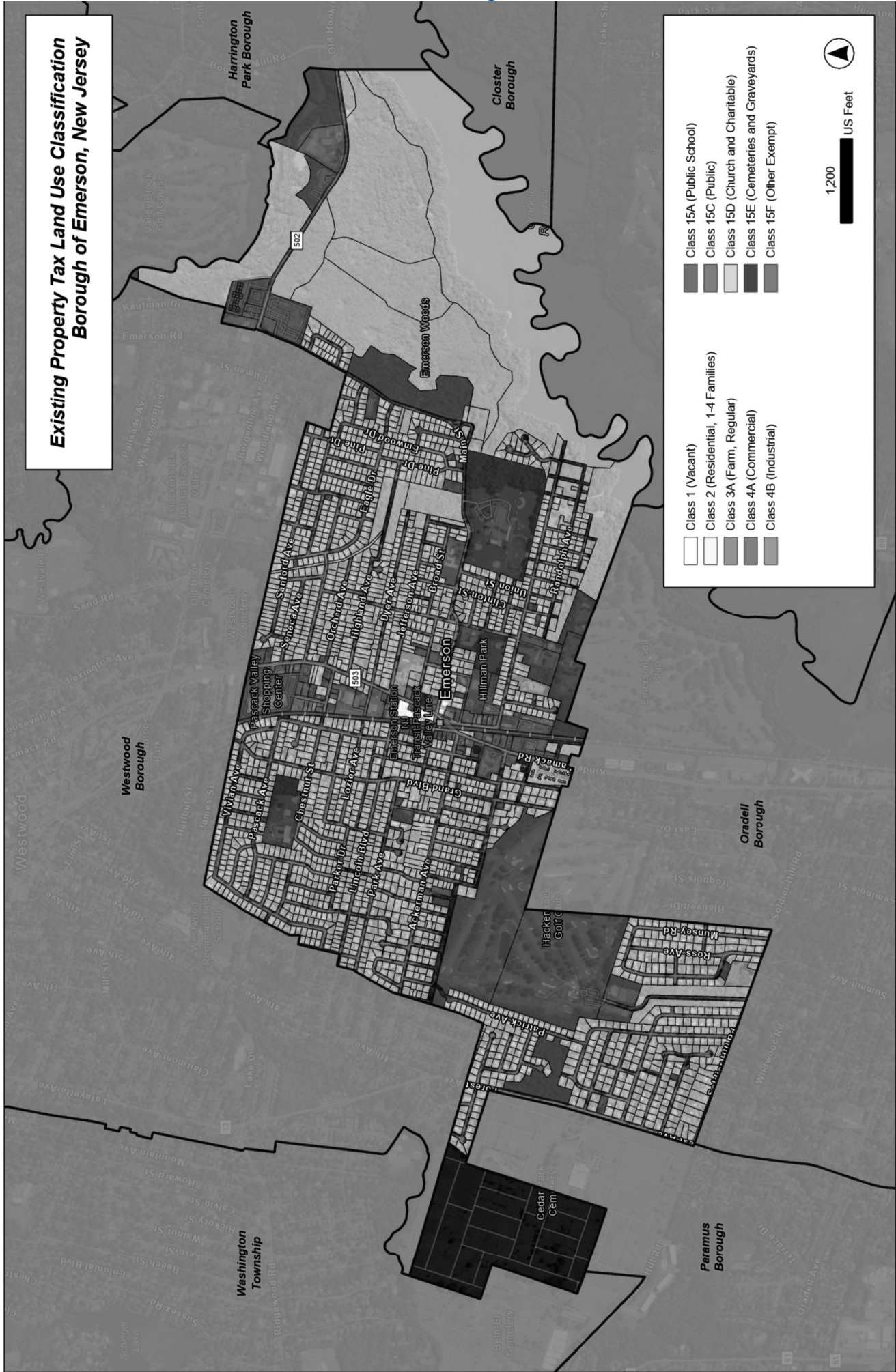


**Vacant Land Adjustment  
Borough of Emerson, New Jersey**



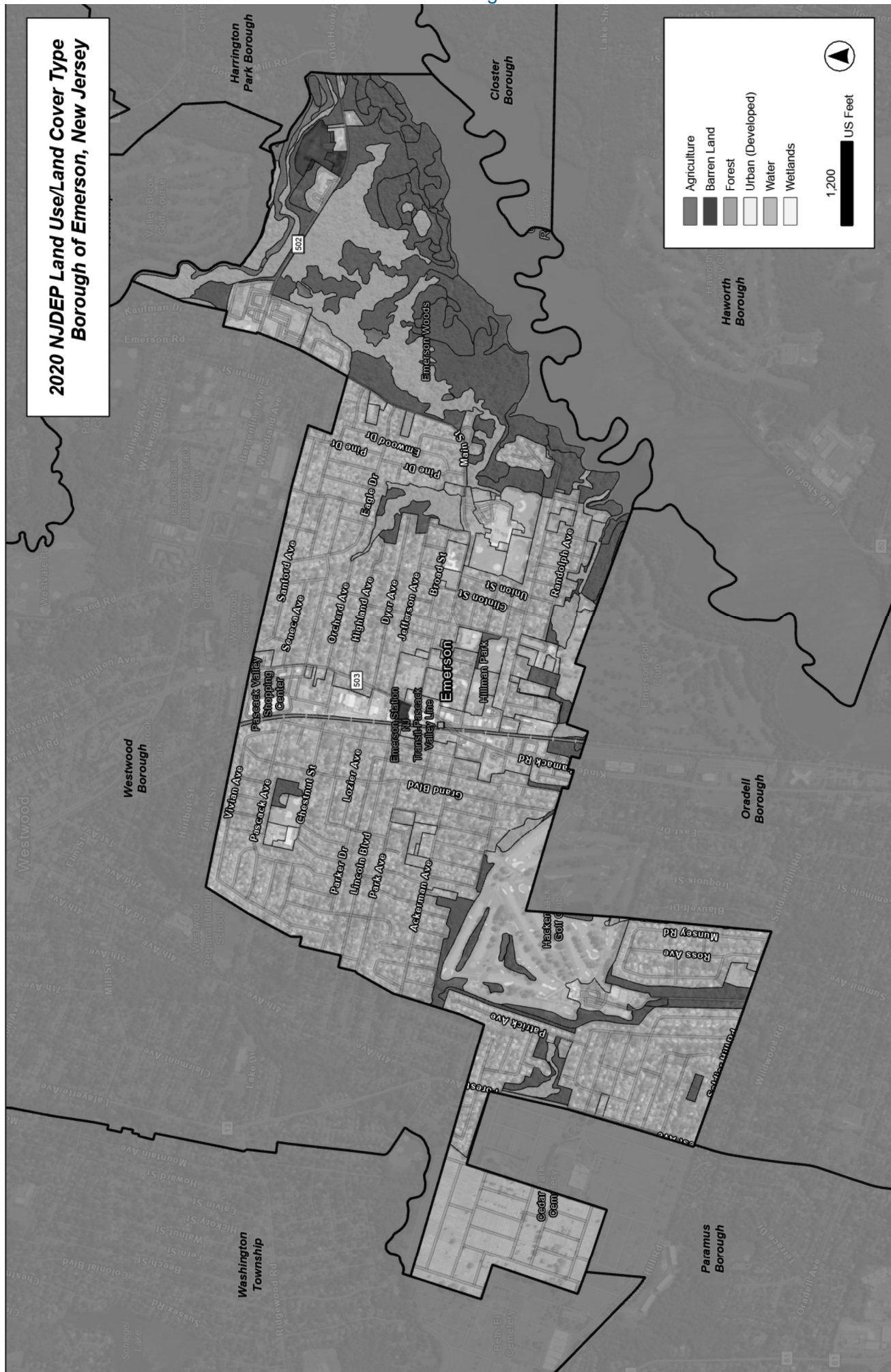


**Existing Property Tax Land Use Classification  
Borough of Emerson, New Jersey**





**2020 NJDEP Land Use/Land Cover Type  
Borough of Emerson, New Jersey**



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**Appendix B: Affordable Housing Ordinance, Affirmative Marketing Plan,  
Mandatory Set-Aside Ordinance**

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**BOROUGH OF EMERSON  
COUNTY OF BERGEN  
NOTICE OF ADOPTION**

**ORDINANCE NO 1567-18**

**Introduced:** August 14, 2018

**Adopted:** September 4, 2018

**NOTICE IS HEREBY GIVEN** that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 4th day of September, 2018. A copy of Ordinance 1567-18 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

**AN ORDINANCE OF THE BOROUGH OF EMERSON,  
COUNTY OF BERGEN, STATE OF NEW JERSEY, REPEALING AND REPLACING CHAPTER 290  
"ZONING", ARTICLE XII "AFFORDABLE HOUSING REGULATIONS" OF THE REVISED  
GENERAL ORDINANCES OF THE BOROUGH OF EMERSON**

**WHEREAS**, the Borough of Emerson has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

**WHEREAS**, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in *In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015)* ("Mt. Laurel IV") seeking approval of a Housing Element and Fair Share Plan that satisfies the Borough's obligation to provide for its fair share of the regional need of low and moderate income housing; and

**WHEREAS**, after a Fairness Hearing held on June 20, 2018, by Order dated June 29, 2018, Honorable Gregg Padovano approved a settlement agreement between the Borough of Emerson and Fair Share Housing Center; and

**WHEREAS**, the 2018 Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, the Borough is desirous of amending and supplementing the Borough Code to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Governing Body, and include provisions addressing Emerson's constitutional obligation to provide for its fair share of low and moderate income housing, as directed by the Superior Court and consistent with the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.), and applicable Affordable Housing Regulations adopted by COAH and the New Jersey Department of Community Affairs; and

**WHEREAS**, this Ordinance is intended to provide assurances that low and moderate income units ("affordable units") are created with controls on affordability over time and that low and moderate income households shall occupy those units.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Emerson, County of Bergen, State of New Jersey, that:

**Section 1.** Chapter 290 "Zoning", Article XII "Affordable Housing Regulations" of the revised General Ordinances of the Borough is hereby repealed and replaced as follows:

## Article XII AFFORDABLE HOUSING REGULATIONS

### § 290-63 Purpose and Applicability.

1. Purpose. The purpose of this article is to provide a realistic opportunity for the construction of the borough's constitutional obligation to provide for its fair share of affordable housing for households with very low, low, and moderate incomes, as directed by the Superior Court and is consistent with the Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.), except where modified by the terms of a Settlement Agreement between the Borough and Fair Share Housing Center (FSHC) such that the statutory requirement to provide very low-income units equal to 13 percent of affordable units approved and constructed after July 1, 2008, to be affordable to households at 30 percent of the regional median income, overrides the UHAC requirement that 10 percent of all low- and moderate-income units must be affordable at 35 percent of the regional median income, and the Borough's constitutional obligation to provide a fair share of affordable housing for low- and moderate-income households.
2. Applicability. The provisions of this Ordinance shall apply:
  - a. To all affordable housing developments and affordable housing units that currently exist within the Borough of Emerson.
  - b. To all affordable housing developments and affordable housing units that are proposed to be created pursuant to the Borough of Emerson's Housing Element and Fair Share Plan; and
  - c. To all other affordable housing developments and housing units that are created pursuant to actions by the Borough of Emerson or its Land Use Board, including projects that may be funded with Low Income Housing Tax Credit financing, or projects subject to the mandatory affordable housing set aside set forth in Section 13D of this Chapter, which shall comply with the income and bedroom distribution requirements of this Ordinance.

### § 290-63.1 Monitoring Requirements.

- a. On the first anniversary of the entry of the Order granting the Borough a Final Judgment of Compliance and Repose in IMO Application of the Borough of Emerson, Docket No.: BER-L-6300-15 and every anniversary thereafter through the end of 2025, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- b. On the first anniversary of the entry of the Order granting the Borough a Final Judgment of Compliance and Repose in IMO Application of the Borough of Emerson, Docket No.: BER-L-6300-15 and every anniversary thereafter through the end of 2025, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with copies provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Court-appointed Special Master and Fair Share Housing Center. Such forms shall be provided to the Borough.
- c. For the midpoint realistic opportunity review, due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough shall post on its municipal website, with copies 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 copies provided 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.



- d. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the Order granting the Borough a Final Judgment of Compliance and Repose in IMO Application of the Borough of Emerson, Docket No.: BER-L-6300-15, and every third year thereafter, the Borough will post on its municipal website, with copies 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 in the Settlement Agreement. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, on the issue of whether the municipality has complied with its very low income housing obligation under the terms of the Settlement Agreement.

## **§ 290-63.2 Definitions.**

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

### **ACT**

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

### **ADAPTABLE**

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

### **ADMINISTRATIVE AGENT**

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

### **AFFIRMATIVE MARKETING**

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

### **AFFORDABILITY AVERAGE**

The average percentage of median income at which new restricted units in an affordable housing development are affordable to low and moderate income households.

### **AFFORDABLE**

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

### **AFFORDABLE HOUSING DEVELOPMENT**

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

### **AFFORDABLE HOUSING PROGRAM(S)**

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

### **AFFORDABLE UNIT**

A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

### **AGENCY**

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

**AGE-RESTRICTED UNIT**

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

**ALTERNATIVE LIVING ARRANGEMENTS**

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

**ASSISTED LIVING RESIDENCE**

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

**CERTIFIED HOUSEHOLD**

A household that has been certified by an Administrative Agent as a low income household or moderate income household.

**COAH**

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), or any successor agency charged with the administration of the Act.

**COURT**

The Superior Court of New Jersey, Law Division, Somerset County.

**DCA**

The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT**

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

**DEVELOPER**

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

**DEVELOPMENT**

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

**FAIR SHARE PLAN**

The plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

**HOUSING ELEMENT**

The portion of the Borough's Master Plan, required by the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.A.C. 5:93-5.1 and establishes the Borough's fair share obligation.

**INCLUSIONARY DEVELOPMENT**

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

**LOW INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

**LOW INCOME UNIT**

A restricted unit that is affordable to a low income household.

**MAJOR SYSTEM**

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

**MARKET-RATE UNITS**

Housing not restricted to low and moderate income households that may sell or rent at any price.

**MEDIAN INCOME**

The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

**MODERATE INCOME HOUSEHOLD**

A household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

**MODERATE INCOME UNIT**

A restricted unit that is affordable to a moderate income household.

**MUNICIPAL HOUSING LIAISON**

The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Emerson and such other duties as set forth in §57-59 of the Code of the Borough of Emerson.

**NON-EXEMPT SALE**

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

**RANDOM SELECTION PROCESS**

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

**REGIONAL ASSET LIMIT**

The maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

**REHABILITATION**

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

**RENT**

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

**RESTRICTED UNIT**

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

**UHAC**

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

**VERY LOW INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

**VERY LOW INCOME UNIT**

A restricted unit that is affordable to a very low income household.

**WEATHERIZATION**

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

**§ 290-63.3 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 within the Borough of Emerson pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
- b. Moreover, this Ordinance shall apply to all developments that contain low and moderate income housing units, including any currently anticipated future developments that will provide low and moderate income housing units.

**§ 290-63.4 Rehabilitation program.**

- a. Emerson's rehabilitation program shall be designed to renovate deficient housing units occupied by 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.
- b. Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- c. All rehabilitated units shall remain affordable to low and moderate income households for a period of 10 years (the control period). For owner-occupied units the control period will be enforced with a lien and for renter-occupied units the control period will be enforced with a deed restriction.
- d. The Borough shall dedicate a minimum of \$10,000 in hard costs for each unit to be rehabilitated through this program.
- e. The Borough shall adopt a resolution committing to fund any shortfall in the rehabilitation program.
- f. The Borough shall designate, subject to the approval of the Court, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:93. The Administrative Agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- g. Units in a rehabilitation program shall be exempt from the Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
  - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low or moderate income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-11 and UHAC.
  - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to UHAC.
  - iii. Rents in rehabilitated units may increase annually based on the standards per this ordinance.
  - iv. Applicant and/or tenant households shall be certified as income-eligible in accordance with UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

**§ 290-63.5 Alternative Living Arrangements.**

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

**§ 290-64 Inclusionary Development.**

Purpose. This section sets forth the requirements applicable to low- and moderate-income housing units, where such units are required to be provided as part of either an inclusionary development in the R-MF-AH Zone, the MFRAH North Zone or the MFRAH South Zone; a 100% affordable senior housing project developed as a conditional use in the R-7.5 Zone; or a development subject to the Affordable Housing Overlay Zone Set Aside.

**§ 290-64 .1 Phasing Schedule for Inclusionary Zoning.**

- a. In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low and Moderate Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

- b. No initial occupancy of a low- or moderate-income housing sales unit shall be permitted prior to issuance of a certificate of occupancy, and no certificate of occupancy for initial occupancy of a low- or moderate-income housing unit shall be issued unless there is a written determination by the Administrative Agent that the unit is to be controlled by a deed restriction and mortgage lien as required by UHAC.
- c. A certificate of reoccupancy for any occupancy of a low- or moderate-income housing sales unit resulting from a resale shall be required, and the Borough shall not issue such certificate unless there is a written determination by the Administrative Agent that the unit is to be controlled by a deed restriction and mortgage lien as required by UHAC.
- d. The certificate of reoccupancy shall not be required where there is a written determination by the Administrative Agent that controls are allowed to expire or that the repayment option is being exercised pursuant to N.J.A.C. 5:93-9.8-12.3

**§ 290-64.2 Fractional Units; Payment-in-Lieus.**

- a. Fractional Units. Inclusionary developments that result in an affordable housing obligation that is fractional shall either round up and provide the additional affordable unit or provide a payment-in-lieu for the fractional amount.
- b. Payment-in-lieu. The payment-in-lieu amount for Emerson shall be calculated based on pro formas on file. To calculate the payment-in-lieu the developer shall multiply the fraction by the payment.



**§ 290-64.3 New Construction.****a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:**

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

**b. Accessibility Requirements**

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multi-story buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7.
2. All restricted townhouse dwelling units and all restricted units in other multi-story buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - (a) An adaptable toilet and bathing facility on the first floor; and
  - (b) An adaptable kitchen on the first floor; and
  - (c) An interior accessible route of travel on the first floor; and
  - (d) An adaptable room that can be used as a bedroom, with a door or casing for the installation of a door, on the first floor; and
  - (e) If not all of the foregoing requirements in 2.(a) through 2.(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs 2.(a) through 2.(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Emerson has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
- (1) Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - (2) To this end, the builder of restricted units shall deposit funds within the Borough of Emerson's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
  - (3) The funds deposited under paragraph (f)(2) above shall be used by the Borough of Emerson 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.
  - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Emerson for the conversion of adaptable to accessible entrances.
  - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
  - (6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

c. Design.

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

d. Maximum 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 and by the Superior Court, utilizing the regional income limits established.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low income and moderate income units, provided that at least 13 percent of all low and moderate income rental units shall be affordable to very low income households, earning 30 percent or less of the regional median household income, with such very low income units counted towards the low income housing requirement.



4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate income ownership units must be available for at least three different sales prices for each bedroom type, and low income ownership units must be available for at least two different sales prices for each bedroom type.
5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - (a) A studio 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.
6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
  - (a) A studio 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 two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price. Income limits for all units for which income limits are not already established through a federal program exempted from UHAC pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:

- (a) Regional income limits shall be established for the Region 1 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in Region 1. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
- (b) The income limits calculated each year shall be the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the relevant fiscal year, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- (c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

10. The rent of very low, low and moderate income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States (Northeast Urban Area). This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

#### **§290-64.4 Utilities.**

- a. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- b. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the U.S. Department of Housing and Urban Development for use in New Jersey.

**§290-64.5 Occupancy Standa.**

- a. In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:
  1. Provide an occupant for each bedroom;
  2. Provide children of different sexes with separate bedrooms;
  3. Provide separate bedrooms for parents and children; and
  4. Prevent more than two persons from occupying a single bedroom.
- b. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

**§290-65 Controls on Affordability; Affirmative Marketing**

Purpose. This section is intended to implement the provisions of Subchapter 9 of the COAH regulations, N.J.A.C. 5:93-9.17 and N.J.A.C. 5:80-26, which establish regulations designed to provide assurance that low- and moderate-income housing units will remain affordable over time; as well as Subchapter 11 of the COAH regulations, N.J.A.C. 5:93-11. It applies to all new developments in Emerson that contain proposed low- and moderate-income housing units

**§290-65.1 Control Periods for Restricted Ownership Units and Enforcement Measures.**

- a. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until the Borough takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- b. Rehabilitated owner-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- c. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- d. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- e. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- f. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- g. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**§290-65.2 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.**

- a. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.1, as may be amended and supplemented, including:
  1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
  2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
  3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low and moderate income purchasers and those paid by market purchasers
  4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See §290-65.5.

**§290-65.3 Buyer Income Eligibility.**

- a. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- b. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Mayor and Council, and subject to the Court's approval, permit moderate income purchasers to buy low income units in housing markets if the Administrative Agent determines that there are an insufficient number of eligible low income purchasers to permit prompt occupancy of the units. All such low income units to be sold to moderate income households shall retain the required pricing and pricing restrictions for low income units.
- c. 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.
- d. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low income household or a moderate income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

**§290-65.4 Limitations on Indebtedness Secured by Ownership Unit; Subordination.**

- a. 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.
- b. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

**§290-65.5 Capital Improvements to Ownership Units.**

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

**§290-65.6 Control Periods for Restricted Units.**

- a. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80- 26.11, 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 30 years, until the Borough takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
  1. Restricted rental units created as part of developments receiving nine percent (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.
- b. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- c. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- d. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  1. Sublease or assignment of the lease of the unit;
  2. Sale or other voluntary transfer of the ownership of the unit; or
  3. The entry and enforcement of any judgement of foreclosure on the property containing the unit.



**§290-65.7 Rent Restrictions for Rental Units; Leases.**

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

**§290-65.8 Tenant Income Eligibility.**

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