

RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF HASBROUCK HEIGHTS ADOPTING A HOUSING ELEMENT AND FAIR SHARE PLAN FOR ROUND FOUR

WHEREAS, the Borough of Hasbrouck Heights (hereinafter the “Borough” or “Hasbrouck Heights”) has a demonstrated history of voluntary compliance as evidenced by the receipt of the entry of a Judgment of Repose, dated September 27, 2019, approving the Borough’s Housing Element and Fair Share Plan for Round 3; Third Round record; and

WHEREAS, in March of 2024, Governor Murphy signed an amendment to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. into law making radical changes to the legislation (hereinafter “FHA II”) and

WHEREAS, FHA II established a procedure by which municipalities can secure approval of a Housing Element and Fair Share Plan; and

WHEREAS, that procedure contemplated that municipalities would adopt a resolution by January 31, 2025 committing to a fair share number and filing a declaratory relief action within 48 hours from adoption of the resolution and then adopting a Housing Element and Fair Share Plan (hereinafter “HEFSP” or “Plan”) by June 30, 2025 and filing the adopted Plan within 48 hours of adoption with the Affordable Housing Dispute Resolution Program (the “Program”); and

WHEREAS, the Borough adopted a resolution by January 31, 2025 committing to a fair share number and filing a declaratory relief action within 48 hours from adoption of the resolution; and

WHEREAS, the Borough had its affordable housing planning consultant, Edward Snieckus, Jr. P.P., LLA, ASLA, of Burgis Associates, Inc. prepare a HEFSP to address the Borough’s affordable housing obligations under FHA II; and

WHEREAS, the Borough now wishes for the Hasbrouck Heights Planning Board to consider adopting the HEFSP that its affordable housing planner prepared;

WHEREAS, in accordance with the provisions of N.J.S.A. 40:55D-13 of the MLUL, the Planning Board scheduled a public hearing on the HEFSP for June 4, 2025, at 7:00 p.m. at the Municipal Building 320 Boulevard, Hasbrouck Heights, New Jersey 07604; and

WHEREAS, in accordance with the provisions of N.J.S.A. 40:55D-13 of the MLUL, the Planning Board published a notice of this public hearing in the Borough’s official newspaper at least ten days before the scheduled date for the public hearing and served a copy of this notice upon the clerks of all municipalities adjoining the Borough, upon the clerk of the County Planning Board, and upon the New Jersey Office of Planning Advocacy; and

WHEREAS, a copy of the HEFSP was placed on file with the Planning Board Secretary and was available for public review at least ten days before the scheduled date for the public hearing; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Housing Element and Fair Share Plan on June 4, 2025; and

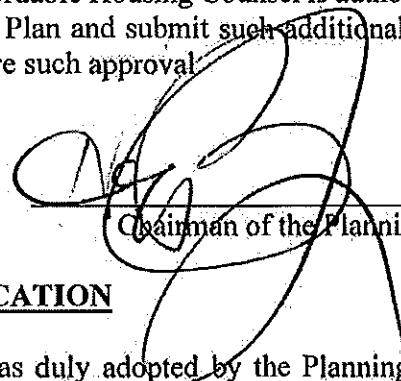
WHEREAS, at the public hearing, Edward Snieckus, Jr. P.P., LLA, ASLA, provided professional planning testimony regarding the HEFSP and the Board provided members of the public with the opportunity to provide their comments about the plan.

WHEREAS, the Planning Board determined that the attached Housing Element and Fair Share Plan is consistent with the goals and objectives of the current Master Plan of Hasbrouck Heights, and that adoption and implementation of the plan is in the public interest and protects public health and safety and promotes the general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of Hasbrouck Heights, County of Bergen, State of New Jersey, that the Planning Board hereby adopts the Housing Element and Fair Share Plan attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board hereby directs the affordable housing attorney for Hasbrouck Heights to file the duly adopted Housing Element and Fair Share Plan with the Program, an entity created by the Amended FHA, within 48 hours of adoption and present the duly adopted Housing Element and Fair Share Plan to Hasbrouck Heights for endorsement.

BE IT FURTHER RESOLVED that Affordable Housing Counsel is authorized to pursue approval of the Housing Element and Fair Share Plan and submit such additional documents as may be necessary or desirable in an effort to secure such approval.



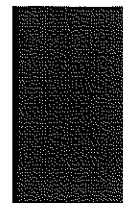
Chairman of the Planning Board

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Planning Board of the Hasbrouck Heights at a regular meeting held on the 4th day of JUNE 2025.



Planning Board Secretary



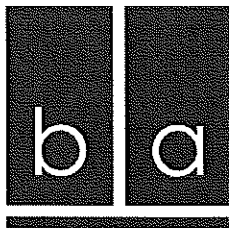
Master Plan Element

Housing Element and Fair Share Plan

May 22, 2025

Borough of Hasbrouck Heights





Community Planning
Land Development and Design
Landscape Architecture

B U R G I S
A S S O C I A T E S , I N C .

Principals:
Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA
David Novak PP, AICP

Housing Element and Fair Share Plan

Borough of Hasbrouck Heights
Bergen County, New Jersey

Prepared for the Borough of Hasbrouck Heights
Land Use Board

BA# 4197.02

The original document was appropriately signed and sealed on May 22, 2025 in accordance with
Chapter 41 of Title 13 of the State Board of Professional Planners

Joseph H. Burgis, AICP, PP
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Executive Summary

The following **2025 Housing Element and Fair Share Plan (HE&FSP) of the Master Plan** has been prepared for the Borough of Hasbrouck Heights. This plan is designed to outline the manner in which the Borough will address its affordable housing obligations. Ultimately, these obligations were derived from a variety of different sources, including the Council on Affordable Housing (COAH), a prior settlement agreement with Fair Share Housing Center (FSHC), and most recently from calculations provided by the Department of Community Affairs (DCA).

These obligations are summarized as follows:

Table 1: Affordable Housing Obligation Summary

Category	Obligation
Prior Round Obligation (1987-1999)	58
Third Round Obligation (1999-2025)	286
Fourth Round Obligation (2025-2035)	143 (DCA 149)
Present Need (Rehabilitation) Obligation	8

Prior Round Obligation

The Borough was assigned a Prior Round Obligation of 58 units. The Borough's initial effort to address its Mount Laurel obligation was set forth in a substantive certification by COAH, whereby Hasbrouck Heights the Borough received a Vacant Land Adjustment generating a Realistic Development Potential (RDP) of 0. Through a municipal rehabilitation program, the Borough undertook and completed the rehabilitation of 21 units in accordance with Prior Round Regulations. The Borough had a Prior Round Unmet Need of 58 units.

The Prior Round obligation permits 15 age restricted units (maximum of 25% of 58). The Plan dedicated 15 units from the Hasbrouck Height Senior Housing Complex owned by the Housing Development Corporation to fulfill a portion of the Prior Round obligation. In addition, 5 units of credit were applied from a supportive and special needs home operated by ARC of Bergen County for a total of 20 units of credit towards the Prior Round.

Third Round Obligation

Pursuant to a Settlement Agreement signed with FSHC on September 2016, a Third-Round prospective need (new construction) fair share obligation of 408 affordable housing units was established and an indigenous need or rehabilitation requirement of 78 units for Hasbrouck Heights for the entire 1999-2025 period, which includes what is termed the gap period.

The Settlement Agreement between the Borough of Hasbrouck Heights and Fair Share Housing Center (FSHC) included a 30% reduction from FSHC's calculated combined Third Round obligation of 122 units from 408 units to 286 units. The total prospective need for

1999-2025, which includes the gap period, resulting from the Settlement Agreement, is 286 units (also inclusive of the gap period).

Hasbrouck Heights was granted a Vacant Land Adjustment (VLA) in the Third Round identifying a Realistic Development Potential (RDP) of 11 units with a remaining unmet need of 275 units. The Borough applied 2 affordable age restricted housing units at the Hasbrouck Heights Senior Housing facility on Hamilton Avenue, the 3-unit Deverux Group Home and 4 units from the re-zoning of Longview Avenue as well as 2 rental bonus credits toward meeting its 11-unit RDP (see Section 4.2). The units constructed include all of the components identified from the Third Round.

While the Borough satisfied its Third Round RDP of 11 units it has 14 age restricted units (not subject to a 25 percent cap) remaining from the 31 units at the Hasbrouck Heights Senior Complex applicable to the unmet need of 275. As a result, the Borough has a remaining Unmet Need of 261 units after credit for these units. To contribute towards addressing Unmet Need, the Borough adopted several affordable housing overlay zones (see Section 4.2 for a description) as well as a municipal-wide mandatory set-aside ordinance.

Fourth Round Obligation

Governor Murphy signed the A-40/S-50 Bill into law on March 20, 2024 after the Senate and Assembly adopted it. This legislation (FHA-2) amended the Fair Housing Act (FHA or the Act) by abolishing COAH and created a new process that involved the creation of a new entity known as the Affordable Housing Dispute Resolution Program (the Program), as well as the DCA and the Administrative Office of the Courts (AOC).

FHA-2 directed the DCA to calculate the Present Need (also referred to as the Rehabilitation obligation) and the Prospective Need (also known as the new construction obligation) for Round Four based upon the standards set forth in the Act. The DCA issued its report on October 18, 2024, and, in accordance with the Act, made clear that the obligations generated by the report were advisory only and non-binding. For Hasbrouck Heights, the DCA Report identified a Present Need of 8 and a Prospective Round Four Need of 149.

Since the DCA report is non-binding, each municipality had the opportunity to study and define why its obligations should be different based on the standards in the Act. The Borough conducted such an analysis and determined that the DCA had made oversights in the Land Capacity Factor calculation, which is part of the formula that determines fair share obligations. The Borough adopted a binding resolution on January 14, 2025, which committed to the 0-unit Present Need obligation identified by DCA, but identified a reduced Prospective Need obligation of 138 units due to the Borough's assessment of errors in DCA's report pertaining to Hasbrouck Heights Land Capacity Factor. Ultimately, the Borough's Prospective Need obligation was established at 143 affordable units by a trial court order following a settlement issued on May 5, 2025.

The January 14, 2025 resolution of the Borough further noted that the Borough reserved the right to seek an adjustment of its Fourth Round Prospective Need number based

upon a lack of vacant, developable and suitable land. Accordingly, the Borough undertook a Vacant Land Analysis through an analysis of numerous development proposals to determine if there were any changed circumstances since 2019, HE&FSP that would warrant a recalibration of Hasbrouck Heights's RDP. At this time, the Borough concludes that the aforementioned analysis did not identify any additional parcels that were not included in the Third Round Vacant Land Analysis therefore, the Third Round RDP of 11 does not change and the additional need to be addressed under the Fourth Round RDP would be effectively 0 units. This analysis is covered in more detail in Section 3.2.

Accordingly, the remainder of this 2025 HE&FSP is divided into the following sections:

❖ Section 1: Introduction

The first section of the 2025 HE&FSP provides an introduction to affordable housing. It summarizes what affordable housing is, offers an overview of the history of affordable housing in the state, and explains the role of a housing element and fair share plan.

❖ Section 2: Housing Element

Section 2 contains the Housing Element for the Borough of Hasbrouck Heights. It offers an overview of its community, as well as back information regarding its population, housing, and employment characteristics. It also provides a projection of the Borough's housing stock and its employment projections.

❖ Section 3: Fair Share Obligation

Next, Section 3 provides an overview of the Borough's fair share obligation. It includes a brief history of the methodologies utilized to calculate affordable housing obligations throughout the state.

❖ Section 4: Fair Share Plan

Finally, Section 4 details the manner in which the Borough has addressed its prior obligations and how it will address its Fourth-Round prospective need obligations.

Section 1: Introduction

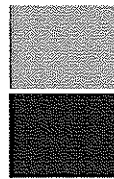
The following section provides an introduction to affordable housing. It summarizes what affordable housing is, offers an overview of the history of affordable housing in the state, and explains the role of a housing element and fair share plan.

What is Affordable Housing?

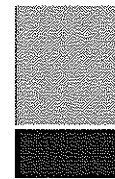
Affordable housing is income-restricted housing that is available for sale or for rent. Most often, affordable housing is restricted to very-low, low-, and moderate-income households. These categories are derived from the state's median regional income limits. New Jersey is delineated into six different affordable housing regions. Hasbrouck Heights is located in Region 1 which includes Bergen, Hudson, Passaic, and Sussex Counties.



Moderate-Income Households
Earn 80% of the region's median income



Low-Income Households
Earn 50% of the region's median income



Very Low-Income Households
Earn 30% of the region's median income

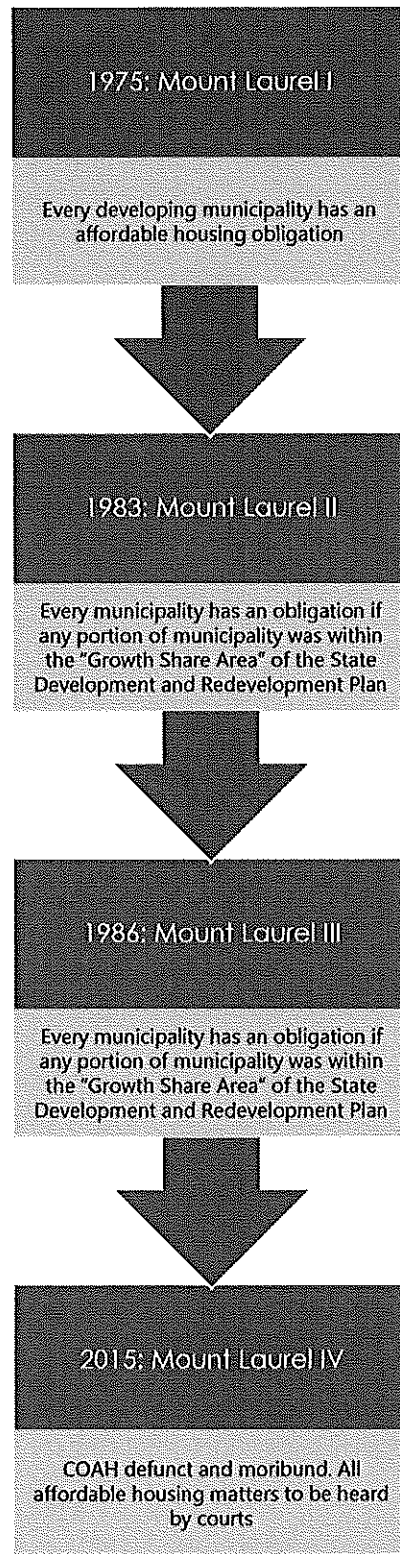
Regional income limitations are typically updated every year, with different categories established for varying household sizes. The table below identifies the 2024 regional income limits by household size for Region 1. As shown, a three-person family with a total household income of no greater than \$86,697 could qualify for affordable housing in the Borough's region.

Table 2: 2024 Affordable Housing Region 1 Income Limits by Household Size

Income Level	2 Person	3 Person	4 Person	5 Person
Median	\$96,329	\$108,371	\$120,412	\$130,045
Moderate	\$77,064	\$86,697	\$96,329	\$104,036
Low	\$48,165	\$54,185	\$60,206	\$65,022
Very-Low	\$28,899	\$32,511	\$37,568	\$39,013

One of the most common forms of affordable housing is inclusionary development, in which a certain percentage of units within a multifamily development are reserved for affordable housing. Nevertheless, affordable housing can be found in a variety of other forms, including but not limited to: one hundred percent affordable housing developments, deed-restricted accessory apartments, assisted living facilities, alternating arrangements such as supportive housing or group homes, and age restricted housing.

What is the History of Affordable Housing in New Jersey?



The history of affordable housing in New Jersey can be traced back to 1975, when the Supreme Court first decided in *So. Burlington Cty. NAACP v. Borough of Mount Laurel* (known as Mount Laurel I) that every developing municipality throughout New Jersey had an affirmative obligation to provide for its fair share of affordable housing. In a subsequent decision in 1983 (known as Mount Laurel II), the Court acknowledged that the vast majority of municipalities had ignored their constitutional obligation to provide affordable housing.

As such, the Court refined this obligation to establish that every municipality had an obligation, although those within the growth area of the State Development and Redevelopment Plan (SDRP) had a greater obligation. The Court also called for the state legislature to enact legislation that would save municipalities from the burden of having the courts determine their affordable housing needs. The result of this decision was the adoption of the Fair Housing Act in 1985 as well as the creation of the New Jersey Council on Affordable Housing (COAH), which became the state agency responsible for overseeing the manner in which New Jersey's municipalities address their low and moderate income housing needs.

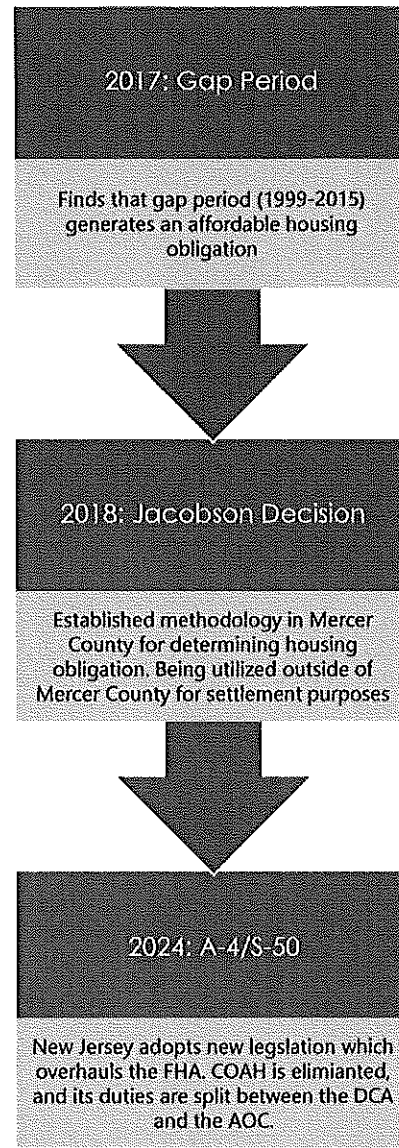
COAH proceeded to adopt regulations for the First Round obligation, which covered the years 1987 to 1993. It also established the Second Round housing-need numbers that cumulatively covered the years 1987 through 1999. Under both the First and Second Rounds, COAH utilized what is commonly referred to as the "fair share" methodology. COAH utilized a different methodology, known as "growth share," beginning with its efforts to prepare Third Round housing-need numbers. The Third Round substantive and procedural rules were first adopted in 2004.

These regulations were challenged and in January 2007, the Appellate Division invalidated various aspects of these rules and remanded considerable portions of the rules to COAH with the directive to adopt revised regulations.

In May 2008, COAH adopted revised Third Round regulations which were published and became effective on June 2, 2008. Coincident to this adoption, COAH proposed amendments to the rules they had just adopted, which subsequently went into effect in October 2008. These 2008 rules and regulations were subsequently challenged, and in an October 2010 decision the Appellate Division invalidated the Growth Share methodology, and also indicated that COAH should adopt regulations pursuant to the Fair Share methodology utilized in Rounds One and Two. The Supreme Court affirmed this decision in September 2013, which invalidated much of the third iteration of the Third Round regulations and sustained the invalidation of growth share. As a result, the Court directed COAH to adopt new regulations pursuant to the methodology utilized in Rounds One and Two.

Deadlocked with a 3-3 vote, COAH failed to adopt newly revised Third Round regulations in October 2014. The Fair Share Housing Center, who was a party in both the 2010 and 2013 cases, responded by filing a motion in aid of litigants' rights with the New Jersey Supreme Court. The Court heard the motion in January 2015, and issued its ruling on March 20, 2015. The Court ruled that COAH was effectively dysfunctional, and consequently returned jurisdiction of affordable housing issues back to the trial courts where it had originally been prior to the creation of COAH in 1985.

This 2015 Court decision created a process in which municipalities may file a declaratory judgment action seeking a declaration that their HE&FSP is constitutionally compliant and receive temporary immunity from affordable housing builders' remedy lawsuits while preparing a new or revised HE&FSP to ensure their plan continues to affirmatively address their local housing need as may be adjusted by new housing-need numbers promulgated by the court or COAH.



Subsequently, the Supreme Court ruled on January 18, 2017 that municipalities are also responsible for obligations accruing during the so-called "gap period," the period of time between 1999 and 2015. However, the Court stated that the gap obligation should be calculated as a never-before calculated component of Present Need, which would serve to capture Gap Period households that were presently in need of affordable housing as of the date of the Present Need calculation (i.e. that were still income eligible, were not captured as part of traditional present need, were still living in New Jersey and otherwise represented a Present affordable housing need).

On March 20, 2024, the State of New Jersey adopted a package of affordable housing bills which overhauled the Fair Housing Act. This legislation referred to FHA-2 ultimately eliminated COAH and split its duties and functions between the Department of Community Affairs (DCA) and the Administrative Office of the Courts (AOC).

The DCA was designated by the legislation as the entity responsible for calculating the state's regional needs as well as each municipality's present and prospective fair share obligations pursuant to the Jacobson Decision. However, the legislation makes clear that these numbers are advisory and that each municipality must set its own obligation number utilizing the same methodology. Meanwhile, the Affordable Housing Dispute Resolution Program (the "Program") within the AOC is tasked to handle any disputes regarding affordable housing obligations and plans.

What is a Housing Element and Fair Share Plan?

A Housing Element and Fair Share Plan (HE&FSP) serves as the blueprint for how a municipality will address its fair share of affordable housing. It is designed to help a community broaden the accessibility of affordable housing.

While technically a discretionary component of a municipal master plan, a HE&FSP is nevertheless an effectively obligatory plan element. As established by NJSA 40:55D-62.a of the Municipal Land Use Law (MLUL), a municipality must have an adopted HE&FSP in order to enact its zoning ordinance. Thus, from a public policy perspective, a HE&FSP is an essential community document. Moreover,

The Municipal Land Use Law (MLUL) is the enabling legislation for municipal land use and development, planning, and zoning for the State of New Jersey.

without a HE&FSP, a municipality may be susceptible to a builder's remedy lawsuit in which a developer could file suit to have a specific piece of property rezoned to permit housing at higher densities than a municipality would otherwise allow, provided a certain percentage of units are reserved as affordable.

The Fair Housing Act (FHA), which was adopted in 1985 and has been amended multiple times since then, establishes the required components of a HE&FSP. These are summarized as follows:

1. 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;
2. 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;
3. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. 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;
6. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and 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;

7. 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;
8. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, 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;
9. 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.

Section 2: Housing Element

The following section provides the housing element for the Borough of Hasbrouck Heights. It offers an overview of its community, as well as back information regarding its population, housing, and employment characteristics. It also provides a projection of the Borough's housing stock and its employment projections.

Information Regarding Data Sources

The information contained in Section 2.2 entitled "Population Demographics," Section 2.3 entitled "Inventory of Housing Stock," Section 2.4 entitled "Employment Demographics," and Section 2.5 entitled "Housing & Employment Projections" was obtained from a variety of publicly available data sources. These are summarized below:

- | | |
|--|--|
| <p>1. United States Decennial Census</p> <p>The US Census is described in Article I, Section 2 of the Constitution of the United States, which calls for an enumeration of the people every ten years for the apportionment of seats in the House of Representatives. Since the time of the first Census conducted in 1790, it has become the leading source of data about the nation's people and economy. Please note that all incomes reported in the Census are adjusted for inflation.</p> | <p>4. New Jersey Department of Community Affairs (DCA)</p> <p>The New Jersey Department of Community Affairs is a governmental agency of the State of New Jersey. Its function is to provide administrative guidance, financial support, and technical assistance to local governments, community development organizations, businesses, and individuals to improve the quality of life in New Jersey.</p> |
| <p>2. American Community Survey (ACS)</p> <p>The American Community Survey is a nationwide ongoing survey conducted by the US Census Bureau. The ACS gathers information previously contained only in the long form version of the decennial census, such as age, ancestry, educational attainment, income, language proficiency, migration, disability, employment, and housing characteristics. It relies upon random sampling to provide ongoing, monthly data collection. Please note that all incomes reported in the ACS are adjusted for inflation.</p> | <p>5. New Jersey Department of Labor and Workforce Development</p> <p>The New Jersey Department of Labor and Workforce Development is a governmental agency of the State of New Jersey. One of its roles is to collect labor market information regarding employment and wages throughout the state.</p> |
| <p>3. New Jersey Department of Health</p> <p>The New Jersey Department of Health is a governmental agency of the State of New Jersey. The department contains the Office of Vital Statistics and Registry, which gathers data regarding births, deaths, marriages, domestic partnerships, and civil unions.</p> | |

2.1: Community Overview

The Borough of Hasbrouck Heights is located in the southerly portion of Bergen County. It is bounded by five municipalities, including: the City of Hackensack to the north; the Borough of Teterboro to the east; the Borough of Moonachie to the southeast, the Borough of Wood-Ridge to the south and Borough of Lodi the west. The Borough is essentially a fully developed community with very little vacant land remaining for development.

The total land area of the Borough is 733.93 acres without including streets/roads. The Borough currently contains 3,879 parcels. The majority of the Borough is primarily characterized by residential development. In fact, over 513.74 acres of the municipality's total land area (70 percent) consists of residential uses. Single-family residential accounts for the bulk of this majority at 65.9 percent of the Borough's total land area. Multi-family residential developments are less common, comprising only 30 acres, or 4.1 percent, of the Borough's total land area.

Commercial land uses are the second largest in the Borough and account for a total of 105.38 acres, or approximately 14.3 percent of the total land use area. Industrial land use constitutes 15 parcels covering 15.8 acres.

Land uses under the Public/Semi-Public classification comprise the fourth largest land use category in Hasbrouck Heights, accounting for 56.5 acres, or 7.7 percent of the Borough's total land area. Semi-public land uses, including places of worship and other non-profit organizations, account for 1.1 percent of the Borough's total land area, while schools comprise an additional 2.3 percent. Municipal property, parks, and public parking lots make up most of this category with more than 4.2 percent.

The Borough contains one Class I rail line that traverses the Borough from North to South. The rail line covers more than 17.3 acres in the Borough. Other Exempt parcels total 29, with 6.3 of combined acreage.

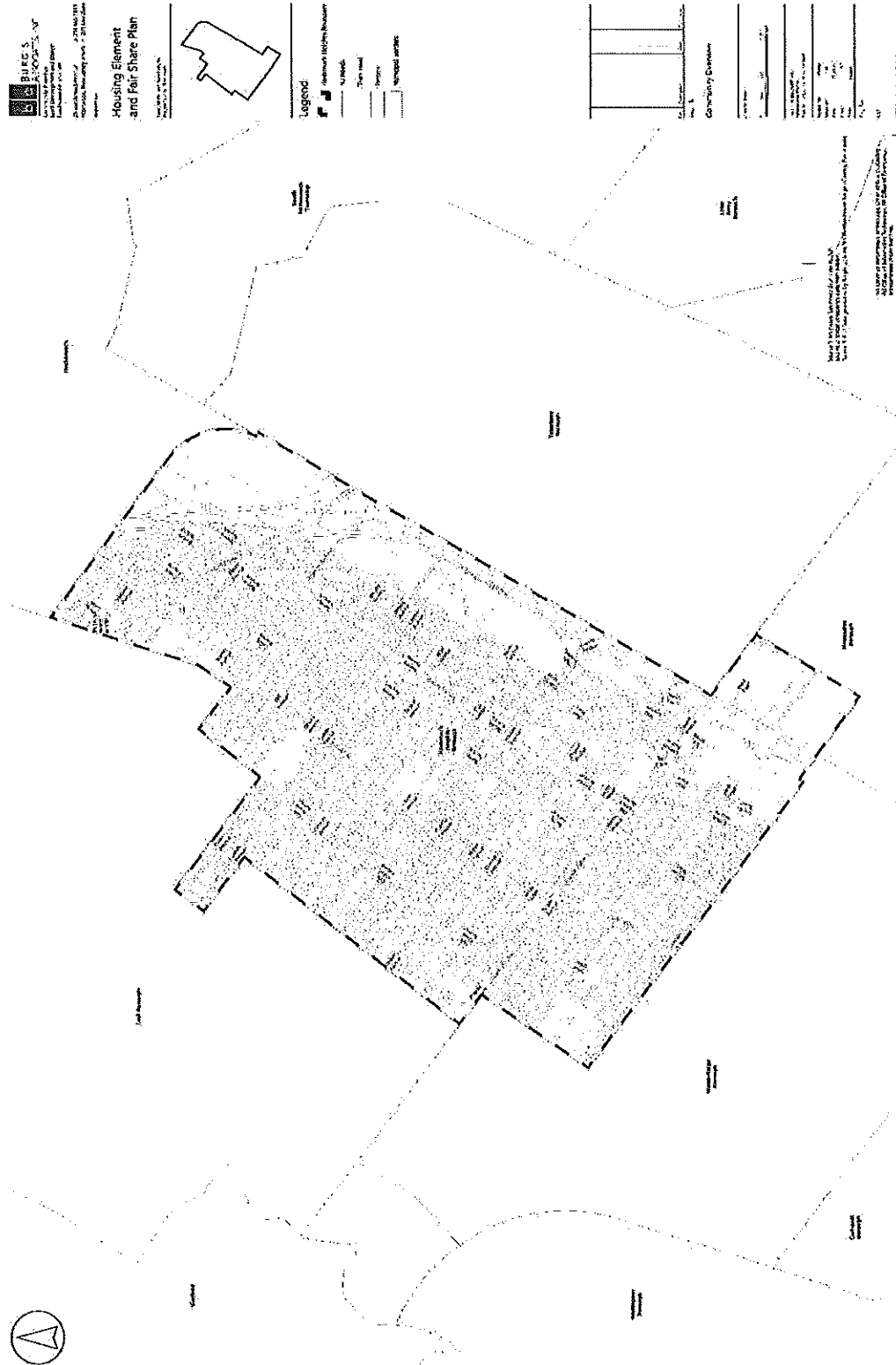
Table 3: Existing Land Use Analysis

Land Use		Acres	% of Total Acres	Parcels	% of Total Parcels
Residential	Low Density	483.7	65.91%	3429	88.40%
	Multifamily	30.0	4.09%	83	2.14%
Commercial	Commercial	105.4	14.36%	193	4.98%
Public/Semi-Public	Municipal Property	31.1	4.24%	37	0.95%
	Public School	17.2	2.34%	10	0.26%
	Church & Charitable	8.2	1.11%	12	0.31%
Other	Vacant	18.9	2.58%	66	1.70%
	Industrial	15.8	2.15%	15	0.39%
	Rail	17.3	2.35%	5	0.13%
	Other Exempt	6.3	0.86%	29	0.75%

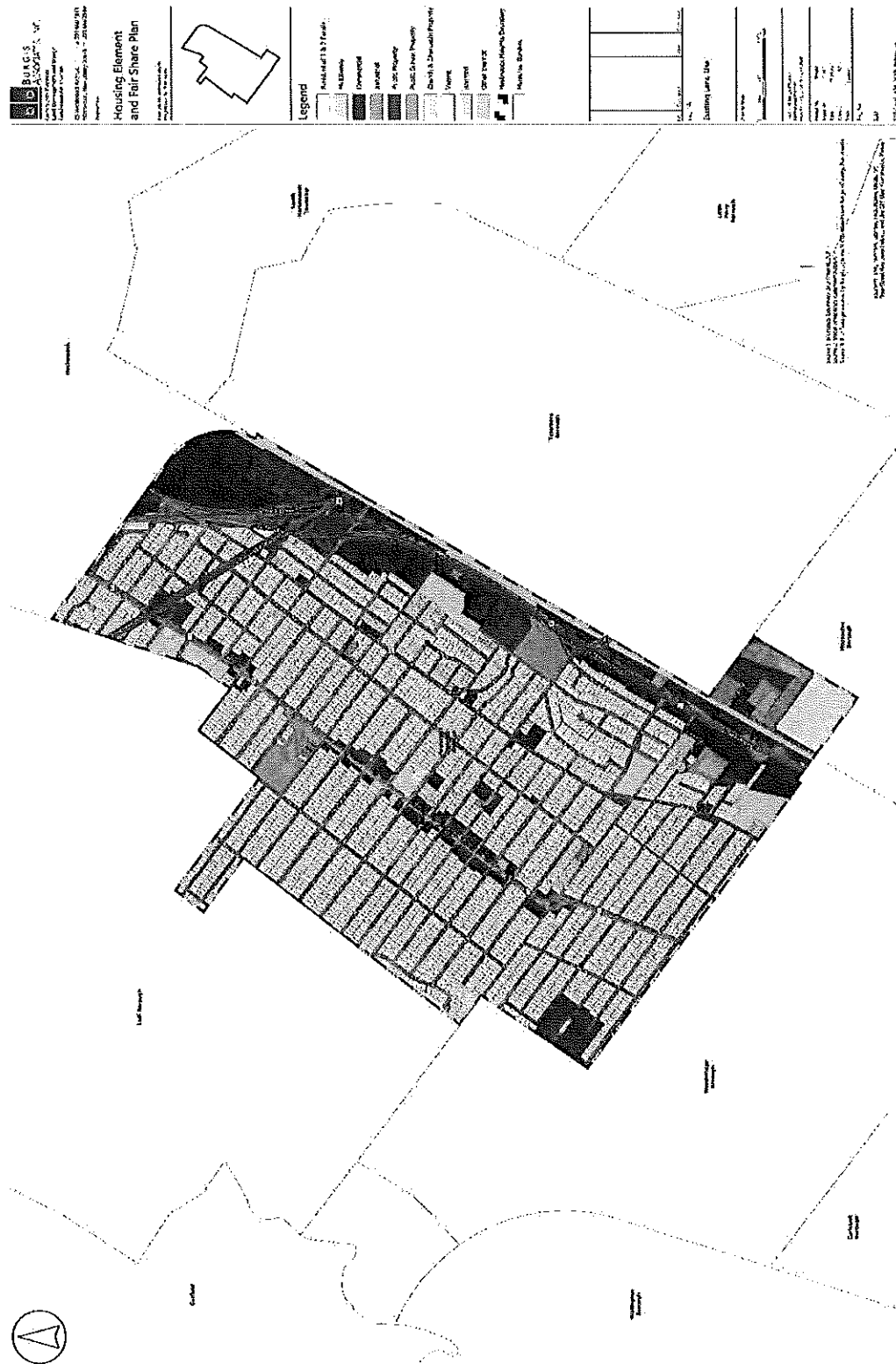
Source: ArcGIS Calculations

Regional access to the Borough is provided by several county and state roadways.. Linkages to the state's regional highway network is provided by Route 17 and Route 46 within the Borough, with Interstate 80 also offering more regional access just above the Borough in Hackensack.

Map 1: Community Overview



Map 2: Existing Land Use



2.2: Demographic and Population Data

Analyzing demographic and population data is a necessary and integral step in planning for the future needs and demands of a community. As such, the following section outlines the demographic changes experienced by the Borough of Hasbrouck Heights over the past several decades.

This section is an analysis of demographic information is obtained from the 2010 Decennial Census as well as the 2010 and 2023 American Community Survey (ACS) 5-year estimates. The ACS data consists of estimates based upon data averages across a five-year span, otherwise known as "period" estimates. They are not actual counts, rather they are representative of data collected over a period of time and thus may not be directly comparable to decennial census figures. For example, the 2023 ACS includes data collected from 2019, 2020, 2021, 2022 and 2023. The following provides an assessment of population size, rate of population growth, age characteristics, as well as household size and income levels. Each of these items is described in detail below. This information is vital for the Borough to carefully plan for the current and future needs of its residents and the community.

Population Changes

The Borough experienced a slight decline in population from 1970 to the 1990s. The reduction in the population at that time could be attributable to the aging population and homes with children aging into adulthood and moving onto new locations. The Borough did not regain said population peak from 1970 and in 2023 is still more than 1,500 person difference.

Table 4: Population Growth, 1950-2023

Year	Population	Population Change	Percent Change
1950	9,181		
1960	13,046	3865	42.1%
1970	13,651	605	4.6%
1980	12,166	-1,485	-10.9%
1990	11,488	-678	-5.6%
2000	11,662	174	1.5%
2010	11,742	80	0.7%
2020	12,026	284	2.4%
2023	12,067	41	0.3%

Source: US Census Bureau; 2023 American Community Survey Five-Year Estimate

Age Characteristics

As shown in the age distribution table below, the Borough's age characteristics show a slight increase in median age from 42.6 years in 2010 to 44.2 according to the 2023 ACS data. The largest age cohort in 2023 represented 15.2% of the population (45-54 age group) was also the largest cohort in 2010 (17.2%). The age groups showing declines between the 2010 census and the 2023 ACS data appear to be 5-9, 10-14, 20-24 25-34, 55-59, 75-84, and 85 and older cohorts.

Table 5: Age Characteristics, 2010-2023

Age Group	2010		2023	
	Pop	%	Pop	%
Under 5	482	4.1%	537	4.5%
5 to 9	733	6.2%	680	5.6%
10 to 14	869	7.4%	652	5.4%
15 to 19	671	5.7%	1129	9.4%
20 to 24	538	4.6%	487	4.0%
25 to 34	1,325	11.3%	1040	8.6%
35 to 44	1,717	14.6%	1771	14.7%
45 to 54	2,025	17.2%	1838	15.2%
55 to 59	1,009	8.6%	840	7.0%
60 to 64	737	6.3%	1132	9.4%
65 to 74	635	5.4%	1284	10.6%
75 to 84	669	5.7%	532	4.4%
85 +	332	2.8%	145	1.2%
Total	11,742	100.0%	12,067	100%
Median Age	42.6		44.2	

Sources: 2010 & 2023 American Community Survey 5-Year Estimates.

Household Tenure and Occupancy

The data shown on the following table indicates that the breakdown between the share of owner occupied and rental occupied units has remained largely the same since 2010 with the majority of units being owner occupied. Housing vacancies have decreased over this time frame from 5.3% in 2010 to 4.0% in 2023.

Table 6: Owner-Occupied and Renter-Occupied Units, 2010-2023

Category	2010		2023	
	# of Units	%	# of Units	%
Owner Occupied	3,024	65.9%	3,065	67.5%
Renter Occupied	1,320	28.8%	1,295	28.5%
Vacant Units	244	5.3%	184	4.0%
Total	4,588	100.0%	4,544	100.0%

Source: US Census Bureau; 2023 American Community Survey Five-Year Estimate

Average Household Size

The census data shown below presents how the Borough's average household size decreased from 2.50 in 2010 to 2.65 in 2023 while the Bergen County average household size remained somewhat steady at 2.66 over the same time period. The total population increased from 2010 to 2023, while the number of households slightly increased over the same span.

Table 7: Average Household Sizes, 2010-2023

Year	Total Population	Number of Households	Average Household Size Hasbrouck Heights	Average Household Size Bergen County
2010	11,472	4,344	2.50	2.69
2023	12,067	4,360	2.65	2.66

Sources: 2010 & 2023 American Community Survey 5-Year Estimates.

Household Income

The following data from the 2010 census and the 2023 ACS indicates that the median household income in Hasbrouck Heights increased more than 34% from 2010 to 2023 increasing from \$88,375 to \$118,670.

Table 8: Household Incomes, 1999-2023

Income Category	2010*		2023*	
	Number	%	Number	%
less than \$10,000	75	1.7%	63	1.4%
\$10,000 to \$14,999	125	2.9%	96	2.2%
\$15,000 to \$24,999	267	6.1%	246	5.6%
\$25,000 to \$ 34,999	445	10.2%	284	6.5%
\$35,000 to \$ 49,999	444	10.2%	274	6.3%
\$50,000 to \$74,999	513	11.8%	452	10.4%
\$75,000 to \$99,999	633	14.6%	503	11.5%
\$100,000 to \$149,999	1021	23.5%	846	19.4%
\$150,000 to \$199,000	455	10.5%	479	11.0%
\$200,000 or more	366	8.4%	1,117	25.6%
Total households	4,344	100.0%	4,360	100.0%
Median Income (Household)	\$88,375		\$118,670	

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

2.3: Inventory of Housing Stock

This section of the analysis provides an inventory of the Borough's housing stock. The inventory details housing characteristics such as age, condition, purchase/rental value and occupancy. It also details the number of affordable units available to low- and moderate-income households and the number of substandard housing units capable of being rehabilitated. As previously noted, the latest information from the American Community Survey consists of five-year estimates by the Census Bureau, not actual counts and may not be directly comparable to census figures.

Number of Housing Units

As illustrated in the table below, the overall number of housing units within the Borough has continued to increase from the 1980s through 2023. Understandably, the slowest percentage increase in numbers was between 2000 and 2010 during the Great Recession.

Table 9: Housing Units, 1980-2023

Year	Housing Units	Numerical Change	% Change
1980	4,516		
1990	4,510	-6	-0.1%
2000	4,617	107	2.4%
2010	4,588	-29	-0.6%
2023	4,544	-44	-1.0%

Source: US Census Bureau, 2023 ACS Five-Year Estimate

Units in Structure for Occupied Units

Information regarding the number of dwelling units in housing structures provides insights into the types of housing which exist throughout the Borough. The following table offers insights into the unit-composition of the Borough's structures since 2010.

The Borough's housing stock has historically been comprised of single-family detached and attached dwellings. The 2023 ACS estimate data provided in the table below shows a total of 2,999 single-family detached dwellings which amounts to 66% percent of all housing units in the Borough. This percentage is a increase from 2010 when single-family dwellings accounted for approximately 63.5% percent. There was an increase from 2010 to 2023 in the number of structures containing 20 units or more which represents 14.1% percent of overall units.

Table 10: Units in Structure, 2010-2023

Units in Structure	2010*		2023*	
	No.	%	No.	%
Single Family, Detached	2912	63.5%	2999	66.0%
Single Family, Attached	96	2.1%	59	1.3%
2	611	13.3%	448	9.9%
3 or 4	275	6.0%	245	5.4%
5 to 9	50	1.1%	77	1.7%
10 to 19	372	8.1%	62	1.4%
20+	272	5.9%	640	14.1%
Mobile Home	0	0.0%	14	0.3%
Other	0	0.0%	0	0.0%

Source: US Census Bureau; 2023 American Community Survey Five-Year Estimates.

Purchase and Rental Value of Housing Units

The following two tables identify purchase values and rental values for the specified owner-occupied and renter-occupied units in Tenafly.

As shown in **Error! Reference source not found.**, the purchase values of the Borough's owner-occupied housing stock have typically exceeded those of the State of New Jersey and have been somewhat commensurate to those of Bergen County. Over the past thirteen years, the median value of the Borough's owner-occupied housing stock is estimated to have increased approximately 8.6%, from \$468,100 in 2010 to \$508,500 in 2023. This represents a lower percentage increase than that of the County (23%) and the State (19.8%).

Until recently, the median contract rental value in the borough has typically remained higher than both Bergen County and the State of New Jersey. However, the 2023 ACS estimates that the median contract rent for the County and State surpassed that of the

Borough's. Over the past thirteen years, the median gross rent increased approximately 28.6%. Over the past thirteen years, the median gross rent decreased approximately 10.3%, while both County (50.7%) and the State (51.4%) saw a major increase.

Table 11: Value of Owner-Occupied Units, 2010-2023

		2010		2023
Value Range	Number	Percent	Number	Percent
Less than \$50,000	76	2.5%	43	1.4%
\$50,000 to \$99,999	16	0.5%	57	1.9%
\$100,000 to \$149,999	14	0.5%	0	0.0%
\$150,000 to \$199,999	0	0.0%	16	0.5%
\$200,000 to \$299,999	60	2.0%	113	3.7%
\$300,000 to \$499,999	1653	54.7%	1258	41.0%
\$500,000 to \$999,999	1166	38.6%	1564	51.0%
\$1,000,000 or More	39	1.3%	14	0.5%
Total	3024	100.0%	3065	100.0%
Borough Median Value		\$468,100		\$508,500
Bergen County Median Value		\$482,300		\$593,200
New Jersey Median Value		\$357,000		\$427,600

Source: US Census Bureau; 2010 and 2023 American Community Survey Five-Year Estimates.

Table 12: Specified Renter Occupied Housing Units by Rent, 2010-2023

		2010		2023
Value Range	Number	Percent	Number	Percent
Less than \$500	29	2.4%	0	0.0%
\$500 to \$999	148	12.2%	0	0.0%
\$1,000 to \$1,499	881	72.7%	527	41.2%
\$1,500 to \$1,999	153	12.6%	538	42.0%
\$2,000 to \$2,499			92	7.2%
\$2,500 to \$2,999			36	2.8%
\$3,000 or more			87	6.8%
No Cash Rent	109	8.3%	15	X
Total	1211	100.0%	1,280	100.0%
Borough Median Value		\$1,248		\$1,605
Bergen County Median Value		\$1,236		\$1,863
New Jersey Median Value		\$1,092		\$1,653

Source: US Census Bureau; 2010 and 2023 American Community Survey Five-Year Estimates.

Deficient Housing Units

Neither the Census nor the ACS classify housing units as deficient. However, the Fair Housing Act defines a "deficient housing unit" as housing which: is over fifty years old and overcrowded; lacks complete plumbing, or lacks complete kitchen facilities.

Accordingly, the following tables are intended to provide insights into the extent to which the Borough has deficient housing units. Table 13 examines the extent to which there is overcrowding in the Borough's housing stock. Overcrowding is typically associated with

housing units with more than one occupant per room. As shown, the estimated number of occupied housing units considered to be overcrowded is negligible.

Table 13: Occupants Per Room (2023)

Occupants per Room	Owner-Occupied	Renter-Occupied
0.50 or Fewer	2403	575
0.51 to 1.00	606	644
1.01 to 1.50	17	13
1.51 to 2.00	39	63
2.01 or More	0	0
Total	3065	1295

Source: 2023 American Community Survey Five-Year Estimates.

Table 14 below identifies housing units with complete plumbing and kitchen facilities. As shown, all occupied units in the Borough were identified as having complete plumbing and kitchen facilities.

Table 14: Plumbing and Kitchen Facilities (2023)

	Units without Complete Facilities	Units with Complete Facilities
Plumbing	0	4360
Kitchen	0	4360

Source: 2023 American Community Survey Five-Year Estimates.

2.4: Housing and Employment Projection

The following section identifies the extent to which redevelopment housing and economic development has occurred in the community, which can assist in the determination of future residential and employment projections.

Recent Residential Development Activity

One way of examining the stability of a community's housing stock is by comparing the number of residential building permits issued for new construction as well as demolition permits issued every year. Since 2013, the Borough has annually issued an average of 5.2 and 7.6 building permits and demolition permits, respectively. This results in an average negative net of 2.4 permits annually. This is reflective of the Borough's established development pattern.

Table 15: Residential Building Permits and Demolition Permits

	Building Permits					
Year	1 & 2 Family	Multifamily	Mixed Use	Total	Demos	Net
2013	13	0	0	13	4	9
2014	2	0	0	2	3	-1
2015	3	0	0	3	6	-3
2016	10	0	0	10	10	0
2017	4	0	0	4	11	-7
2018	5	0	0	5	11	-6
2019	0	0	0	0	9	-9
2020	4	0	0	4	9	-5
2021	13	0	0	13	9	4
2022	0	0	0	0	5	-5
2023	3	0	0	3	6	-3
Total	57	0	0	57	83	-26

Source: Department of Community Affairs

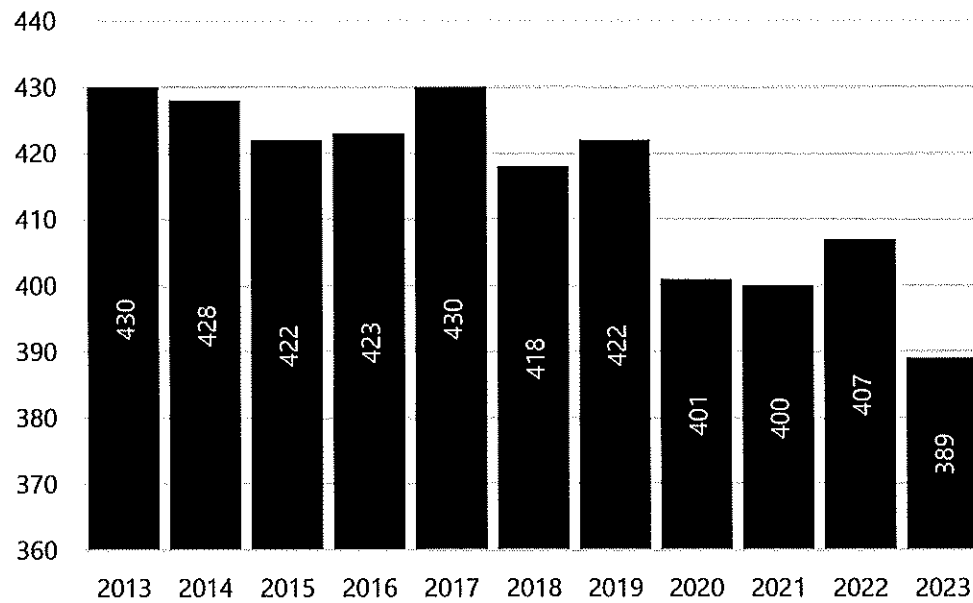
Covered Employment

Figure 1 and Figure 2 below provide data on the Borough's covered employment trends between 2013 and 2023, as reported by the New Jersey Department of Labor and Workforce Development. "Covered employment" refers to any employment covered under the Unemployment and Temporary Disability Benefits Law. Generally, nearly all employment in the state is considered to be "covered employment."

Figure 1 depicts the number of reported "employment units" within the Borough. An "employment unit" is defined as an individual or organization which employs one or more workers. As shown, the Borough experienced a fairly consistent loss of employment units between 2003 and 2018. Since that time, however, the number of employment units has remained relatively stable. As of 2023, there were a reported 389 employment units in the Borough.

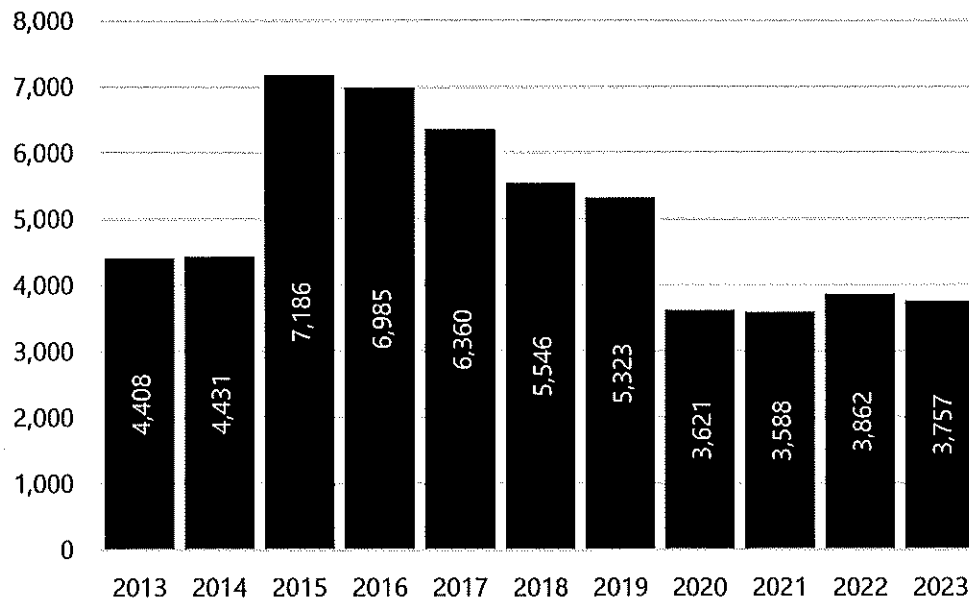
Similarly, employment levels have typically decreased since 2005. The most dramatic decrease occurred between 2019 and 2020, wherein employment in the Borough decreased. This may be attributed to COVID-19 pandemic. Since that time, employment in the Borough has increased. As of 2023, the Borough's reported covered employment was 3,757 individuals.

Figure 1: Covered Employment Units, 2013-2023



Source: Department of Labor and Workforce Development

Figure 2: Covered Employment, 2013-2023



Source: Department of Labor and Workforce Development

Section 3: Fair Share Obligation

The following section provides an overview of the Borough's fair share obligation. It includes a brief overview of the methodology utilized to calculate affordable housing obligations throughout the state.

3.1: Summary of Fair Share Obligation

On March 20, 2024, the State of New Jersey adopted a package of affordable housing bills which overhauled the Fair Housing Act (FHA).

The FHA now designates the Department of Community Affairs (DCA) as the entity responsible for calculating the state's regional needs. Specifically, NJSA 52:27D-304.2 establishes the methodology to be utilized by the DCA to determine the state's regional prospective needs of low- and moderate-income housing for the ten-year period spanning from July 1, 2025 to June 30, 2035. In summary, the projected household change for this period is estimated by establishing the household change experienced in each region between the most recent federal decennial census and the second-most recent decennial census. This household change, if positive, is then to be divided by 2.5 to estimate the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region for the next ten years. This methodology resulted in a statewide prospective need of 84,698 low- and moderate-income units.

Furthermore, the DCA is also the entity responsible for calculating each municipality's present and prospective fair share obligations. However, the FHA makes clear that these calculations are advisory and that each municipality must set its own obligation number utilizing the same methodology.

On January 14, 2025, Hasbrouck Heights adopted Resolution #32 (see the Appendix) which accepted the DCA's present and identified an adjustment to the prospective fair share obligation calculations for the Borough. These obligations, including the adjustment, was settled and the Borough's Prospective Need obligation was established at 143 affordable units by a trial court order issued on May 5, 2025. The Borough's resolution also noted that the Borough reserves the right to conduct a vacant land adjustment (VLA) to determine its realistic development potential (RDP). This is discussed in greater detail in the next subsection.

Table 16: Summary of Fair Share Obligation-Fourth Round

Affordable Obligation	Units
Present (Rehabilitation Need) Obligation	0
Fourth Round Obligation (2025-2035)	143

3.2: Realistic Development Potential (RDP)

The Borough of Hasbrouck Heights is a fully developed community and is therefore entitled to adjust its obligation in accordance with a procedure set forth in the FHA. Specifically, NJSA 52:27D-310.1 permits municipalities perform a realistic development potential (RDP) analysis by seeking a vacant land adjustment (VLA).

An RDP analysis is intended to determine which sites in a municipality are most likely to develop for low- and moderate-income housing. Municipalities may present documentation that eliminates a site or part of a site from its inventory of vacant land. Such eliminating factors include: lands dedicated for public uses other than housing since 1997; park lands or open space; vacant contiguous parcels in private ownership of a size which would accommodate fewer than five housing units; historic and architecturally important sites listed on the State Register of Historic Places or the National Register of Historic Places; preserved architectural lands; sites designated for active recreation; and environmentally sensitive lands.

A VLA was previously conducted for the Borough's 2019 HE&FSP. This analysis identified privately-owned and publicly owned vacant sites in the Borough, including those comprised of vacant sites that are minimally 0.83 acres. The analysis then evaluated each site identified including the presence of environmental constraints (wetlands, steep slopes, riparian zones, and flood plains), pursuant to the applicable regulations at NJAC 5:93-4.2. This review of the applicable environmentally sensitive features identified that a RDP of 11 was applicable from the calculation in the VLA.

A new review VLA has been conducted for the Borough. For the sake of continuity, it includes many of the properties which were analyzed in the 2019 HE&FSP. Next, wetland, steep slope, and floodplain information pursuant to the applicable regulations were applied to these vacant sites. The remaining acreage of sites, minimally 0.83 acres in size was then recalculated.

This analysis revealed that there are no newly vacant properties which meet the aforementioned 0.83 acre threshold. Therefore, the Borough's RDP for the Fourth Round is zero affordable units. A copy of the new VLA can be found in Table 17.

Table 17: Vacant Land Adjustment Review

ID #	BLOCK	LOT	Total Acreage	Developable Acreage Post Environmental	Comments	Applied or Approved Density	Set Aside %	RDP of Developable
1	136.01	3	1.36	0.10	Developable area too small.	0	20	0.00
2	43	21	0.12	0.11	Developable area too small.	0	20	0.00
3	43	16	0.13	0.13	Developable area too small.	0	20	0.00
4	27	5	0.17	0.17	Developable area too small.	0	20	0.00
5	47	22	0.18	0.18	Developable area too small.	0	20	0.00
6	74.02	10	0.04	0.04	Developable area too small.	0	20	0.00
7	74.02	17	0.04	0.02	Developable area too small.	0	20	0.00
8	74.02	4	0.04	0.04	Developable area too small.	0	20	0.00
9	1.04	17	0.03	0.02	Developable area too small.	0	20	0.00
10	128	1	13.41	0.00	Developable area too small.	0	20	0.00
11	1.04	14	0.03	0.03	Developable area too small.	0	20	0.00
12	74.02	7	0.03	0.03	Developable area too small.	0	20	0.00
13	1.04	24	0.04	0.04	Developable area too small.	0	20	0.00
14	1.03	7	0.03	0.03	Developable area too small.	0	20	0.00
15	74.02	18	0.04	0.03	Developable area too small.	0	20	0.00
16	1.03	5	0.03	0.03	Developable area too small.	0	20	0.00
17	1.03	12	0.04	0.04	Developable area too small.	0	20	0.00
18	1.04	16	0.03	0.03	Developable area too small.	0	20	0.00
19	171.02	20	0.09	0.08	Developable area too small.	0	20	0.00
20	135.03	9	0.13	0.03	Developable area too small.	0	20	0.00
21	135.01	1	0.20	0.11	Developable area too small.	0	20	0.00
22	74.02	3	0.04	0.04	Developable area too small.	0	20	0.00
23	182	21	0.09	0.09	Developable area too small.	0	20	0.00
24	169	1	1.32	0.92	Does not qualify lot part of Route 4 interchange ramps	0	20	0.00
25	38	30	0.20	0.20	Developable area too small.	0	20	0.00
26	87	68	0.13	0.13	Developable area too small.	0	20	0.00
27	135.03	11.02	0.12	0.04	Developable area too small.	0	20	0.00
28	135.03	10	0.01	0.01	Developable area too small.	0	20	0.00
29	163	32.01	0.16	0.00	Developable area too small.	0	20	0.00
30	197	12	0.18	0.14	Developable area too small.	0	20	0.00
31	171.02	10	0.02	0.02	Developable area too small.	0	20	0.00
32	169	17	0.20	0.14	Developable area too small.	0	20	0.00
33	134.03	7	0.07	0.01	Developable area too small.	0	20	0.00
34	173.02	17.02	0.15	0.12	Developable area too small.	0	20	0.00
35	66.02	1.01	0.12	0.10	Developable area too small.	0	20	0.00
36	124.03	1.02	0.16	0.09	Developable area too small.	0	20	0.00

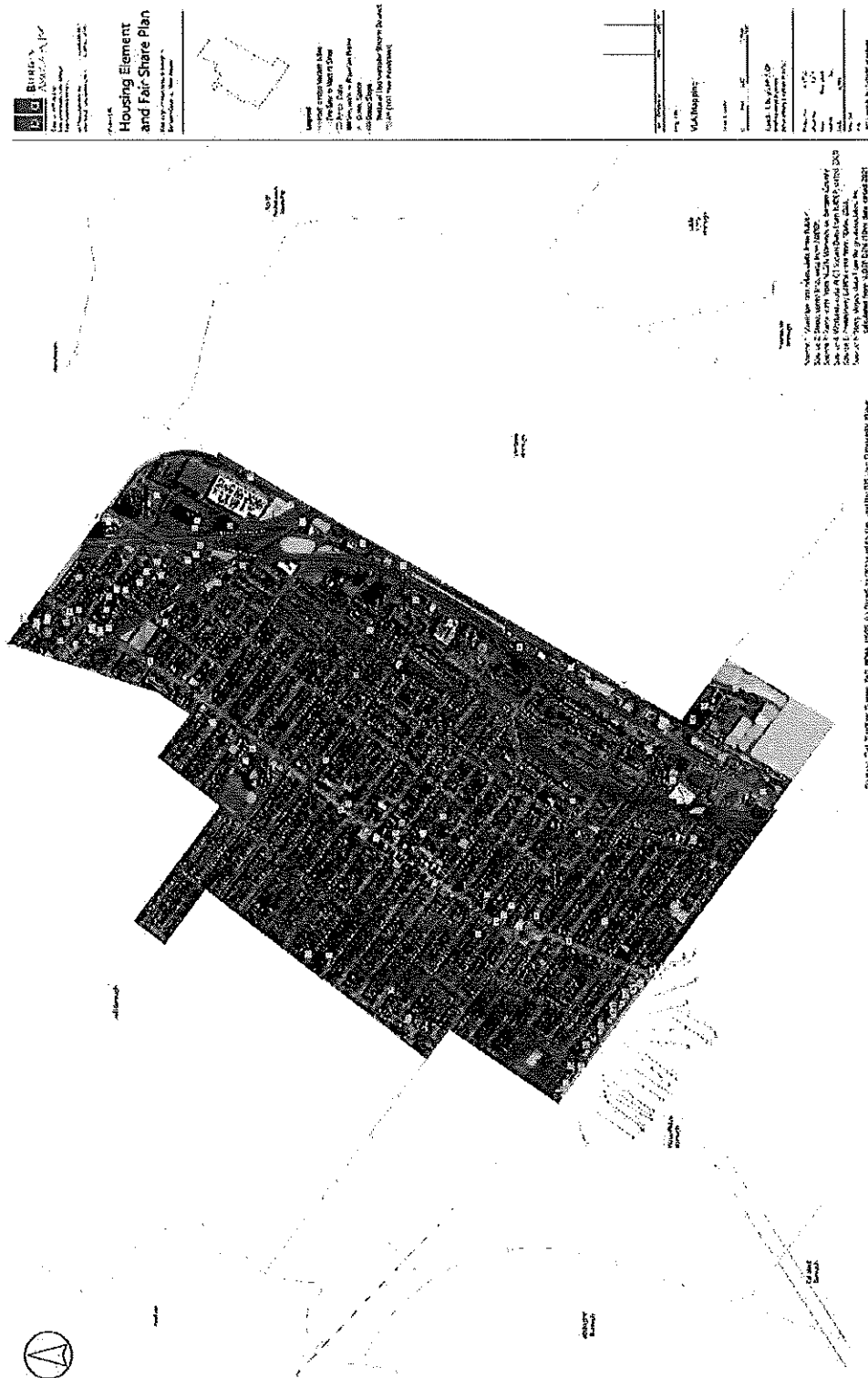
ID #	BLOCK	LOT	Total Acreage	Developable Acreage Post Environmental	Comments	Applied or Approved Density	Set Aside %	RDP of Developable
37	42	39	0.12	0.12	Developable area too small.	0	20	0.00
38	29	2	0.10	0.10	Developable area too small.	0	20	0.00
39	132.01	1	0.49	0.49	Developable area too small.	0	20	0.00
40	69	8	0.29	0.00	Developable area too small.	0	20	0.00
41	20	1	0.19	0.19	Developable area too small.	0	20	0.00
42	19	13	0.12	0.11	Developable area too small.	0	20	0.00
43	68	4	0.05	0.00	Developable area too small.	0	20	0.00
44	77.05	23	0.02	0.01	Developable area too small.	0	20	0.00
45	173.02	18	0.19	0.11	Developable area too small.	0	20	0.00
46	200.01	48	0.09	0.08	Developable area too small.	0	20	0.00
47	120.03	1	0.20	0.05	Developable area too small.	0	20	0.00
48	94.02	1.02	0.14	0.14	Developable area too small.	0	20	0.00
49	103.01	1	0.76	0.76	Developable area too small.	0	20	0.00
50	135.03	4	0.38	0.27	Developable area too small.	0	20	0.00
51	151.01	60	0.25	0.25	Developable area too small.	0	20	0.00
53	1.04	15	0.03	0.03	Developable area too small.	0	20	0.00
54	1.04	18	0.03	0.03	Developable area too small.	0	20	0.00
55	1.04	22	0.03	0.03	Developable area too small.	0	20	0.00
56	74.02	12	0.04	0.04	Developable area too small.	0	20	0.00
57	1.03	11	0.04	0.04	Developable area too small.	0	20	0.00
58	1.03	13	0.04	0.04	Developable area too small.	0	20	0.00
59	74.02	16	0.04	0.02	Developable area too small.	0	20	0.00
60	1.04	20	0.03	0.03	Developable area too small.	0	20	0.00
61	1.03	10	0.03	0.03	Developable area too small.	0	20	0.00
62	74.02	15	0.04	0.03	Developable area too small.	0	20	0.00
63	74.02	9	0.04	0.04	Developable area too small.	0	20	0.00
64	74.02	11	0.04	0.04	Developable area too small.	0	20	0.00
65	1.03	9	0.03	0.03	Developable area too small.	0	20	0.00
66	1.03	3	0.03	0.03	Developable area too small.	0	20	0.00
67	1.03	4	0.03	0.03	Developable area too small.	0	20	0.00
68	1.04	19	0.03	0.03	Developable area too small.	0	20	0.00
69	74.02	1	0.03	0.03	Developable area too small.	0	20	0.00
70	170.02	9	0.03	0.03	Developable area too small.	0	20	0.00
71	171.01	12	0.03	0.00	Developable area too small.	0	20	0.00
72	42	14	0.28	0.24	Developable area too small.	0	20	0.00
73	150	10	0.11	0.11	Developable area too small.	0	20	0.00
74	77.05	19	0.02	0.02	Developable area too small.	0	20	0.00
75	170.02	1	0.27	0.14	Developable area too small.	0	20	0.00

ID #	BLOCK	LOT	Total Acreage	Developable Acreage Post Environmental	Comments	Applied or Approved Density	Set Aside %	RDP of Developable
76	119.03	61	0.13	0.04	Developable area too small.	0	20	0.00
77	77.01	27	0.08	0.08	Developable area too small.	0	20	0.00
78	77.04	15	0.04	0.04	Developable area too small.	0	20	0.00
79	170.01	9	0.02	0.01	Developable area too small.	0	20	0.00
80	136.04	1	1.79	0.01	Developable area too small.	0	20	0.00
81	125.04	1	0.36	0.33	Developable area too small.	0	20	0.00
82	131	9	0.43	0.00	Developable area too small.	0	20	0.00
83	33	26	0.13	0.13	Developable area too small.	0	20	0.00
84	171.01	4	0.09	0.05	Developable area too small.	0	20	0.00
85	20	50	0.17	0.14	Developable area too small.	0	20	0.00
86	21	18.02	0.04	0.04	Developable area too small.	0	20	0.00
87	105	1	0.18	0.18	Developable area too small.	0	20	0.00
88	200.02	35	0.01	0.01	Developable area too small.	0	20	0.00
89	171.01	8	0.12	0.08	Developable area too small.	0	20	0.00
90	136.02	2	0.55	0.48	Developable area too small.	0	20	0.00
91	135.01	10	0.04	0.02	Developable area too small.	0	20	0.00
92	1.04	21	0.03	0.03	Developable area too small.	0	20	0.00
93	1.03	1	0.05	0.05	Developable area too small.	0	20	0.00
94	1.04	23	0.03	0.03	Developable area too small.	0	20	0.00
95	74.02	8	0.04	0.04	Developable area too small.	0	20	0.00
96	202	1	0.16	0.14	Developable area too small.	0	20	0.00
97	168.02	1.02	0.77	0.08	Developable area too small.	0	20	0.00
98	29	3	0.10	0.10	Developable area too small.	0	20	0.00
99	97	1	0.47	0.08	Developable area too small.	0	20	0.00
100	1.03	8	0.03	0.03	Developable area too small.	0	20	0.00
101	74.02	6	0.04	0.04	Developable area too small.	0	20	0.00
102	1.04	25	0.03	0.03	Developable area too small.	0	20	0.00
103	74.02	5	0.04	0.04	Developable area too small.	0	20	0.00
104	1.03	6	0.03	0.03	Developable area too small.	0	20	0.00
106	162.03	1	0.67	0.41	Developable area too small.	0	20	0.00
107	162.02	1	1.05	0.00	Does not qualify -RDP addressed approved Third Round AH development	0	20	0.00
108	77.01	16	0.02	0.02	Developable area too small.	0	20	0.00
109	150	8	0.06	0.06	Developable area too small.	0	20	0.00
110	6.03	26.02	0.09	0.04	Developable area too small.	0	20	0.00
111	6.03	13	0.03	0.03	Developable area too small.	0	20	0.00
112	6.03	2.02	0.09	0.09	Developable area too small.	0	20	0.00

ID #	BLOCK	LOT	Total Acreage	Developable Acreage Post Environmental	Comments	Applied or Approved Density	Set Aside %	RDP of Developable
113	6.03	1.02	0.37	0.37	Developable area too small.	0	20	0.00
114	1.04	26	0.04	0.04	Developable area too small.	0	20	0.00
115	74.02	14	0.04	0.04	Developable area too small.	0	20	0.00
116	74.02	13	0.04	0.04	Developable area too small.	0	20	0.00
117	1.04	27	0.03	0.03	Developable area too small.	0	20	0.00
118	74.02	2	0.03	0.03	Developable area too small.	0	20	0.00
119	87	31.01	0.11	0.11	Does not qualify- Lot area too small	0	20	0.00

Source: MOD IV Tax Data and site review.

Map 3: Vacant Land Adjustment Map



Section 4: Fair Share Plan

The following Fair Share Plan outlines the components and mechanisms the Borough will utilize to address its affordable housing obligations. These obligations include are summarized as follows:

Table 18: Affordable Housing Obligation Summary

Category	Obligation
Prior Round Obligation (1987-1999)	58
Third Round Obligation (1999-2025)	286
Fourth Round Obligation (2025-2035)	143
Present Need (Rehabilitation) Obligation	8

4.1: Prior Round Obligation

The Borough was assigned a Prior Round Obligation of 58 units. As noted earlier, the Borough's initial effort to address its Mount Laurel obligation was set forth in a substantive certification by COAH, whereby Hasbrouck Heights the Borough received a Vacant Land Adjustment generating a Realistic Development Potential (RDP) of 0. Through a municipal rehabilitation program, the Borough undertook and completed the rehabilitation of 21 units in accordance with Prior Round Regulations. The Borough had a Prior Round Unmet Need of 58 units.

The Prior Round obligation permits 15 age restricted units (maximum of 25% of 58). The Plan dedicated 15 units from the Hasbrouck Height Senior Housing Complex owned by the Housing Development Corporation to fulfill a portion of the Prior Round obligation. In addition, 5 units of credit were applied from a supportive and special needs home operated by ARC of Bergen County for a total of 20 units of credit towards the Prior Round.

4.2: Third Round RDP and Unmet Need Obligation

Pursuant to a Settlement Agreement signed with FSHC on September of 2016, it was established the Borough had a Third-Round prospective need (new construction) fair share obligation of 408 affordable housing units and an indigenous need or rehabilitation requirement of 78 units for Hasbrouck Heights for the entire 1999-2025 period, which includes what is termed the "gap period".

The Settlement Agreement between the Borough of Hasbrouck Heights and Fair Share Housing Center (FSHC) included a 30% reduction from FSHC's calculated combined Third Round obligation of 122 units, reducing the Third-Round need from 408 units to 286 units. The total prospective need for 1999-2025, which includes the gap period, resulting from the Settlement Agreement, was established at 286 units.

Hasbrouck Heights was granted a Vacant Land Adjustment (VLA) in the Third Round identifying a Realistic Development Potential (RDP) of 11 units with a remaining unmet

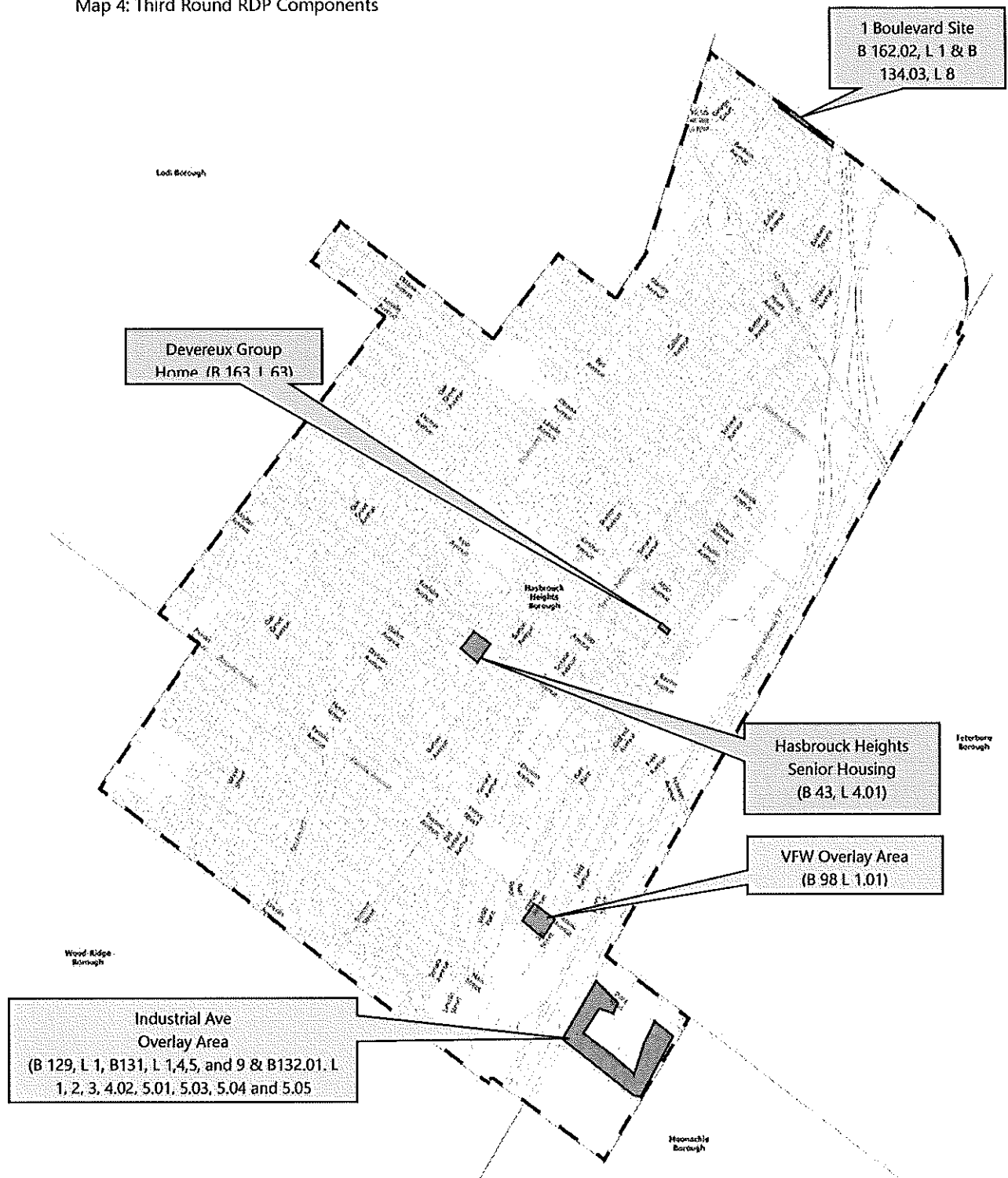
need of 275 units. The Borough applied 2 affordable age restricted housing units at the Hasbrouck Heights Senior Housing facility on Hamilton Avenue, the 3-unit Devereux Group Home and 4 units from the re-zoning of Longview Avenue as well as 2 rental bonus credits toward meeting its 11-unit RDP which are summarized in Table 14. The units constructed or approved include all of the components identified from the Third-Round.

Table 19: Plan Components Addressing Third Round RDP

Plan Component	Applied Units	Rental Bonus	Total	Status
Age Restricted Housing				
Hasbrouck Heights Senior Housing –245 Hamilton Ave. (B 43, L 4.01), 31 affordable units	2*	-	2	Completed
Alternative Living Arrangements (Group Homes)				
Devereux Group Home, (B 163, L 63)	3	2*	5	Completed
Inclusionary Development- Zoned				
Longview Avenue Townhouse District – 1 Boulevard (B 162.02, L 1 & B 134.03, L 8)	4	-	4	Approved
Totals	9	2	11	

*Maximum rental bonus and senior unit cap is 25% of 11-unit RDP= 2.75 or 2 units permitted

Map 4: Third Round RDP Components



4.3: Fourth Round RDP Obligation

As established in Section 3.2 of this plan, Hasbrouck Heights does not have an additional RDP obligation in the Fourth Round since there were no additional parcels that qualified as vacant or tracts that were developed with additional residential development that would qualify as a "changed circumstance". The Borough will continue to implement the zoning permitted in the AHO zone for residential multifamily development.

We note that FHA-2 includes language which requires VLA municipalities to satisfy at least 25 percent of their Fourth Round RDP obligation through redevelopment. Specifically, amended Section 1 of P.L.1995, c.231 (C.52:27D-310.1) of FHA-2 states:

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.

For the Fourth Round, Hasbrouck Heights "prospective need obligation that has been adjusted" (i.e., its RDP obligation) is zero units. As such, the Borough has a potential redevelopment obligation of zero units, as 25 percent of 0 is 0. As identified in Table 17 above, the Borough has affirmatively zoned for sites that would redevelop through the Unmet Need mechanisms in place during the Third Round and continued into the Fourth Round.

4.4: Unmet Need

The difference between the Borough's Prospective Need obligations and its RDP obligations is what is known as Unmet Need. Whereas the RDP obligations must be affirmatively addressed by the Borough (as outlined in Subsections 4.2 above), addressing Unmet Need involves a lower standard, as the entire Unmet Need obligation does not have to be fully satisfied by 2035.

While the Borough satisfied its Third Round RDP of 11 units, it has an unmet need of 275 from the Third Round. As identified during the review of credits to address the Third Round, 14 surplus age restricted units remain from those developed at the Hasbrouck heights Senior Housing Complex (having 31 units total). As a result, the Borough has a remaining Unmet Need of 261 units after credit for these units. To contribute further towards addressing Unmet Need, the Borough adopted several affordable housing overlay zones (identified in Table 20) as well as a municipal-wide mandatory set-aside ordinance and development fee requirements to help address this need.

Table 20: Overlay Parcels and Surplus Credits Towards Unmet Need

Plan Component	Total Credits (possible)	Status/ Surplus
Plan Surplus:		
<u>Third Round Surplus</u> - 14 units available Hasbrouck Heights Senior Housing –245 Hamilton Ave. (B 43, L 4.01), 31 affordable units	14	Developed,
Overlay Zoning:		
<u>VFW Overlay Zone-1:</u> (B 98 L 1.01), 1.29 ac., 20du/ac, 20% set-aside. 26 units total*	4	Zoned
<u>Industrial Avenue Overlay Zone:</u> (B 129, L 1, B131, L 1,4,5, and 9 & B132.01. L 1, 2, 3, 4.02, 5.01, 5.03, 5.04 and 5.05); 13 ac @ 20du/ac, 20% set-aside. 260 units total*	39	Zoned
Total credits possible towards Unmet Need	57	(20.7%)

* Estimated from the total units per acre permitted.

The legislation requires that in addressing prior round obligations, the municipality shall “demonstrate how any sites that were not built in the prior rounds continue to present a realistic opportunity, which may include proposing changes to the zoning on the site to make its development more likely, and which may also include the dedication of municipal affordable housing trust fund dollars or other monetary or in-kind resources.”

Accordingly, the following unbuilt Unmet Need components from the Third Round Obligation are reviewed.

Map 5: Block 98 Lot 1.01, VFW Parcel



Source NJDEP-NJ GeoWeb website- lot lines are approximate.

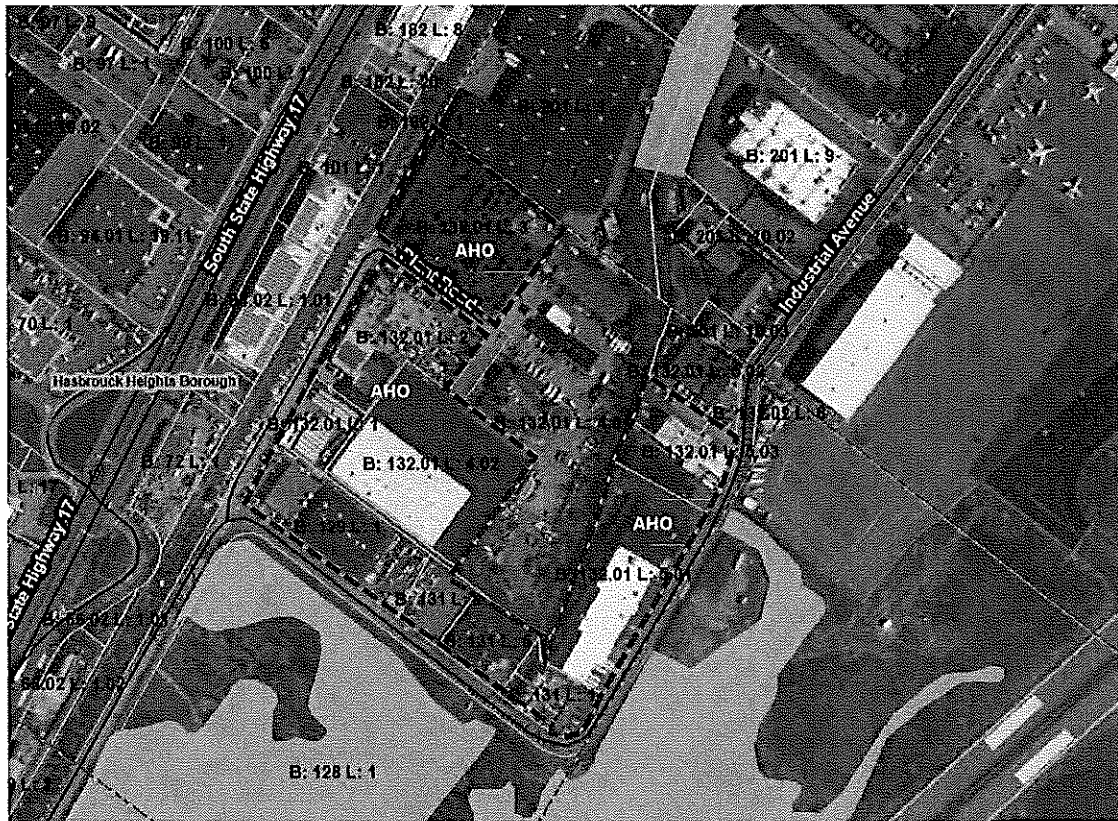
The Veterans of Foreign Wars (VFW) parcel noted above is in the central area of the Borough near Route 17. The lot comprises a collective area of approximately 1.29 acres.

This property is located in the Affordable Housing Overlay Zone (AHO) District, the purpose of which is to create a realistic opportunity for housing that is affordable to low- and moderate-income households in a mixed-use environment. The district establishes a density of 20 units per acre with an affordable housing set-aside of either twenty percent for for-sale units or 15 percent for rental units.

While this zone has not yet been constructed, the area continues to present a realistic opportunity for the production of affordable housing. Specifically, the site remains:

1. Approvable. The Borough has already approved an overlay zoning district for the site permitting inclusionary mixed use multifamily development.
2. Available. There are no known title issues which would prohibit the development of this site.
3. Developable. The site is located in a water and sewer service area
4. Suitable. The site is located in the Borough's transitional commercial area near commercial shopping centers, other multifamily uses, and numerous NJ Transit opportunities in the surrounding area.

Map 6: Block 129, Lot 1; Block 131, Lots 1, 4, 5 and 9; and Block 132.01, Lots 1, 2, 3, 4.02, 5.01, 5.03, 5.04 and 5.05, Industrial Avenue Area



Source NJDEP-NJ GeoWeb website- lot lines are approximate.

The parcels noted above are in the southeasterly area of the Borough near the Borough of Moonachie and the Teterboro Airport. The 13 lots comprise a collective area of approximately 13 acres.

These properties are in the Affordable Housing Overlay (AHO) Zone District, the purpose of which is to create a realistic opportunity for housing that is affordable to low- and moderate-income households in a residential environment. The district establishes a density of 20 units per acre with an affordable housing set-aside of 20 percent for for-sale units or 15 percent for-rent units.

While this component has not yet been constructed, the area continues to present a realistic opportunity for the production of affordable housing. Specifically, the site remains:

1. Approvable. The Borough has already approved an overlay zoning district for the site permitting inclusionary mixed use multifamily development.
2. Available. There are no known title issues which would prohibit the development of this site.
3. Developable. The site is located in a water and sewer service area

4. Suitable. The site is located in the Borough's commercial area and new commercial shopping centers in adjacent Teterboro, another multifamily use, and numerous NJ Transit bus stops in the surrounding area.

Further the following programs also contribute to the Unmet Need requirements:

1. **Mandatory Set-Aside Ordinance.** Additionally, in order to capture future affordable housing opportunities in the Borough and address the remainder of Hasbrouck Height's Unmet Need, the Borough has to adopted a Borough-wide Mandatory Set-Aside Ordinance, which requires that any site that is developed with five or more new multi-family or single-family attached dwelling units shall provide an affordable housing set-aside at a rate of 20 percent. This requirement will ensure that new multi-family or single-family attached development in Hasbrouck heights will provide its fair share of affordable units and assist with the Borough's continuous efforts to address its affordable housing obligation. The Borough will not, however, be under any obligation to grant subdivision and site plan approvals, rezonings, use variances, redevelopment or rehabilitation designations, and/or any other approvals for any such construction and development applications will be required to otherwise conform to the Borough's zoning requirements. A copy of the Mandatory Set-Aside Ordinance is included in the Appendix of this plan. Any affordable units created pursuant to this ordinance will be applied toward Hasbrouck Height's Unmet Need.
2. **Development Fee Ordinance.** Lastly, as part of its 2016 Settlement Agreement with FSHC and 2019 HE&FSP, the Borough maintained its Development Fee Ordinance, set forth at Chapter 51 of the Borough Code, and its non-residential development fee of 2.5 percent of equalized assessed value, consistent with the Statewide Non-Residential Development Fee Act, and its residential development fee at 1.5 percent of equalized assessed value. The Borough will continue to implement its Development Fee Ordinance, as adopted, through the Fourth Round, the funds from which will be applied directly toward implementation of Hasbrouck Heights's Fourth Round Housing Element and Fair Share Plan.

4.5: Present Need Obligation

The Borough was assigned a Present Need (Rehabilitation) Obligation of eight units. Nevertheless, the Borough will continue to participate in the Bergen County Housing Improvement Program.

As established in Section 3 of this plan, Hasbrouck Heights has a Present Need (Rehabilitation) obligation for the Fourth Round of 8 units. The Borough will address this obligation by continuing to participate in the Bergen County Home Improvement Program (BCHIP) to help address its rehabilitation share, to the extent that funding is available for the County program. In addition, since the County program does not apply to rental units, the Borough will contract with a professional Affordable Housing Administrator to administer Hasbrouck Heights 's municipal Home Improvement

Program, which will be available to both owners and renters. The Borough will utilize funds from its affordable housing trust fund to fund this program.

In order to fully satisfy its Rehabilitation obligation, the Borough of Hasbrouck Heights will commit to spend \$12,000 per unit. This will require a total contribution of \$96,000. Pursuant to COAH's rules that allow municipalities to utilize money collected from development fees for this purpose, the Borough shall set aside the required \$96,000 from its affordable housing trust fund account to be made available to income-qualified households to participate in the program. The Borough's Rehabilitation Program is outlined in the Fourth-Round Spending Plan.

4.6: Other Provisions

The following additional requirements are noted:

1. **Fourth Round Bonuses.** Fourth-Round bonuses will be applied in accordance with N.J.A.C. 52:27d-311.k.
2. **Very-Low Income and Low-Income Units.** At least 50 percent of the units addressing the Fourth Round Prospective Need obligation shall be affordable to very low-income and low-income households with the remainder affordable to moderate-income households. A minimum of 13 percent of the affordable units will be made available to very low-income households, defined as households earning 30 percent or less of the regional median income by household size.
3. **Rental Component.** At least 25 percent of the Fourth Round Prospective Need obligation shall be met through rental units, including at least half in rental units available to families.
4. **Families.** At least half of the actual units created to address the Fourth Round Prospective Need obligation must be available to families.
5. **Age-Restricted Cap.** No more than 30 percent of all units developed or planned to meet the Fourth Round Prospective Need obligation shall be met with age-restricted units.
6. **Development Fees.** The Borough will continue to impose development fees as permitted by COAH's prior round rules. The funds generated by the collection of development fees will be applied directly towards any activity approved by State regulations for addressing the municipal fair share.

4.7: Review of Rejected Development Sites

There are no sites for which inclusionary development was considered that were rejected and not included in this Plan.

4.8: Consistency with State Planning Initiatives

As noted in Section 1, an HE&FSP must also include:

- ❖ 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, 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.

Accordingly, the following subsection analyzes the consistency of this HE&FSP to the above referenced state planning initiatives.

Multigenerational Family Housing Continuity Commission

The Multigenerational Family Housing Continuity Commission was established by the State of New Jersey in 2021. As noted in NJSA 52:27D-329.20, one of the primary duties of the Commission is to “prepare and adopt recommendations on how State government, local government, community organizations, private entities, and community members may most effectively 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.”

As of the date of this HE&FSP, the Multigenerational Family Housing Continuity Commission has not yet adopted any recommendations.

State Development and Redevelopment Plan

As established by NJSA 52:18A-200(f), the purpose of the State Development and Redevelopment Plan (SDRP) is to “coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.”

As such, the SDRP establishes a number of goals and strategies related to a number of different topics, including economic redevelopment. One such goal is to revitalize existing urban centers by directing growth and development to those areas. Specifically, the SDRP seeks to revitalize the State’s cities and towns by protecting, preserving, and developing the valuable human and economic assets in cities, town, and other urban areas.

As indicated by the current SDRP’s Policy Map, the entirety of the Borough is located in the PA-1 Metropolitan Planning Area, wherein development and redevelopment is intended to be directed. The intent of this Planning Area 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.

Accordingly, this HE&FSP is consistent with the intents of the PA-1. Specifically, it is designed to encourage redevelopment and growth in a compact form, while also protecting the character of the existing community.

Appendices

A		January Resolution, Fourth Round Settlement Agreement,
B		Third-Round Documents
	1	Hasbrouck Heights Compliance Rpt 9-6-19
	2	Third Round Final Judgement of Compliance and Repose
	3	Development Fee Regulations
	4	Hasbrouck Heights Affordable Housing Overlay Zone
	5	Affordable Housing Ordinance Chapter 79
	6	Hasbrouck heights-Supplemental ZM Ord-2441_5-14-19
	7	1 Boulevard Resolution of Approval
C		Fourth-Round Resolutions and Reporting
	1	Court Order Approving Mediated Settlement for Fourth Round Need
	2	Resolution authorizing the current obligations of the Borough of Hasbrouck Heights regarding Round 4 affordable housing
	3	Resolution No. 64_Municipal Housing Liaison for Hasbrouck Heights
D		Fourth-Round Spending Plan
E		Draft Resolution of Intent to Bond for Trust Fund Shortfall
F		Draft Resolution of Mayor and Council Endorsing the HE&FSP

BOROUGH OF HASBROUCK HEIGHTS

RESOLUTION NO. 32

DATED: January 14, 2025

**RESOLUTION AUTHORIZING THE CURRENT OBLIGATIONS OF THE BOROUGH
OF HASBROUCK HEIGHTS REGARDING ROUND 4 AFFORDABLE HOUSING**

WHEREAS, the Borough of Borough of Hasbrouck Heights, County of Bergen, State of New Jersey, (hereinafter, "Borough") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations; and

WHEREAS, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to provide an estimate of the present need, also referred to as the rehab obligation, and the Round 4 prospective need of all municipalities by October 20, 2024, based upon the criteria on the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the present need and the Round 4 prospective need obligation for all municipalities based upon its interpretation of the standards in the Act; and

WHEREAS, the DCA Report calculates the Present Need (Rehabilitation) Obligation of the Borough to be eight (8) and its Round 4 Prospective Need to be 149 units; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and

WHEREAS, the Amended FHA gives municipalities the opportunity to propose different obligations from those reported by the DCA on October 18, 2024, based upon the standards in Sections 6 and 7 of the Act; and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing ("COAH") unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A 52:27D-311 (m)); and

WHEREAS, the Borough, through its professionals, has exercised its right to review the data that is the basis for the 3 allocation factors used to determine the Borough's share of the regional need; and

WHEREAS, more specifically, Burgiss Associates Inc. has reviewed the data that the DCA used to compute the **Land Capacity Allocation Factor** that the DCA belatedly provided on or about November 27, 2024, instead of by October 20, 2024; and

WHEREAS, the Borough further notes that the link to the DCA GIS data that the DCA belatedly made available to municipalities includes the following language:

"The land areas identified in this dataset are based on the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program." (emphasis added)

WHEREAS, the Borough accepted the DCA's invitation to examine the data it used to compute this allocation factor and found that the DCA had indeed been over inclusive in the land it found to be developable; and

WHEREAS, more specifically, based upon a report, prepared by its expert, Edward Snieckus PP, LLA, ALSA, which is attached hereto as Exhibit A, the Borough finds that only .078 acres are developable, not the 2.59 acres that the DCA reported in computing the Land Capacity factor; and

WHEREAS, upon correcting the data used to determine the Land Capacity Factor, the correct Round 4 prospective need number is 138 units not 149 units; and

WHEREAS, the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Act; and

WHEREAS, Borough's calculation of need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Act; and

WHEREAS, in addition to setting forth its Round 4 fair share affordable housing obligations for the reasons summarized above, substantial activity has occurred and is ongoing that warrants the reservation of certain rights to avoid any claim that it has waived them; and

WHEREAS, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for litigation over the obligations of the municipality; and

WHEREAS the court approved a vacant land adjustment and an RDP for the Borough in Round 3; and

WHEREAS, on September 27, 2019, Judge Padovano entered a final Judgment of Compliance and Repose in which he approved the Borough's application for a determination that the Borough's realistic development potential is eleven (11) units; and

WHEREAS, the Borough will be entitled to an adjustment in Round 4 since it lacked sufficient land to meet its fair share quota for Round 3; and

WHEREAS, the Borough will include the basis for its vacant land adjustment in in the HEFSP it submits by the June 30, 2025, deadline; and

WHEREAS, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025, as to its obligations.

WHEREAS, in light of the above, the Borough finds that it is in its best interest to declare its obligations in accordance with this binding resolution in accordance with the Act. And

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the Act shall file an action in the form of a declaratory judgment complaint within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, the Borough seeks a certification of compliance with the Act and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 14th day of January 2025, by the Governing Body of the Borough of Hasbrouck Heights, County of Bergen, State of New Jersey, as follows:

1. The preamble of this resolution is incorporated into the operative clauses of this resolution as if set forth in full.

2. For the reasons set for the in this resolution and its attachments, the Borough of Hasbrouck Heights commits to a Round 4 Present Need ("Rehabilitation") Obligation

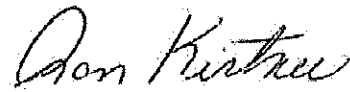
of eight (8) units and a Round 4 Prospective Need "(New Construction)" obligation of 138 units, as set forth in the Exhibit(s) to this Resolution, subject to all reservations of all rights, which specifically include, without limitation, the following:

- a. The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted in accordance with COAH regulations;
- b. The right to adjust its fair share obligation in the event of any future legislation that adjusts the fair share obligations that the DCA reported on October 18, 2024;
- c. The right to adjust its fair share obligations in the event of a third-party challenge to the fair share obligations and the Borough of Hasbrouck Heights's response thereto.

3. The Borough hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in the appropriate venue after adoption this Resolution attaching this Resolution or to otherwise take such action as may be necessary to effectuate the same.

4. The Borough also hereby authorizes its Affordable Housing Counsel to file this resolution with the Program or any other such entity as may be determined to be appropriate.

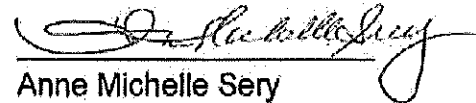
5. This resolution shall take effect immediately, according to law



Ron Kistner
Mayor

COUNCIL	NOTION	SECOND	AYE	NAY	ABSTAIN	PRESENT	ABSENT
Sickels							✓
Samperi	✓		✓				
Bing			✓				
McGuire		✓	✓				
Sodora			✓				
Blum			✓				

I, Anne Michelle Sery, Acting Borough Clerk of the Borough of Hasbrouck Heights, County of Bergen, State of New Jersey, do hereby certify that the foregoing Resolution is a certified copy of Resolution No. 32 adopted by the Governing Body on January 14, 2025.


Anne Michelle Sery
Acting Borough Clerk

Appendix B: Third-Round Documents

Michael P. Bolan, AICP, PP
P.O. Box 295
Pennington, NJ 08534

September 6, 2019

(via e-mail and regular mail)

Honorable Gregg A. Padovano, J.S.C.
Bergen County Justice Center
10 Main Street, 3rd Floor
Hackensack, NJ 07601

Re: In re Borough of Hasbrouck Heights, Docket No. BER-L-6098-15
Report for Compliance Hearing

Dear Judge Padovano:

The purpose of this letter report is to present my recommendation to the Court as the Court-appointed Special Master concerning Hasbrouck Heights Borough's (Hasbrouck Heights or Borough) request for an Order approving the Borough's Housing Element and Fair Share Plan (HEFSP) and declaring the Borough's compliance with its obligation to provide a realistic opportunity for the creation of housing affordable to low and moderate income households. A Compliance Hearing for the Court to consider the entry of a Judgment of Compliance and Repose is scheduled for September 11, 2019.

By way of background, on March 26, 2018 the Court conducted a Fairness Hearing and on April 11, 2018 issued an Order that approved the Settlement Agreement between the Borough and Fair Share Housing Center (FSHC). The Court's Order identified a list of actions that the Borough must undertake prior to the Court approving a Judgment of Compliance and Repose. On August 9, 2019, I received a package of information from the Borough's Special Counsel, Wendy Rubinstein, Esq. Included in the package were Ordinances, Resolutions, and supporting documentation. Subsequently I received the adopted and endorsed HEFSP, Spending Plan and the Affirmative Marketing Plan.

The following analysis compares the Borough's submission to the actions outlined in the Court's April 11, 2018 Order and my report on the fairness of the Settlement Agreement, dated March 16, 2018.

Comparison of the Borough's Submission to Conditions of Settlement Agreement Approval

In the following analysis the conditions of the Settlement Agreement approval are shown in *italics* and the Borough's response in plain text:

1. *The Borough Planning Board shall adopt and the Borough Council shall endorse a*

Housing Element and Fair Share Plan consistent with the terms of this Agreement.

On April 3, 2019 the Borough Planning Board adopted the Housing Element and Fair Share Plan (HEFSP), dated March 2019, and on April 9, 2019 the Mayor and Council adopted Resolution No. 68 endorsing the HEFSP. This condition is satisfied.

2. *The Borough Council shall adopt zoning ordinance amendments to establish an overlay zone for the Industrial Avenue Site (Block 129, Lot 1; Block 131, Lots 1, 4, 5 and 9; and, Block 132.01, Lots 1, 2, 3, 4, 02, 5.01, 5.03, 5.04 and 5.05) and the VFW Site permitting a density of 20 units per acre and requiring a 15 percent affordable housing set-aside for rental units and a 20 percent affordable housing set-aside for for-sale units.*

On May 14, 2019 the Mayor and Council adopted Ordinance No. 2438, which established the Affordable Housing Overlay Zone for the Industrial Avenue and VFW properties. This condition is satisfied.

3. *The Borough Council shall adopt the mandatory affordable housing set-aside ordinance outlined in the Agreement.*

On May 14, 2019 the Mayor and Council adopted Ordinance No. 2439 adopting the mandatory affordable housing set-aside provisions for properties zoned either residential or non-residential. This condition is satisfied.

4. *The Borough Council shall adopt amendments to the Affordable Housing Ordinance and Zoning Ordinance to implement the terms of the Settlement Agreement.*

On May 14, 2019 the Mayor and Council adopted Ordinance No. 2437 which added Chapter 79, Affordable Housing, to the Borough Code. This condition is satisfied.

5. *The Borough Council shall endorse the Spending Plan.*

The Borough has prepared a Spending Plan, which is scheduled for adoption by the Mayor and Council at the meeting of September 10, 2019. Upon adoption of the Spending Plan this condition will be satisfied.

6. *The Borough shall prepare an Affirmative Marketing Plan incorporating the revisions outlined in the Agreement, and the Borough Council shall adopt a Resolution adopting the Borough's Affirmative Marketing Plan.*

The Borough has prepared an Affirmative Marketing Plan incorporating the revisions outlined in the Settlement Agreement, which is scheduled for adoption by the Mayor and Council at the meeting of September 10, 2019. Upon adoption of the Affirmative Marketing Plan this condition will be satisfied.

7. *The Borough Council shall adopt a Resolution appointing the Borough's Administrative Agent to administer affordable units in accordance with the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.), if it has not already done so.*

Sections 17 and 18 of Chapter 79, the Borough's Affordable Housing Ordinance (Ordinance No. 2437), establish the positions of Municipal Housing Liaison and Administrative Agent, respectively, and indicate that the Borough shall designate one or more Administrative Agents as affordable units become available. This condition is satisfied.

8. *The Borough Council shall appoint, if it has not already done so, a specific municipal employee as Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, and monitoring and reporting.*

On May 14, 2019 the Mayor and Council adopted Resolution No. 85 appointing the Borough Administrator as the Municipal Housing Liaison. This condition is satisfied.

Summary

Provided that the Borough provides evidence at the Compliance Hearing that the Spending Plan and Affirmative Marketing Plan have been adopted, the Borough of Hasbrouck Heights has satisfied all of the conditions of the Court's Order approving the Settlement Agreement between the Borough and FSHC, and I am recommending that the Court issue a final Judgment of Compliance and Repose to run through July 1, 2025.

The Order approving the Judgment of Compliance and Repose should include the monitoring and reporting requirements identified in Paragraphs 17, 18 and 19 of the Settlement Agreement.

Sincerely,



Michael P. Bolan, AICP, PP

cc. Wendy Rubenstein, Esq., via email only
Adam Gordon, Esq., via email only
Jill A. Hartmann, AICP, PP, via email only
Supreme Court service list, via email only

—LAW OFFICES—
DECOTIIS
DeCotiis, FitzPatrick, Cole & Giblin, LLP

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September 30, 2019

Attached Service List

**Re: In Re Petition of the Borough of Hasbrouck Heights,
Bergen County, New Jersey
Docket No.: BER-L-6098-15**

Dear Sir/Madam:

Enclosed please find the Final Judgment of Compliance and Repose signed by Judge Padovano on September 27, 2019 with regard to the above-captioned matter.

Very truly yours,

DeCotiis, FitzPatrick, Cole & Giblin, LLP

By: 
Wendy Rubinstein, Esq.

WR:tg

25-026



2560043

Hasbrouck Heights Service List

Jacqui Adam,
Allies, Inc.
1262 White Horse-Hamilton Sq. Rd.
Bldg A, Ste 101
Hamilton, NJ 08690

Peter Kortright, III, PP
Division Director
Bergen County Dept. of Planning and Economic Development
1 Bergen County Plaza
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Elizabeth Semple
NJ Dept. of Environmental Protection
PO Box 402
Trenton, NJ 08625

Jon Vogel
Development Director
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Ste 5500,
Iselin, NJ 08830

Robert Voliton
116 Erasmus St.
Brooklyn, NY 11226

Michael P. Bolan, PP, AICP
PO Box 295
Pennington, NJ 08534-0295

SUPREME COURT/MT. LAUREL SERVICE LIST

Kevin D. Walsh, Esq. Fair Share Housing Center 510 Park Blvd. Cherry Hill, NJ 08002 Phone: (856) 665-5444 Fax: (856) 663-8182 kevinwalsh@fairsharehousing.org	Valentina M. DiPippo, D.A.G Deputy Attorney General Personnel, Community Affairs, and Elections R.J. Hughes Justice Complex 25 Market Street, 2nd floor P.O. Box 112 Trenton, NJ 08625-0112 Tel: 609.777.3733 Fax: 609.292.6239
Stephen M. Eisdorfer, Esq. Hill Wallack LLP 21 Roszel Road Princeton, New Jersey 08540 Phone: (609) 734-6357 Fax: (609) 452-1888 seisdorfer@hillwallack.com	Jeffrey L. Kantowitz, Esq. Law Offices of Abe Rappaport 195 Route 46 West, Suite 11 Totowa, NJ 07512 Phone: (973) 785-1799 Fax: (973) 785-4777
Jonathan E. Drill, Esq. Stickel, Koenig, Sullivan & Drill, LLC 571 Pompton Ave Cedar Grove, NJ 07009 Phone: (973) 239-8800 Fax: (973) 239-0369 jdrill@sksdllaw.com	Jeffrey R. Surenian, Esq. Jeffrey R. Surenian and Associates, LLC 707 Union Avenue Suite 301 Brielle, NJ 08730 Phone: (732) 612-3100 Fax: (732) 612-3101
Edward J. Buzak, Esq. Buzak Law Group, LLC Suite N-4 150 River Road Montville, NJ 07045-9441 Phone: (973) 335-0600 Fax: (973) 335-1145 blg@buzaklawgroup.com	

BER-L-006098-15 09/26/2019 10:52:54 AM FILED BY: JESSICA B. LUCAS/2019-10-08

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Attorneys for Petitioner,
Borough of Hasbrouck Heights

FILED
 SEP 27 2019
 GREGG A. PADOVANO, J.S.C.

IN RE PETITION OF THE BOROUGH
 OF HASBROUCK HEIGHTS, BERGEN
 COUNTY, NEW JERSEY

Petitioner.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: BERGEN COUNTY

DOCKET NO.: BER-L- 6098-15

CIVIL ACTION
Mount Laurel Action

**FINAL JUDGMENT OF
 COMPLIANCE AND REPOSE**

THIS MATTER comes before the Court upon the Declaratory Judgment Complaint of Petitioner Borough of Hasbrouck Heights ("Borough" or "Petitioner"), seeking a determination that the Borough has complied with its Mount Laurel Obligation, in accordance with the procedures set forth in In Re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (Mount Laurel IV), and

THE COURT HAVING conducted a Compliance Hearing, on September 11, 2019, in accordance with the requirements of Morris County Fair Housing Council v. Boonton Township, 197 N.J. Super. 359, 364 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986), and East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328 (App. Div. 1996), upon the

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Borough's proposed plan to provide for affordable housing, Wendy Rubinstein, Esq. of DeCotiis FitzPatrick Cole & Giblin, LLP appearing on behalf of Petitioner; Bassam Gergi, Esq. appearing on behalf of Intervenor Fair Share Housing Center ("Intervenor"); and Special Master Michael Bolan, AICP, PP ("Special Master") appearing; and

THE COURT HAVING received the testimony of the Special Master, Michael Bolan, AICP, PP; and

THE COURT HAVING accepted jurisdiction and received into the record as Exhibits P-1 and P-2, the Affidavit of Service of Notice of Fairness Hearing dated August 5, 2019 and the Affidavit of Publication from the Bergen Record dated August 8, 2019; and

THE COURT HAVING received into the record as Exhibits P-3 and P-4 the executed Resolution from the Governing Body of Hasbrouck Heights endorsing and adopting a Spending Plan and the executed Resolution adopting an Affirmative Marketing Plan; and

THE COURT HAVING received into evidence the Report of the Special Master, dated August 6, 2019 and marked as Exhibit SM-1 (the "report") evaluating the compliance of Petitioner's 2019 Third Round Housing Element and Fair Share Plan and compliance with the Court's April 11, 2018 order and the recommendations noted in the Special Master's March 16, 2018 Report, and the Special Master having recommended in his Report that the Borough be granted a Third Round Judgment of Compliance and Repose, subject to the submission of evidence at the Compliance Hearing that the Spending Plan and Affirmative Marketing Plan had been adopted.

IT IS ON THIS 27TH day of September 2019, **HEREBY ORDERED AND ADJUDGED:**

BER-L-006098-15

1. Petitioner properly afforded notice of the Compliance Hearing in accordance with governing law.

2. The Court hereby accepts the Housing Element and Fair Share Plan and finds that it creates a realistic opportunity for satisfaction of the Borough's Fair Share of low- and moderate-income housing.

3. The Court hereby finds the Borough has complied with the conditions set forth in the Court's April 11, 2018 order as well as the requirements set forth in the Special Master's March 16, 2018 Report and the Special Master's August 6, 2019 Report.

4. The Court hereby grants Final Judgment of Compliance and Repose and declares that Petitioner is entitled to protection from Mount Laurel/Constitutional Compliance litigation for the period concluding on July 1, 2025 other than actions to enforce the terms of the Settlement Agreement or the Court's orders.

5. On the first anniversary of the entry of this Order, and every anniversary thereafter through the end of the Repose period, the Borough shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

6. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the Repose period provided in this Order. The Borough shall comply with those provisions as follows:

a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website,

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with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.

b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of Order, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

IT IS FURTHER ORDERED that the Court hereby approves of the Petitioner's Spending Plan and provides a period of four (4) years from the date of this Final Judgment to authorize such expenditures or to commit to authorize such expenditures.

IT IS FURTHER ORDERED that Counsel for the Borough shall direct copies of the within Judgment to all counsel of record and the Special Master within 10 days of the date of receipt of the Judgment.



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

Borough of Hasbrouck Heights, NJ

§ 133-31. Developer's fees and affordable housing trust fund. [Added 4-14-2009 by Ord. No. 2207]

A. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to regulations of the Council on Affordable Housing of the State of New Jersey (hereinafter referred to as "COAH") and in accordance with P.L. 2008, c.46, Sections 8 (N.J.S.A. 52:27D-329.2) and 32-38 (N.J.S.A. 40:55D-8.1 through 8.7).¹ Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. § 5:97-8.

B. Basic requirements. **[Amended 5-14-2019 by Ord. No. 2440]**

(1) This chapter shall not be effective until approved by the Court.

(2) The Borough of Hasbrouck Heights shall not spend development fees until the Court has approved a plan for spending such (Spending Plan).

C. Definitions. The following terms, as used in this section, shall have the following meanings: **[Amended 5-14-2019 by Ord. No. 2440]**

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

COUNCIL ON AFFORDABLE HOUSING or COAH — The New Jersey Council on Affordable Housing, established under the Fair Housing Act.

DEMOLISHED — In the least act or process that renders more than 50% of a structure or building unsafe for human occupancy or use shall be considered demolished for the purposes of this chapter.

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

DEVELOPMENT FEE — Funds paid by any person for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and regulated by applicable COAH Rules.

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

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

1. Editor's Note: Pursuant to the New Jersey Economic Stimulus Act of 2009, the Non-Residential Development Fee Act, which was signed into law on 7-17-2008, was suspended. For applicable development fees, consult the Borough offices.

LIVING SPACE — All internal areas of a dwelling with a floor-to-ceiling height of greater than six feet, exclusive of garages which are not to be considered as living space.

NATURAL DISASTER — A catastrophic event, such as a hurricane, flood, earthquake, volcanic eruption, landslide, blizzard or other natural phenomena that causes extensive human casualties or property damage, or both.

D. Residential development fees.

(1) Imposed fees.

- (a) For all residential developments, residential developers shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- (b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

- (2) Eligible exactions, ineligible exactions, and exemptions for certain residential development.
 - (a) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - (b) Owner-occupied one-family, and two-family residential structures shall be exempt from development fees.
 - (c) Developments that have received final site plan approval by the Land Use Board having jurisdiction prior to the effective date of this section shall be exempt from development fees except as to any substantial change in the approval following such final approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

- (d) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (e) Any dwelling structure that is constructed as a replacement for a dwelling that was demolished as a result of a natural disaster shall be exempt from paying a development fee. The dwelling that is constructed as a replacement dwelling must be constructed on the same site as the dwelling that was demolished as a result of a natural disaster.
- (f) Any development undertaken by or principally sponsored by a charitable, philanthropic or eleemosynary organization or undertaken or principally sponsored by a governmental agency shall be exempt from development fees.

E. Nonresidential development fees.

(1) Imposed fees

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

(2) Eligible exactions, ineligible exactions, and exemptions for nonresidential development.

- (a) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.
- (b) The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations, and repairs.
- (c) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c.46, as specified in the Form N-RDF, "State of New Jersey Nonresidential Development Certification/Exemption." Any exemption claimed by a developer

shall be substantiated by that developer.

- (d) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough as a lien against the real property of the owner.
- (f) Any development undertaken by or principally sponsored by a charitable, philanthropic or eleemosynary organization or undertaken or principally sponsored by a governmental agency shall be exempt from development fees.

F. Collection procedures.

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

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- (7) Should the Borough fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of Section 37 of P.L. 2008, c.46 (N.J.S.A. 40:55D-8.6).
- (8) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- (9) Appeal of development fees.
 - (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (b) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable housing trust fund.

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

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- (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with the Borough's affordable housing program.
- (3) Within seven days from the opening of the trust fund account, the Borough shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. § 5:97-8.13(b).
 - (4) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.
 - (5) In the event of a failure by the Borough of Hasbrouck Heights to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. Of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Hasbrouck Heights, or, if not practicable, then within the County or Housing Region. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court. **[Added 5-14-2019 by Ord. No. 2440]**

H. Use of funds.

- (1) The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability,

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administration necessary for implementation of the Housing Element and Fair Share Plan, and/or any other activity as permitted by the Court and specified in the approved spending plan. [Amended 5-14-2019 by Ord. No. 2440]

- (2) Funds shall not be expended to reimburse the Borough for past housing activities.
 - (3) At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal fair share plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - (b) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal fair share plan to make them affordable to households earning 30% or less of median income. The use of development fees in this manner shall entitle the Borough to bonus credits pursuant to N.J.A.C. § 5:96-18.
 - (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
 - (4) The Borough may contract with a private or public entity to administer any part of its housing element and fair share plan, including the requirement for affordability assistance, in accordance with N.J.A.C. § 5:96-18.
 - (5) No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a housing element and fair share plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.
- I. The Borough shall provide annual reporting of Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, or any 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 sources and amounts of funds collected and the amounts

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and purposes for which any funds have been expended. [Amended 5-14-2019 by Ord. No. 2440]

J. Ongoing collection of fees. [Amended 5-14-2019 by Ord. No. 2440]

- (1) The ability for the Borough to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its judgment of compliance and shall continue thereafter so long as the the Borough has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for a judgment of compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its development fee ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- (2) If the Borough fails to pursue its authorization to impose and collect development fees after the expiration of its judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund", established pursuant to § 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320).
- (3) After the expiration of the judgment of compliance, if the Borough does not pursue or obtain continued authorization, the Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval, nor shall the Borough retroactively impose a development fee on such a development. The Borough will not expend development fees after the expiration of its substantive certification.

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§ 275-12.1. Hasbrouck Heights Affordable Housing Overlay Zone. [Added 5-14-2019 by Ord. No. 2438]

- A. The Hasbrouck Heights Affordable Housing Overlay Zone district is hereby established.
- B. The Zoning Map shall be and is hereby amended and supplemented by the addition of the Hasbrouck Heights Affordable Housing Overlay Zone, incorporating the following properties into said overlay zone:

 Block 129, Lot 1; Block 131, Lots 1, 4, 5 and 9; and Block 132.01, Lots 1, 2, 3, 4.02, 5.01, 5.03, 5.04 and 5.05

 Block 98, Lot 1.01.
- C. The purpose of the Zone is to provide a realistic opportunity to address the Borough's unmet affordable housing need obligation.
- D. The following are the principal permitted uses;
 - (1) Multifamily residential uses, where a 15% affordable residential rental component set-aside or a 20% affordable for sale component set-aside is provided in accordance with the applicable Borough ordinances. Multifamily residential uses shall include townhouses, duplex structures and apartments.
 - (2) Existing permitted uses, permitted by the underlying zone, are not modified or affected by the establishment of this overlay zone.
 - (3) Development of the site in the Hasbrouck Heights Affordable Housing Overlay Zone is permitted for either a permitted use authorized pursuant to the underlying zone or in the alternative, a use permitted in the overlay zone, but not for both.
- E. The affordable housing component shall be compliant with Ch. 79 (Affordable Housing).
- F. All conditional uses permitted in the underlying Zone in this Zone shall continue to be conditional uses.
- G. Permitted accessory structures, buildings and uses:
 - (1) All accessory uses permitted in the underlying zones.
 - (2) Private residential garages and off-street parking. Stand-alone structured parking decks are prohibited.
 - (3) Loading areas.
 - (4) Leasing office.
 - (5) Streetscape improvements.
 - (6) Fences in accordance with the applicable Borough ordinances.
 - (7) Signage shall be subject to the requirements of the applicable Borough ordinances.

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- (8) Other customary accessory uses and structures such as, but not limited to a club room, fitness areas and swimming pools for the private use and enjoyment of residents and their guests.

H. Bulk regulations.

- (1) The bulk regulations for the Hasbrouck Heights Affordable Housing Overlay Zone multifamily residential use are as follows:
 - (a) Minimum lot size: one acre.
 - (b) Minimum required lot width: 200 feet.
 - (c) Minimum required lot depth: 200 feet.
 - (d) Minimum required front yard: 20 feet.
 - (e) Minimum required side yard: 20 feet.
 - (f) Minimum required rear yard: 20 feet.
 - (g) Maximum building height: 40 feet/four stories
 - (h) Maximum building coverage: 40%.
 - (i) Maximum impervious coverage: 75%
 - (j) Density: 20 du/ac.
- (2) No more than two bedrooms shall be permitted in any market rate unit.

I. Parking and loading.

- (1) Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21, shall be referenced to determine the number of required parking spaces, size of parking spaces, and construction details concerning project streets and drives, sidewalks, water supply and sanitary sewers. Barrier-free parking spaces shall be provided and signed in accordance with the standards of the New Jersey Barrier-Free Code.
- (2) Structured parking is permitted. The number of parking stories shall be counted towards the number of stories permitted.

J. Landscape standards:

- (1) A landscape plan prepared by a licensed landscape architect, licensed by the New Jersey State Board of Architects, or other qualified individual shall be submitted as part of any development plan. The plan shall include detailed construction drawings for all site landscaping, common areas, recreation areas and all street frontage improvements including but not limited to street trees, ornamental lighting and brick paver walkways.
- (2) A minimum planted buffer of not less than 15 feet shall be established and maintained around the perimeter of the tract developed pursuant to this section. This perimeter buffer shall be planted with a dense grouping of landscape materials which may include

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fencing, decorative walls and berms. Site driveways, with or without sidewalk(s) connecting the public street to the site, are permitted to pierce this required buffer, as are underground utility and drainage connections

- (3) All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing a variety of landscape material, including but not limited to landscaped fencing, shrubbery, lawn area, ground cover, and trees. The use of coniferous and/or deciduous trees native to the area shall be used to lessen the visual impact for the structures and paved areas.
 - (4) Landscaping shall be designed to create a complete integration of the various elements of site design.
- K. An indoor trash and recycling area for the collection and storage of generated trash and recyclable materials shall be provided within the principal building.

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Chapter 79**AFFORDABLE HOUSING**

§ 79-1.	Filing of reports.	§ 79-12.	Limitations on indebtedness secured by ownership unit; subordination.
§ 79-2.	Definitions.		
§ 79-3.	Applicability.	§ 79-13.	Capital improvements to ownership units.
§ 79-4.	Alternative living arrangements.	§ 79-14.	Control periods for restricted rental units.
§ 79-5.	Phasing schedule for inclusionary zoning.	§ 79-15.	Rent restrictions for rental units; leases.
§ 79-6.	New construction.	§ 79-16.	Tenant income eligibility.
§ 79-7.	Utilities.	§ 79-17.	Municipal Housing Liaison.
§ 79-8.	Occupancy standards.	§ 79-18.	Administrative agent.
§ 79-9.	Control periods for restricted ownership units and enforcement mechanisms.	§ 79-19.	Affirmative marketing requirements.
§ 79-10.	Price restrictions for restricted ownership units, homeowner association fees and resale prices.	§ 79-20.	Enforcement of affordable housing regulations.
§ 79-11.	Buyer income eligibility.	§ 79-21.	Appeals.

[HISTORY: Adopted by the Mayor and Council of the Borough of Hasbrouck Heights 5-14-2019 by Ord. No. 2437. Amendments noted where applicable.]

§ 79-1. Filing of reports.

The Borough of Hasbrouck Heights shall file such annual monitoring reports as may be directed by the Court regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan. The report shall be filed with the Bergen County Superior Court and shall be available to the public at the Hasbrouck Heights Municipal Building, Borough Clerk's Office, 403 South Avenue, Hasbrouck Heights, NJ 07027.

§ 79-2. Definitions.

The following terms when used in this chapter 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 chapter, N.J.A.C. 5:93¹, and UHAC (N.J.A.C. 5:80-26).

1. Editor's Note: The provisions of N.J.A.C. 5:93 expired 10/16/2016.

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. 5:93-7.4,² 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.

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.

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% 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.

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

ALTERNATIVE LIVING ARRANGEMENT — 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.).

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

2. Editor's Note: The provisions of N.J.A.C. 5:93 expired 10/16/2016.

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.

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 nonresidential 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% or less of the median household income.

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

MAJOR SYSTEM — The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include, but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement 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% but less than 80% of the median household income.

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

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% 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 UHOP 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% or less of the median household income for the applicable housing region.

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.

§ 79-3. Applicability.

The provisions of this chapter 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 Hasbrouck Heights pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

§ 79-4. Alternative living arrangements.

- A. The administrative of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8³ 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 twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- C. 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.

§ 79-5. Phasing schedule for inclusionary zoning.

In inclusionary developments the following schedule shall be followed:

3. Editor's Note: The provisions of N.J.A.C. 5:93 expired 10/16/2016.

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

§ 79-6. 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.
- (2) At least 13% of all restricted rental units within each bedroom distribution shall be very-low-income units (affordable to a household earning 30% 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.
- (3) At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
- (4) A maximum of 25% may be age-restricted. At least half of the units in total shall be available to families.
- (5) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units, which percentage shall include the required 13% very-low-income units.
- (6) 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% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - (c) At least 20% 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.
- (7) 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:

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- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and the following:
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel on the first floor;
 - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor;
 - (e) If not all of the foregoing requirements in Subsection B(2)a through (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 Subsection B(2)a through (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 (N.J.S.A. 52:27D-311 a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Hasbrouck Heights has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - [1] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - [2] To this end, the builder of restricted units shall deposit funds within the Borough of Hasbrouck Heights's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - [3] The funds deposited under Subsection B(6)(f)[2] above shall be used by the Borough of Hasbrouck Heights 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 Hasbrouck Heights 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, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and by the Superior Court.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% 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% of all low- and moderate-income rental units shall be affordable to very-low-income households, earning 30% or less of the regional median household income, with such very-low-income units counted toward the low-income requirement.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% 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 to 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% 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% 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% 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.
- (10) The rent of 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. This increase shall not exceed 9% 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.
- E. Multifamily zones: Any townhouse, garden apartment or other multiple family residential development, including PURDS, containing five or more dwelling units shall comply with the following:
- (1) A minimum of 15% of the total number of units in a rental development shall be set aside as affordable housing units, with 1/2 being affordable to low-income households and 13% shall be affordable to very-low-income households. If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5% then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of such affordable units yields a fractional unit of greater than 0.5, it shall count as one additional unit.
 - (2) A minimum of 20% of the total number of units in a for-sale development shall be set aside as affordable housing units. If the calculation of the total number of such affordable units yields a fractional unit of less than 0.5, then a payment in lieu shall be provided or one additional unit. If the calculation of the total number of such affordable units yields a fractional unit of greater than 0.5, it shall count as one additional unit.
- F. No subdivision: The subdivision of properties proposed for inclusionary residential developments or

mixed-use developments that will include affordable housing is prohibited as a means to circumvent the fifty-year control period.

§ 79-7. 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 DCA for its Section 8 program.

§ 79-8. Occupancy standards.

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

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

§ 79-9. Control periods for restricted ownership units and enforcement mechanisms.

- 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 chapter for a period of at least 30 years, until Hasbrouck Heights takes action to release the unit from such requirements. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, provided that for any development of five units or more for which an application for development has not been filed as of the date of the adoption of this chapter, the control period shall be 30 years.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. 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 nonexempt sale after the unit's release from the restrictions set forth in this chapter, an amount equal to the difference between the unit's nonrestricted 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.
- E. The affordability controls set forth in this chapter shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

- F. 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.

§ 79-10. Price restrictions for restricted ownership units, homeowner association fees and resale prices.

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

- A. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. 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.
- D. 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 § 79-13.

§ 79-11. 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% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. Notwithstanding the foregoing, however, the administrative agent may, upon approval by the Borough 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 is 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% of the household's eligible monthly income.

§ 79-12. 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% 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).

§ 79-13. 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 (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 79-14. Control periods for restricted rental 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 chapter for a period of at least 30 years, until Hasbrouck Heights takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, except for those units that have not yet received approvals such that the controls shall be for 30 years.
- B. 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.

- C. A restricted rental unit shall remain subject to the affordability controls of this chapter 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 judgment of foreclosure on the property containing the unit.

§ 79-15. 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 5% 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 chapter.
- 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% of the total number of dwelling units are restricted rental units in compliance with this chapter.

§ 79-16. 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% of median income.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% 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% (40% 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% (40% 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% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

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- (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 Subsections A and B above with the administrative agent, who shall counsel the household on budgeting.

§ 79-17. Municipal Housing Liaison.

- A. The Borough of Hasbrouck Heights shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted administrative agent. Hasbrouck Heights shall adopt an ordinance creating the position of Municipal Housing Liaison. Hasbrouck Heights shall adopt a resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Hasbrouck Heights, including the following responsibilities which may not be contracted out to the administrative agent:
 - (1) Serving as Hasbrouck Heights's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 - (2) Monitoring the status of all restricted units in Hasbrouck Heights's Fair Share Plan;
 - (3) Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
 - (4) Coordinating meetings with affordable housing providers and administrative agents, as needed; and
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the Court, the Borough of Hasbrouck Heights shall designate one or more administrative agent(s) to administer newly constructed affordable units in accordance with UHAC. An operating manual for each affordable housing program shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The operating manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the administrative agent(s). The Municipal Housing Liaison shall supervise the contracting administrative agent(s).

§ 79-18. Administrative agent.

The administrative agent shall be an independent entity serving under contract to and reporting to the

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municipality. The fees of the administrative agent shall be paid by the owners of the affordable units for which the services of the administrative agent are required. The administrative agent shall perform the duties and responsibilities of an administrative agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

A. Affirmative marketing:

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

B. Household certification:

- (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- (3) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Hasbrouck Heights when referring households for certification to affordable units.
- (7) Notifying the following entities of the availability of affordable housing units in the Borough of Hasbrouck Heights: Fair Share Housing Center, the New Jersey State Conferences of the NAACP, the Latino Action Network, Bergen County NAACP, Urban League of Bergen County, Bergen County Housing Coalition, and Supportive Housing Association.

C. Affordability controls:

- (1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Bergen County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
- (4) Communicating with lenders regarding foreclosures; and

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- (5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and rentals:

- (1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
- (2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.

E. Processing requests from unit owners:

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this chapter;
- (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air-conditioning systems;
- (3) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

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

G. Additional responsibilities:

- (1) The administrative agent shall have the authority to take all actions necessary and appropriate

to carry out its responsibilities hereunder.

- (2) The administrative agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
- (3) The administrative agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§ 79-19. Affirmative marketing requirements.

- A. The Borough of Hasbrouck Heights shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 2 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2, comprised of Essex, Morris, Bergen and Warren Counties.
- D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The administrative agent designated by the Borough of Hasbrouck Heights shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the administrative agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- I. In addition to other affirmative marketing strategies, the administrative agent shall provide specific notice of the availability of affordable housing units in Hasbrouck Heights, and copies of the applications forms, to the following entities: Fair Share Housing Center, the New Jersey State

Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Urban League of Bergen County, Bergen County Housing Coalition, and Supportive Housing Association.

- J. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 79-20. Enforcement of affordable housing regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
- (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than \$500 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Hasbrouck Heights Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - (2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

- (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

§ 79-21. Appeals.

Appeals from all decisions of an administrative agent appointed pursuant to this chapter shall be filed in writing with the Court.