

2026 Master Plan Amendment Housing Element and Fair Share Plan Round 4

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

Prepared:
February 2026

Prepared for:
Borough of Haworth Planning Board

Prepared by:



T&M Associates
11 Tindall Road
Middletown, NJ 07748

Caroline Z. Reiter

Caroline Z. Reiter, PP, AICP
NJ Professional Planner: 33LI00534300

Dare R E

Robert E. Dare, PP, AICP
NJ Professional Planner: 33LI00596400

Original Plan Adopted on June 18, 2025 by the Borough of Haworth Planning Board.
Original Plan Endorsed on June 25, 2025 by the Haworth Borough Council.
Amended Plan Adopted on March 9, 2026 by the Borough of Haworth Planning Board.
Amended Plan Endorsed on March 10, 2026 by the Haworth Borough Council.

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

HAWORTH BOROUGH

Mayor and Council

Heather Wasser, Mayor
Glenn Z Poosikian, Councilman
Andrew Rosenberg, Councilman
Dina Siciliano, Councilwoman
Alanna Davis, Councilwoman
Jane Cabourg, Councilwoman
Peter Laub, Councilman

Planning Board

Andrew Anderson, Chair

Amy Albalah
Stephen Chval
Robert Contillo
Jeffery Pavell
Noa Artzi-Weill
Michael Langan

Charles Antinori (Alternate 1)
John Buckley (Alternate 2)

Mayor Heather Wasser, Virtue of Office
Andrew Rosenberg, Council Representative

Annmarie Wells, Recording Secretary
William Rupp, Esq., Attorney
Joe Vince, P.E., Engineer

Public Officials

Greg Zagaja, Borough Administrator/ Clerk

Annmarie Wells, Deputy Borough Clerk

Lauren Roehrer, CFO & Treasurer
Janet Gallagher, Court Administrator

Robert Regan, Esq., Borough Attorney
Edward Buzak, Esq., Affordable Housing Attorney

Table of Contents

Affordable Housing in New Jersey.....	1
Mandatory Contents of the Housing Element.....	3
Analysis of Demographic, Housing, and Employment Characteristics	4
Population Characteristics	4
Population Composition by Age	7
Existing Housing Characteristics	9
Type of Household.....	9
Household Size	10
Per Capita and Household Income	11
Family Income Distribution	12
Housing Affordability	13
Housing Unit Data	14
Year Householder Moved into Unit.....	15
Housing Unit Information.....	16
Housing Conditions	18
Housing Values.....	19
Contract Rents.....	20
Employment Data	21
Residential Construction.....	24
Population and Household Projection	25
Employment Projection.....	26
Affordable Housing Obligation	27
Prior Round Obligation.....	28

Round 3 Prospective Need 28

Round 4 Present Need..... 31

Round 4 Prospective Need 31

Availability of Existing and Planned Infrastructure 34

Consideration of Lands Appropriate for Affordable Housing..... 34

Consistency with the State Development and Redevelopment Plan..... 35

Minimums & Maximums 36

Multigenerational Housing Continuity 36

Conclusion..... 37

Appendices 38

Housing Element

The Borough of Haworth, Bergen County, adopted and endorsed a Housing Element and Fair Share Plan (HEFSP) as an amendment to the municipal master plan in accordance with the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and the New Jersey Fair Housing Act 2 (N.J.S.A. 52:27D-301 et seq.) in June 2025.

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

The June 2025 adopted HEFSP amended the Borough's master plan to address affordable housing planning requirements for the time period known as Round 4, which includes the decade between July 2025 and July 2035. It addresses the Borough's cumulative fair share obligation for the period from 1987 through 2035. The Borough last adopted a Round 3 Housing Element on September 18, 2019. This plan will replace the 2019 Round 3 plan.

Affordable Housing in New Jersey

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

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

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

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

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

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

The Supreme Court established a new procedure that requires participating towns, such as Haworth, to submit a Declaratory Judgment action. The Borough of Haworth filed its action of Declaratory Judgment with the Court on or about July 6, 2015.

Fair Share Housing Center (FSHC), a nonprofit affordable housing advocacy group, was considered an "interested party" in all municipal Declaratory Actions. FSHC and the Borough engaged in a mediation process under the supervision of the court-appointed Special Master. In addition, one party objected to the Borough's action of Declaratory Judgment. The objector, also referred to as an intervenor, was known as Lakeshore Developers LLC. The Borough of Haworth and Lakeshore Developers reached settlement in April 2019. Haworth and FSHC also settled its affordable housing litigation. Haworth's Settlement Agreement was executed on May 14, 2019.

Round 4 Affordable Housing

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

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

Pursuant to the FHA 2, municipalities were required to adopt a Housing Element and Fair Share Plan by June 30, 2025. Haworth's adopted plan conforms to the requirements established in the legislation and FHA 2 and addresses Haworth's Prior Round, Round 3 and Round 4 affordable housing obligations. The Borough filed the adopted HEFSP with the Court on June 19, 2025. The Fair Share Housing Center (FSHC) filed a letter of objection pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) on the Borough's plan on August 28, 2025. No other interested-party filed a challenge or any other communication in connection with the Boroughs adopted plan.

Borough of Haworth representatives negotiated with FSHC and participated in several mediation sessions in which the appointed Special Adjudicator and Affordable Housing Dispute Resolution Program (known as the “Program”) Judge also participated. The Borough and Fair Share Housing Center reached a settlement as memorialized in a Mediation Agreement executed by the Borough on February 25, 2026.

As a result of the mediation process and settlement reflected in the Mediation Agreement, the Borough agreed to make several changes to its 2025 Plan. This Amended Housing Element and Fair Share Plan includes the revisions that are contained in the settlement agreement.

Mandatory Contents of the Housing Element

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

- An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level, and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1); and,
- A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;

- An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20);
- For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for P.L. 2024, redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

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

Analysis of Demographic, Housing, and Employment Characteristics

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

Population Characteristics

Table 1 shows the population trends for the Borough of Haworth and Bergen County from 1930 to 2020. As shown, Haworth's population increased by 2,301 residents during this period. The three greatest increases occurred in the periods from: 1950 to 1960, when the Borough's population increased by approximately 99.4 percent; 1930 to 1940, when there was an increase of approximately 36.2 percent; and between 1960 and 1970, when population increased by approximately 17.0 percent. The only periods where there was a decrease in population were between 1970 and

1980, when the Borough’s population decreased by about 6.7 percent; 1980 and 1990, when the Borough’s population decreased by 3.6 percent; 2010 and 2020, when the Borough’s population decreased by 1.2 percent; and 2000 and 2010, when the Borough’s population decreased by about 0.2 percent.

Bergen County’s population also increased over the period from 1930 to 2020. Indeed, the County’s population increased by 590,755 residents over this period. As compared to the Borough, however, change in the County’s population was never as great as in the Borough. Indeed, the maximum rate of change in the Borough’s population was about 99.4 percent (between 1950 and 1960), but the change in the County’s population never exceeded about 44.7 percent (also between 1950 and 1960) in any ten-year period.

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

Borough

<u>Year</u>	<u>Population</u>	<u>Number</u>	<u>Change</u>	<u>Percent</u>
1930	1,042	-----		-----
1940	1,419	377		36.2
1950	1,612	193		13.6
1960	3,215	1,603		99.4
1970	3,760	545		17.0
1980	3,509	-251		-6.7
1990	3,384	-125		-3.6
2000	3,390	6		0.2
2010	3,382	-8		-0.2
2020	3,343	-39		-1.2

County

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

Sources:

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

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

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

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

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

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

Population Composition by Age

Table 2 shows population by age cohort in the Borough of Haworth during 2010 and 2020. As can be seen, the population decreased by 39 residents or 1.2 percent between 2010 and 2020. The age-cohort with the largest decreases were 5-14, which decreased by 140 residents or about 23.0 percent; 45-54, which decreased by 122 residents or about 18.8 percent; and 35-44, which decreased by 59 residents or about 14.4 percent. The age cohorts with the largest increases were: 75-84, which increased by 43 residents or 28.1 percent; 85+, which increased by 17 residents or 24.6 percent; 15-24, which increased by 93 residents or 24.2 percent; 25-34, which increased by 40 residents or 23.7 percent; or 65-74, which increased by 68 residents or 23.1 percent. The change in all other age cohorts was less than ± 10.0 percent.

Table 2

POPULATION BY AGE
Borough of Haworth

Age Group	2010 Population		2020 Population		Change 2010-2020	
	Persons	Percent	Persons	Percent	Persons	Percent
Under 5	165	4.9	158	4.7	-7	-4.2
5-14	608	18.0	468	14.0	-140	-23.0
15-24	384	11.4	477	14.3	93	24.2
25-34	169	5.0	209	6.3	40	23.7
35-44	409	12.1	350	10.5	-59	-14.4
45-54	649	19.2	527	15.8	-122	-18.8
55-64	482	14.3	510	15.3	28	5.8
65-74	294	8.7	362	10.8	68	23.1
75-84	153	4.5	196	5.9	43	28.1
85+	69	2.0	86	2.6	17	24.6
TOTALS	3,382	100	3,343	100	-39	-1.2

Sources:

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

Table 2 shows considerable growth in the 85+, 75-84, 65-74, 25-34, 15-24 age cohorts. The effects of the change in the distribution of Haworth’s population among age cohorts can be summarized in the change in the median age of the Borough’s population, which increased by one (1) year, from 44.2 years to 45.2 years, in the period from 2010 to 2020. This represents an increase of about 2.3 percent. By comparison, the median age of Bergen County’s population increased by approximately 0.9 years, from 41.1 years to 42.0 years, which equates to an increase of about 2.2 percent. Table 3 summarizes the distribution of the Borough’s and County’s populations among age cohorts and the change in the median age of said populations.

Table 3

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

<u>Age Group</u>	2010 Percentage of Population		2020 Percentage of Population	
	<u>Borough</u>	<u>County</u>	<u>Borough</u>	<u>County</u>
Under 5	4.9	5.6	4.7	5.0
5-14	18.0	12.9	14.0	12.0
15-24	11.4	11.6	14.3	12.0
25-34	5.0	11.6	6.3	11.8
35-44	12.1	14.3	10.5	13.2
45-54	19.2	16.3	15.8	14.0
55-64	14.3	12.7	15.3	14.3
65+	15.3	15.1	19.3	17.7
TOTALS	100	100	100	100
Median Age	44.2	41.1	45.2	42.0

Sources:

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

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

Existing Housing Characteristics

Type of Household

A household is a group of people who occupy a housing unit as their usual place of residence. As shown in Table 4, there were 1,104 households in the Borough of Haworth in 2020. The majority, or approximately 87.9 percent, of households consisted of two or more persons. The remaining 12.1 percent of households consisted of one person. Table 4 provides additional details on the types of households in Haworth Borough during 2020.

Table 4
TYPES OF HOUSEHOLDS, 2020

Borough of Haworth

<u>Type of Households</u>	<u>Total</u>	<u>Number in Subgroup</u>	<u>Percent of Total</u>
TOTAL HOUSEHOLDS	1,104		
One Person		134	12.1
Male Householder	39		3.5
65 years or older	21		1.9
Female Householder	95		8.6
65 years or older	66		6.0
Two or More Persons		970	87.9
<i>Married Couple Families</i>	822		74.5
With Own Children Under 18	371		33.6
<i>Cohabiting Couple</i>	28		2.5
With Own Children Under 18	14		1.3
<i>Male Householder Not living alone</i>	41		3.7
With Own Children Under 18	13		1.2
<i>Female Householder Not living alone</i>	79		7.2
With Own Children Under 18	29		2.6

Sources:

2020 U.S. Census (Table DP1)

Household Size

Table 5 provides further details on household size in the Borough of Haworth during 2020. As shown, the most frequent household size was two persons, which accounted for 26.3 percent of all households in Haworth and 29.1 percent of all households in Bergen County. The average household size in Haworth was 3.02, which is 0.32 persons more than the average household size of 2.70 in Bergen County during 2020.

Table 5
HOUSEHOLD SIZE, 2020
Borough of Haworth & Bergen County

Household Size	<u>Borough of Haworth</u>		<u>Bergen County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
1 Person	134	12.1	84,254	24.0
2 Persons	290	26.3	102,218	29.1
3 Persons	216	19.6	63,130	18.0
4 Persons	304	27.5	61,107	17.4
5 Persons	113	10.2	26,098	7.4
6+ Persons	47	4.3	13,857	4.0
TOTALS	1,104	100.0	350,664	100.0
Average Household Size	3.02		2.70	

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

Per Capita and Household Income

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

As shown in Table 6, Haworth had a higher per capita income at \$84,397 than in Bergen County and New Jersey, where the per capita incomes were \$62,968 and \$53,118, respectively. Haworth also had a higher median household income at \$227,841 than Bergen County and New Jersey, where the median household incomes were \$123,715 and \$101,050, respectively. Additionally, the Borough had just 3.7 percent of its population living below poverty status, which is lower than the 6.7 percent and 9.8 percent exhibited by Bergen County and New Jersey, respectively.

Table 6

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

	<u>Per Capita Income</u>	<u>Median Household Income</u>	<u>Percentage of Population Below Poverty Status</u>
Borough of Haworth	\$84,397	\$227,841	3.7
Bergen County	\$62,968	\$123,715	6.7
New Jersey	\$53,118	\$101,050	9.8

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

Family Income Distribution

Table 7 details family income for the Borough and County as represented by 2023 American Community Survey Five-Year Estimates. Approximately 93.1 percent of Haworth’s families earned \$75,000 or more. By comparison, just 77.6 percent of Bergen County’s families earned \$75,000 or more.

Table 7
 FAMILY INCOME DISTRIBUTION, 2023
 Borough of Haworth & Bergen County

<u>Income Levels</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Less than \$10,000	0	0.0	4,882	1.9
\$10,000 - \$14,999	18	1.9	2,555	1.0
\$15,000 - \$24,999	0	0.0	6,022	2.4
\$25,000 - \$34,999	30	3.2	7,350	2.9
\$35,000 - \$49,999	12	1.3	12,602	5.0
\$50,000 - \$74,999	5	0.5	23,286	9.2
\$75,000 - \$99,999	26	2.7	23,706	9.4
\$100,000 - \$149,999	89	9.4	45,647	18.1
\$150,000 - \$199,999	184	19.4	36,887	14.6
\$200,000 or more	583	61.6	89,702	35.5
TOTALS	947	100.0	252,639	100.0

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

Housing Affordability

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

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

Table 8
2025 REGIONAL INCOME LIMITS
HOUSING REGION 1

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

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

Housing Unit Data

In 2020, there were 1,148 housing units in Haworth, of which 1,104 or 96.2 percent were occupied. By comparison, the County had 367,383 housing units, of which 350,664 or 95.4 percent were occupied.

As shown in Table 9, owner-occupied housing stock comprised a greater percentage of the Borough’s housing stock than in the County’s housing stock. In 2020, approximately 93.4 percent of the Borough’s housing stock, versus 63.1 percent of the County’s housing stock, was owner-occupied.

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

	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Unit Type				
Occupied	1,104	96.2	350,664	95.4
Vacant, Seasonal & Migratory	44	3.8	16,719	4.6
TOTALS	1,148	100.0	367,383	100.0
Owner vs Renter Occupied Units				
Owner Occupied	1,031	93.4	221,274	63.1
Renter Occupied	73	6.6	129,390	36.9
TOTALS	1,104	100.0	350,664	100.0

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

Year Householder Moved into Unit

Table 10 provides the year the current householders moved into the Haworth and Bergen County homes. As shown, 67.0 percent of the Borough’s households moved into their current residences after 2000, compared to 74.2 percent countywide. Approximately 33.0 percent of the Borough’s households and 25.8 percent of the County’s households moved into their residences before 2000.

Table 10
 YEAR HOUSEHOLDER MOVED INTO UNIT, 2023
 Borough of Haworth & Bergen County

<u>Year Householder Moved into Unit</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
2021 or later	55	5.2	27,042	7.7
2010 - 2020	442	42.0	165,730	46.9
2000 - 2009	209	19.8	69,267	19.6
1990 - 1999	153	14.5	42,548	12.0
1989 or earlier	194	18.4	48,720	13.8
TOTALS	1,053	100.0	353,307	100.0

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

Housing Unit Information

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

As shown, approximately 98.6 percent of the Borough's housing stock consists of single-family detached structures. In contrast, single-family detached homes comprise approximately 53.2 percent of the County's housing stock.

As shown in Table 11, the Borough's housing stock contains more rooms than the County's housing stock. In 2023, about 93.2 percent of Haworth's housing units contained six (6) or more rooms, while approximately 54.7 percent of the County's housing stock recorded the same number of rooms. On the other hand, about 57.5 percent of the Borough's housing units contain four or more bedrooms, compared with approximately 27.2 percent of the County's housing stock.

Finally, approximately 83.3 percent of the Borough's housing stock was built before 1980. Similarly, about 74.6 percent of the County's housing stock was built before 1980.

Table 11

HOUSING UNIT INFORMATION, 2023
Borough of Haworth & Bergen County

	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Total Units	1,186	100.0	368,535	100.0
<u>Units in Structure</u>				
One (Single Family Detached)	1,169	98.6	196,102	53.2
One (Single Family Attached)	2	0.2	22,284	6.0
Two+ Units	15	1.3	148,595	40.3
Mobile Home, Trailer, Other	0	0.0	1,554	0.4
<u>Number of Rooms</u>				
1 Room	0	0.0	10,090	2.7
2 or 3 Rooms	0	0.0	54,929	14.9
4 or 5 Rooms	80	6.7	101,934	27.7
6 or 7 Rooms	343	28.9	103,786	28.2
8+ Rooms	763	64.3	97,796	26.5
<u>Number of Bedrooms</u>				
No Bedroom	0	0.0	11,192	3.0
1 Bedroom	0	0.0	58,568	15.9
2 or 3 Bedrooms	504	42.5	198,472	53.9
4+ Bedrooms	682	57.5	100,303	27.2
<u>Year Structure Built</u>				
2020 - later	14	1.2	2,486	0.7
2010 - 2019	66	5.6	18,587	5.0
2000 - 2009	42	3.5	21,455	5.8
1990 - 1999	21	1.8	20,951	5.7
1980 - 1989	55	4.6	30,051	8.2
1960 - 1979	194	16.4	86,461	23.5
1940 - 1959	394	33.2	116,865	31.7
1939 or earlier	400	33.7	71,679	19.4

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

Housing Conditions

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

In addition to the above, only about 1.4 percent of the Borough’s housing stock has more than one person per room, compared to about 3.4 percent of the County’s housing stock. Having more than one person per room in an indicator of overcrowding.

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

	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
<u>Total Occupied Units</u>	1,053		353,307	
Units Lacking Complete Plumbing	0	0.0	899	0.3
Units Lacking Kitchen Facilities	0	0.0	2,541	0.7
No telephone service	0	0.0	2,797	0.8
 <u>Persons per Room, Occupied Units</u>				
1.00 or less	1,038	98.6	341,275	96.6
1.01 to 1.50	15	1.4	7,036	2.0
1.51 or more	0	0.0	4,996	1.4
TOTALS	1,053	100.0	353,307	100.0

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

Housing Values

Table 13 shows 2023 housing values for the Borough of Haworth and Bergen County. As indicated, approximately 98.3 percent of the Borough’s owner-occupied housing units are valued at over \$300,000. This is higher than in the County, where only about 89.9 percent of the owner-occupied housing units are valued at over \$300,000. This higher percentage of units is reflected in the fact that the median value of owner-occupied units in Bergen County is lower than in the Borough. Indeed, the median value of owner-occupied units is \$593,200 in Bergen County, but \$815,300 in Haworth Borough.

Table 13
OWNER-OCCUPIED HOUSING VALUES, 2023
Borough of Haworth & Bergen County

<u>Housing Value</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Less than \$50,000	3	0.3	4,241	1.8
\$50,000 - \$99,999	12	1.2	2,583	1.1
\$100,000 - \$149,999	0	0.0	2,366	1.0
\$150,000 - \$199,999	0	0.0	2,680	1.2
\$200,000 - \$299,999	2	0.2	11,285	4.9
\$300,000 - \$499,999	32	3.2	62,212	26.9
\$500,000 - \$999,999	685	68.4	115,000	49.8
\$1,000,000 or more	267	26.7	30,556	13.2
TOTALS	1,001	100.0	230,923	100.0
Median Value	\$ 815,300		\$ 593,200	

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

Contract Rents

Table 14 details the gross rents for renter-occupied units in Haworth and Bergen County. As shown, the median monthly rent in Haworth was not reported, which is likely the result of the small sample size of just 30 units with a contract rent. In Bergen County overall, however, the median rent was \$1,863. In Haworth, about 50.0 percent of all cash rents were at least \$3,000, whereas in Bergen County only about 13.2 percent of all cash rents were \$3,000 or more.

Table 14
 GROSS RENTS, 2023
 OCCUPIED UNITS PAYING RENT
 Borough of Haworth & Bergen County

<u>Contract Rents</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Less than \$500	0	0.0	3,870	3.3
\$500 - \$999	0	0.0	5,086	4.3
\$1,000 - \$1,499	15	50.0	21,678	18.3
\$1,500 - \$1,999	0	0.0	39,395	33.3
\$2,000 - \$2,499	0	0.0	21,731	18.3
\$2,500 - \$2,999	0	0.0	11,103	9.4
\$3,000 or more	15	50.0	15,614	13.2
TOTALS	30	100.0	118,477	100.0
Median Rent	Not Reported by US Census		\$ 1,863	

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

Employment Data

Table 15 details the occupational characteristics of Haworth residents as indicated by 2023 American Community Survey Five-Year Estimates. As indicated, the largest occupational group among Haworth residents aged 16 years and over engaged in the civilian labor force is “Management, Business Science & Arts” with about 65.2 percent. This was also the largest occupational group in Bergen County with about 53.3 percent of County residents aged 16 years and over engaged in the civilian labor force. The second largest occupational group was “Sales & Office Occupations,” which accounted for 20.2 percent and 20.4 percent of the Borough and County residents aged 16 years and over engaged in the civilian labor force, respectively. The third largest occupational group was “Service Occupations,” which accounted for 10.4 percent of the Borough residents and 12.4 percent of the County residents aged 16 years and over engaged in the civilian labor force. In total, these three occupational groups accounted for about 95.7 percent of the Borough residents and 86.2 percent of the County residents aged 16 years and over engaged in the civilian labor force.

With regard to the industry of employment, it is noted that the top-three industries of employment among Borough residents aged 16 years and over and engaged in the civilian labor force were “Educational Services, Health Care/Social Assist.” with 28.8 percent; “Finance, Insurance, Real Estate” with 19.6 percent; and “Professional, Scientific, Management” with 19.5 percent. Among County residents, the top-three industries of employment were “Educational Services, Health Care/Social Assist.” with 25.1 percent; “Professional, Scientific, Management” with 15.2 percent; and “Retail Trade” with 10.2 percent.

Table 15
OCCUPATIONAL CHARACTERISTICS, 2023
Borough of Haworth & Bergen County

<u>Occupation Group</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Management, Business, Science & Arts	1,042	65.2	263,942	53.3
Service Occupations	166	10.4	61,574	12.4
Sales & Office Occupations	322	20.2	101,185	20.4
Nat. Resources, Construction & Maint.	38	2.4	25,740	5.2
Production, Transportation & Material	30	1.9	42,480	8.6
TOTALS	1,598	100.0	494,921	100.0

<u>Industry</u>	<u>Borough</u>		<u>County</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Agriculture, Forestry, Fishing	0	0.0	636	0.1
Construction	45	2.8	25,742	5.2
Manufacturing	41	2.6	38,180	7.7
Wholesale Trade	75	4.7	18,362	3.7
Retail Trade	127	7.9	50,517	10.2
Transportation & Warehousing	35	2.2	25,586	5.2
Information	40	2.5	14,303	2.9
Finance, Insurance, Real Estate	314	19.6	50,356	10.2
Professional, Scientific, Management	311	19.5	75,107	15.2
Edu. Services, Health Care/Social Assist.	461	28.8	124,338	25.1
Arts, Entertain., Recreation, Food Services	50	3.1	33,665	6.8
Other Services, Except Public Admin.	64	4.0	22,115	4.5
Public Administration	35	2.2	16,014	3.2
TOTALS	1,598	100.0	494,921	100.0

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

Data from the New Jersey Department of Labor and Workforce Development indicates that there was an average total of 691 private sector jobs located in Haworth during 2023. This represents jobs located in Haworth, not the occupational characteristics of Haworth’s residents.

Table 16 provides data on the sector of employment of 691 private jobs located within the Borough of Haworth. Of these jobs, 159 or 23.0 percent were classified as “Arts/Entertainment.” An additional 45 jobs or 6.5 percent were classified as “Health/Social,” and an additional 26 jobs or 3.8 percent were classified as “Other Services.” Finally, a total of 24 jobs or 3.5 percent were classified as “Admin/Waste Remediation.” All other sectors for which data was provided accounted for less than

20 jobs. These four employment sectors account for about 36.8 percent of all jobs located within the Borough of Haworth.

It should be noted, the New Jersey Department of Labor and Workforce Development has provided information on the sector of employment for less than half of the 691 private jobs located within the Borough of Haworth. It has not disclosed sector of employment for 378 or 54.7 percent of the 691 private jobs located within the Borough. Typical reasons why the New Jersey Department of Labor and Workforce Development would not provide the number of jobs in a particular sector include the presence of only one or very few employers in a particular sector, or the presence of a very limited number of jobs in a sector. In such cases, the New Jersey Department of Labor and Workforce Development withholds information so as to not release what could be perceived as confidential information.

Table 16
PRIVATE EMPLOYMENT BY SECTOR, 2023
Borough of Haworth

<u>Employee Sector</u>	<u>Borough</u>	
	<u>Number</u>	<u>Percent</u>
Mining	Undisclosed	Undisclosed
Utilities	Undisclosed	Undisclosed
Construction	18	2.6
Manufacturing	Undisclosed	Undisclosed
Wholesale Trade	14	2.0
Retail Trade	Undisclosed	Undisclosed
Transportation/Warehousing	Undisclosed	Undisclosed
Information	Undisclosed	Undisclosed
Finance/Insurance	9	1.3
Real Estate	Undisclosed	Undisclosed
Professional/Technical	18	2.6
Admin/Waste Remediation	24	3.5
Education	Undisclosed	Undisclosed
Health/Social	45	6.5
Arts/Entertainment	159	23.0
Accommodations/Food	Undisclosed	Undisclosed
Other Services	26	3.8
Unclassified	Undisclosed	Undisclosed
TOTAL	691	100.0

Source: New Jersey Department of Labor and Workforce Development

Residential Construction

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

In the reported period, a total of 74 new units were created and 44 units were demolished, resulting in a net increase of 30 units. The average annual net change in the reported period was slightly more than 2.7 units.

Table 17

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

<u>Year</u>	<u>New Units</u>	<u>Demolitions</u>	<u>Net Increase</u>
2012	4	3	1
2013	1	0	1
2014	8	5	3
2015	4	2	2
2016	6	5	1
2017	4	6	-2
2018	4	6	-2
2019	4	1	3
2020	1	3	-2
2021	31	4	27
2022	6	7	-1
2023	1	2	-1
TOTALS	74	44	30

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

Population and Household Projection

As has been previously mentioned, the Borough of Haworth’s population was 3,343 at the time of the 2020 United States Census.

The North Jersey Transportation Planning Authority has released 2050 population and household projections for its constituent municipalities. The 2050 population projection for Haworth is 3,481, which represents an increase of 138 residents over the 2020 United States Census population of 3,343 residents. The 2050 household projection for Haworth is 1,141, which represents an increase of 37 households over the 2020 United States Census count of 1,104 households.

N.J.S.A. 52:27D-310.b require that Housing Elements and Fair Share Plans include a household projection for the next ten years. When the 2050 projections of the North Jersey Transportation Planning Authority are linearly adjusted to represent 2035 values, projections of 3,412 residents and 1,123 households result. This is summarized in Table 18.

Table 18
POPULATION AND HOUSEHOLD PROJECTION, 2015 - 2050
Borough of Haworth

<u>2020 Census Population</u>	<u>2035 Population Projection</u> (Adjusted from 2050)	<u>2050 Population Projection</u>
3,343	3,412	3,481
<u>2020 Census Households</u>	<u>2035 Household Projection</u> (Adjusted from 2050)	<u>2050 Household Projection</u>
1,104	1,123	1,141

Sources:

2020: United States Census;
2035: Calculated by T&M based on 2050 values; and,
2050: North Jersey Transportation Planning Authority.

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

Employment Projection

The North Jersey Transportation Planning Authority (NJTPA) has released a 2050 employment projection for the Borough of Haworth of 868, which represents an increase of 11 jobs over the Borough’s 2023 average total of 857 public and private sector jobs (includes: 691 private sector jobs; 2 federal government jobs; and 164 local government jobs).

When the NJTPA’s 2050 employment projection is linearly adjusted to represent 2035 values, an adjusted 2035 employment projection of 862 jobs results. This is summarized in Table 19.

Table 19
 EMPLOYMENT PROJECTION, 2023 - 2050
 Borough of Haworth

<u>2023</u> Public and Private Employment	<u>2035</u> Adjusted Employment Projection	<u>2050</u> Employment Projection
857	862	868

Sources:

2023: New Jersey Department of Labor and Workforce Development;
 2035: Calculated by T&M; and,
 2050: North Jersey Transportation Planning Authority.

Note: 2023 average of 857 public and private sector jobs + ((2050 Employment Projection of 868 jobs – 2023 average of 857 public and private sector jobs) ÷ (2050 – 2023)) × 12 years = 861.89 jobs in 2035, rounded up to 862 jobs.

Fair Share Plan

Affordable Housing Obligation

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

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

DCA calculated a Round 4 present need obligation of zero (0) units and a prospective need obligation of 221 units for the Borough of Haworth. The Borough analyzed the data that resulted in the obligation and, as permitted under the FHA 2, calculated a prospective need obligation of 142 units. The Borough adopted a binding resolution stipulating its Round 4 affordable housing obligations on January 23, 2025.

FSHC objected to the Borough's calculated prospective need obligation on February 27, 2025. The New Jersey Builders Association (NJBA) also objected to the Borough's asserted prospective need obligation. The Borough and FSHC participated in mediation and settlement hearings. A settlement was reached between the parties for a prospective need obligation of 178 units, as memorialized in a settlement agreement dated April 8, 2025. NJBA agreed to accept any settlement entered into between FSHC and a municipality.

Haworth's affordable housing obligations are as follows:

- Prior Round (Rounds 1 & 2, from 1987-1999) Obligation: 64 units
- Round 3 (from 1999-2025) Prospective Need Obligation: 223 Units
- Round 4 (from 2025-2035) Present Need (Rehabilitation Obligation): 0 units
- Round 4 (from 2025-2035) Prospective Need Obligation: 178 Units

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

Prior Round Obligation¹

The Borough originally petitioned COAH under Prior Round rules on April 1, 1996 for Substantive Certification of its Housing Element and Fair Share Plan. Based on COAH's formulas and methodologies, the Borough's Prior Round obligation was affirmed as 64 affordable housing units.

The Borough submitted a vacant land adjustment request as part of its petition. The Borough's Prior Round Substantive Certification is memorialized in a resolution adopted by COAH on March 3, 1999. Based on its review of the vacant land inventory, COAH determined that Haworth had a Realistic Development Potential (RDP) of zero (0) affordable units.

Haworth also received credit for the Spectrum for Living home and adopted an overlay zone on Block 1008, Lot 1, which is the White Beeches Golf Club driving range.

Round 3 Prospective Need

The Borough of Haworth's Round 3 prospective need obligation is 223 units. The Borough reached settlement with the FSHC in 2019. The settlement recognized that Haworth did not have sufficient vacant land to build or to zone for its entire obligation, and, therefore, received a Vacant Land Adjustment (VLA). The VLA resulted in the calculation of a Realistic Development Potential (RDP) of 28 units. The Borough's settlement agreement and 2019 Housing Element & Fair Share Plan provided sufficient credits to exceed the 28 unit RDP.

ROUND 3 VACANT LAND ADJUSTMENT

The Borough reached settlement with the FSHC as memorialized in a settlement agreement dated May 14, 2019. The Borough then adopted a Housing Element and Fair Share Plan and related ordinances in 2019. The Borough continues to rely on the analysis contained in, and conclusions reached, in connection with the Court approved VLA and Round 3 plan.

Following is an excerpt from the 2019 Housing Element & Fair Share Plan on the VLA:

The Borough received a Vacant Land Adjustment from COAH as part of its Prior Round Substantive Certification. The Borough's 1995 Round 2 Housing Element & Fair Share Plan stated that there were no vacant properties that could be used for inclusionary housing in the Borough. COAH agreed with the assessment and determined that the Borough had a Realistic Development Potential (RDP) of zero (0).

¹ Borough of Haworth 2019 Housing Element & Fair Share Plan.

The 1995 Plan recognized that many of the properties were small, irregularly shaped and located in established single family neighborhoods that are inappropriate for inclusionary housing. The Plan also recognizes that the vacant properties are characterized by environmental constraints, such as wetlands, flood plains, and steep slopes. The COAH Compliance Report, which is part of the COAH Resolution approving Round 2 Substantive Certification, also addressed local golf courses. COAH determined that the Haworth Country Club is not developable due to the environmental constraints and the fact that approximately 50% of the property is inaccessible. In addition, over 66 acres of the Haworth Country Club (a private facility) is deed restricted permanently to golf and country club uses.

The Round 2 COAH Compliance report also explained that White Beeches is a private golf and country club owned by its members. Because it is owned by its members, it is not counted toward the RDP calculation. However, it is eligible for overlay zoning. As a condition of Round 2 Substantive Certification, on April 13, 1999, the Borough adopted the A/OZ overlay zone on the 10-acre White Beeches driving range, known as Block 1008, Lot 1. The A/OZ zone permits townhouse development at a density of 6 units/acre, with a 20 percent affordable housing requirement. The western area of the Borough is characterized by Suez Water reservoir buffer properties, and its reservoir system which purveys potable water throughout the region. The two local golf courses are also located in the area. COAH had already determined that these properties are not developable or suitable for affordable housing. Other vacant properties in the Borough are also not suitable for affordable housing due to environmental constraints.

The Borough satisfied, and actually exceeded, the Round 3 RDP of 28 units via a variety of affordable housing mechanisms, including supportive housing, affordable housing in partnership with the Bergen County United Way, adoption of an accessory apartment ordinance, inclusionary development, modifying an existing overlay zone and implementing a new overlay zone.

Status of Round 3 Affordable Housing Mechanisms

Haworth is committed to addressing its affordable housing obligation. The Borough adopted the necessary ordinances to implement its Round 3 plan and settlement agreement; all necessary Planning Board approvals have also been granted to implement the plan.

Table 20 provides a summary of the Borough's satisfaction of the Round 3 affordable housing obligations.

Table 20

Round 3 Affordable Housing Mechanisms
Borough of Haworth, Bergen County

<u>Project</u>	<u>Block</u>	<u>Lot</u>	<u>Status</u>	<u>Affordable Units</u>	<u>Bonus Credits</u>	<u>Total</u>
<u>RDP Mechanisms</u>						
Lakeshore Developers	1100	12	Constructed	9	0	9
Mass. Ave./BCUW	1800	1	Approved	14	1	15
Accessory Apartment Ordinance	Various	Various	Ordinance Adopted	10	0	10
Spectrum for Living	1806	2	Constructed	6	6	12
TOTALS				39	7	46
<u>Unmet Need Mechanisms</u>						
White Beeches Driving Range	1008	1	Ordinance Adopted (Density Increased)	N/A	N/A	N/A
Zone "D" Overlay Zone	Various	Various	Ordinance Adopted	N/A	N/A	N/A
Mandatory Set-Aside	Various	Various	Ordinance Adopted	N/A	N/A	N/A

As shown in Table 20, the Borough actually exceeded its 28 unit Round 3 RDP. Further, all of the Round 3 mechanisms remain realistic for the provision of affordable housing and inclusion in the current plan; the Borough adopted all necessary ordinances and approved the necessary land use board applications.

It is important to note that the Business Zone "D" overlay has been successful in the provision of affordable housing. The Borough Planning Board approved an application for a property known as 160 Terrace Street (Block 1307, Lot 3), that included eight residential units, of which two (2) are affordable. This development is constructed and received a Certificate of Occupancy on May 21, 2025.

Round 4 Present Need

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

While Haworth does not have a Round 4 present need obligation, Borough residents are eligible to participate in the Bergen County Home Improvement Program. One Haworth property was rehabilitated in 2024 via funding from the county program.

Round 4 Prospective Need

Haworth’s Round 4 prospective need obligation is 178 units. The Borough does not have sufficient vacant land to zone for or build for its full Round 4 obligation.

ROUND 4 VACANT LAND ADJUSTMENT (VLA)

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

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

For Round 4, there will be RDP resulting from the property located at 173 Schraalenburgh Rd, also known as Block 1700, Lot 8. This lot is primarily vacant but contains some minimal improvements, and does not appear in a list of the Borough’s vacant properties. The property consists of approximately 0.467 acres. Using a density of 21.4 units per acre, a two (2) unit RDP was calculated ($0.467 \times 21.4 = 10$ total units. $10 \times 0.20 = 2$ unit RDP).

The Borough will address the two-unit RDP via inclusionary zoning on the property known as 320 Haworth Avenue as follows.

320 Haworth Avenue (Block 1307, Lot 2). Lot 2 is an approximately 0.45 acre property with frontage on Haworth Ave., Houston Place and Terrace Street. The

Borough will adopt a zoning ordinance to permit the development of 15 total residential units, of which three (3) would be affordable units. A zoning ordinance and concept plan for 320 Haworth Avenue are included in Appendix E.

Of the three (3) total affordable units planned for this site, one (1) is attributable to Round 3 and two (2) are attributable to Round 4. The property presently is located in the Business "D" Zone District, where multi-family development at 12 units per acre is permitted via the overlay zoning enacted in Round 3 to satisfy a portion of the Borough's unmet need. The current overlay zoning would permit development resulting in five (5) total units, of which one (1) would be affordable. Therefore, the rezoning of 320 Haworth Ave. at a greater density than currently permitted, would result in an additional two (2) affordable units attributable to Round 4 rezoning, which would be used to address the Borough's Round 4 RDP of two (2) units.

Based on the Mediation Agreement, two (2) of the affordable units would be affordable to very low-income households. Finally, the site also is eligible for 0.5 unit of bonus credit because the affordable housing units would be constructed on land that is or was previously developed and utilized for retail, office or commercial space.

The property meets the definitions of available, suitable, developable and approvable pursuant to affordable housing rules.

1. *"Available site" means a site with clear title, free of encumbrances which preclude development for low- and moderate-income housing.*

The Borough is not aware of any deed restrictions, title issues, or other legal encumbrances that would preclude development of the site for low- and moderate-income housing.

2. *"Suitable site" means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.*

The site has direct street access and frontages on Haworth Avenue, Terrace Street, and Houston Place. Additionally, the site is located within an established commercial area of the Borough that will provide a variety of services and employment opportunities to residents. The property also is within walking distance of the Borough Library and Municipal Building. There are no environmental constraints on the site.

3. *"Developable site" means a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable areawide water quality management plan (including the wastewater management plan) or is included*

in an amendment to the areawide water quality management plan submitted to and under review by DEP.

The site has access to and is served by public water and sewer.

4. *“Approvable site” means a site that may be developed for low and moderate income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low and moderate income housing.*

The site appears to be developable consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21. Additionally, the site does not have frontages along any State or County roadways, does not contain any historic or architecturally important structures, and is not within an historic zone. Any development of the site must receive site plan approval from the relevant land use review board prior to being constructed.

Therefore, the Borough is meeting its Round 4 RDP of two (2) units.

ROUND 4 UNMET NEED

Haworth has a Round 4 prospective need of 178 units and an RDP of two (2) units. Therefore, the resulting unmet need is 176 units (178-2 = 176)

The following mechanisms will be used to address the Borough’s unmet need:

139 Terrace Street (Block 1308, Lot 1). Lot 1 is an approximately 0.27 acre property with frontage on Terrace Street, St. Nicholas Avenue, and Stevens Place. The Borough will adopt a zoning ordinance to permit the development of 10 total units, of which, two (2) would be affordable units, one attributable to Round 3 and one attributable to Round 4 unmet need. The zoning ordinance is included in Appendix E.

For this property, three (3) total units would be permitted under the current overlay zoning in Business District “D,” of which one (1) unit would be affordable. Therefore, the rezoning of 139 Terrace Street at a greater density than currently permitted would result in one (1) additional affordable unit attributable to Round 4 rezoning, which would be applied to the Borough’s unmet need.

Business Zone “D” Overlay Zoning. This overlay zoning will increase in density from 12 units per acre to 15 units per acre. No other revisions to the bulk standards are proposed in connection with the Zone “D” overlay zoning as the Borough anticipates

the increased density can be satisfied within the existing bulk standards. An ordinance implementing this revision is contained in Appendix F.

Overlay Zoning at the White Beeches Driving Range, also known as Block 1008, Lot 1, or the A/OZ Zone. This overlay zoning will be increased from the current 8 units per acre to 16 units per acre. An ordinance implementing this revision is contained in Appendix D.

Mandatory Set-Aside Ordinance. Increase the required affordable set-aside to 20% regardless of tenure, i.e. remove the 15% permitted set-aside for affordable rental units, from the Borough's mandatory set-aside ordinance; from the Business Zone "D" overlay zone; and from the White Beeches Driving Range (Block 1008, Lot 1) overlay zone. The Borough will adopt new zoning ordinances to implement these changes.

25% Requirement.

Finally, the FHA 2 contains the following new requirement:

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

The Borough, FSHC and the Program are in agreement as set forth in the Mediation Agreement that the above requirement is met via the revisions that the Borough has proposed within this plan amendment.

Availability of Existing and Planned Infrastructure

The property anticipated to address the RDP is located in State Planning Area 1; Haworth offers a developed infrastructure.

Consideration of Lands Appropriate for Affordable Housing

Haworth is a developed community with no vacant land. The Borough anticipates that future development and growth will predominantly be limited to the Business Zone "D" area. This is the location of the overlay zone mechanism from Round 3. This area was determined to be available, approvable, suitable and developable in Round 3.

Four properties have come forward to express a commitment to provide affordable housing, as follows:

- 173 Schraalenburgh Road
- 139 Terrace Street
- 320 Haworth Avenue
- 287 Lake Shore Drive

Two of the above sites, 139 Terrace Street and 320 Haworth Avenue, are included as RDP and unmet need mechanisms in this plan.

The Borough has determined that although 173 Schraalenburgh Road (Block 1700, Lot 8) is the source of the Borough's two (2) unit Round 4 RDP, the property is not a suitable location for inclusionary development due to the established surrounding single family developed character of area. This site is not located near services or commercial uses; proximity to these uses provides a more appropriate and desirable location for inclusionary development.

The owner of 287 Lake Shore Drive (Block 1100, Lot 11) contacted a municipal official via electronic mail regarding potential rezoning. The Borough notes that this property is located in an area that already absorbs a large component of Haworth's affordable housing obligation. In an effort to further the Borough's planning goals and objectives, Haworth seeks to guide its future development toward the Business District. Therefore, the Borough has not included this property in the plan.

Consistency with the State Development and Redevelopment Plan

The New Jersey State Planning Commission adopted its most recent State Development and Redevelopment Plan (SDRP) in December 2025, which is after the Borough adopted its HEFSP.

The 2025 SDRP identifies several state planning areas. The current State Plan Policy Map, which facilitates the implementation of the SDRP, indicates that 139 Terrace Street, 320 Haworth Avenue and the White Beeches driving range are all located within Planning Area 1, which is also known as the Metropolitan Planning Area. As outlined in the SDRP, the intent of the Metropolitan Planning Area is to:

- Provide for much of the state's future growth in compact development and redevelopment;
- Revitalize cities, towns and neighborhoods, and in particular overburdened neighborhoods;
- Address existing legacy issues such as air pollution, urban heat islands, lead contamination, Brownfields, urban highways, and combined sewer systems;
- Prevent displacement and gentrification;

- Promote growth that occurs in Centers, other appropriate areas that are pedestrian friendly, and in compact transit-oriented forms;
- Rebalance urbanization with natural systems;
- Promote increased biodiversity and habitat restoration;
- Stabilize and enhance older inner ring suburbs;
- Redesign and revitalize auto oriented areas; and
- Protect and enhance the character of existing stable communities.

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

Provide an adequate supply of housing for residents of all ages and incomes in communities of their choosing that meet their needs and offer ready access to the full range of supportive goods and services.

(December 2025 SDRP, Page 27)

Minimums & Maximums

The FHA2 stipulates certain requirements within C.52:27D-311.k(10)1 which the Haworth plan meets, as follows:

- A maximum of 30% of a municipality’s Round 4 prospective need obligation may be met with age restricted housing; the Borough’s plan conforms. No Round 4 units are age-restricted housing.
- A minimum of 50% of a municipality’s Round 4 prospective need obligation must be satisfied with the creation of housing available to families with children. All units proposed for Round 4 are available to families with children.
- A minimum of 25% of a municipality’s Round 4 prospective need obligation must be satisfied through rental housing. The units proposed on Terrace Street and Haworth Ave. would be rental units.

Multigenerational Housing Continuity

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

The commission’s responsibilities include preparing and adopting recommendations on how to best advance the goal of “enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity, through the modification of State and local laws and policies in the areas

of housing, land use planning, parking and streetscape planning, and other relevant areas.” The commission members and associated staff shall conduct research, obtaining public input, and adopt recommendations on how to most effectively advance the goal of enhancing multigenerational family housing continuity.

We note that the Borough of Haworth’s Round 4 Housing Element encourages inclusionary development in the Borough’s Business District. This location is also proximate to the Borough’s library, where the Borough hosts senior citizen events. Finally, the Borough’s plan includes a variety of housing options, including some age restricted units at the Massachusetts Avenue site. Therefore, the Borough’s ordinances advance the goals of preserving multifamily generational continuity.

Conclusion

With this Amendment, Haworth’s Housing Element and Fair Share Plan satisfies the Borough’s responsibilities under applicable law and once implemented, addresses the Borough’s affordable housing obligation through July 1, 2035.

Haworth will provide for its fair share of affordable housing despite having a vacant land deficiency. As shown, the Borough exceeded its Round 3 RDP and meets its Round 4 RDP. All affordable units will conform to necessary rules, legislation and regulations, including but not limited to bedroom distribution and income distribution. At least 13% of all affordable housing units will be available to very low income households. This plan addresses Haworth’s affordable housing obligation within the confines of sound planning, and while respecting its built environment and development characteristics.

Appendices

This report contains the following appendices.

Appendix A: Vacant Land Adjustment Documentation

Appendix B: Affordable Housing Ordinance, which includes the development fee ordinance and mandatory set-aside ordinance.

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

Appendix D: Property Map and Ordinance Revising the A/OZ Overlay (Driving Range)

Appendix E: Property Maps, Ordinances, and Concept Plans for 320 Haworth Avenue and 139 Terrace Street.

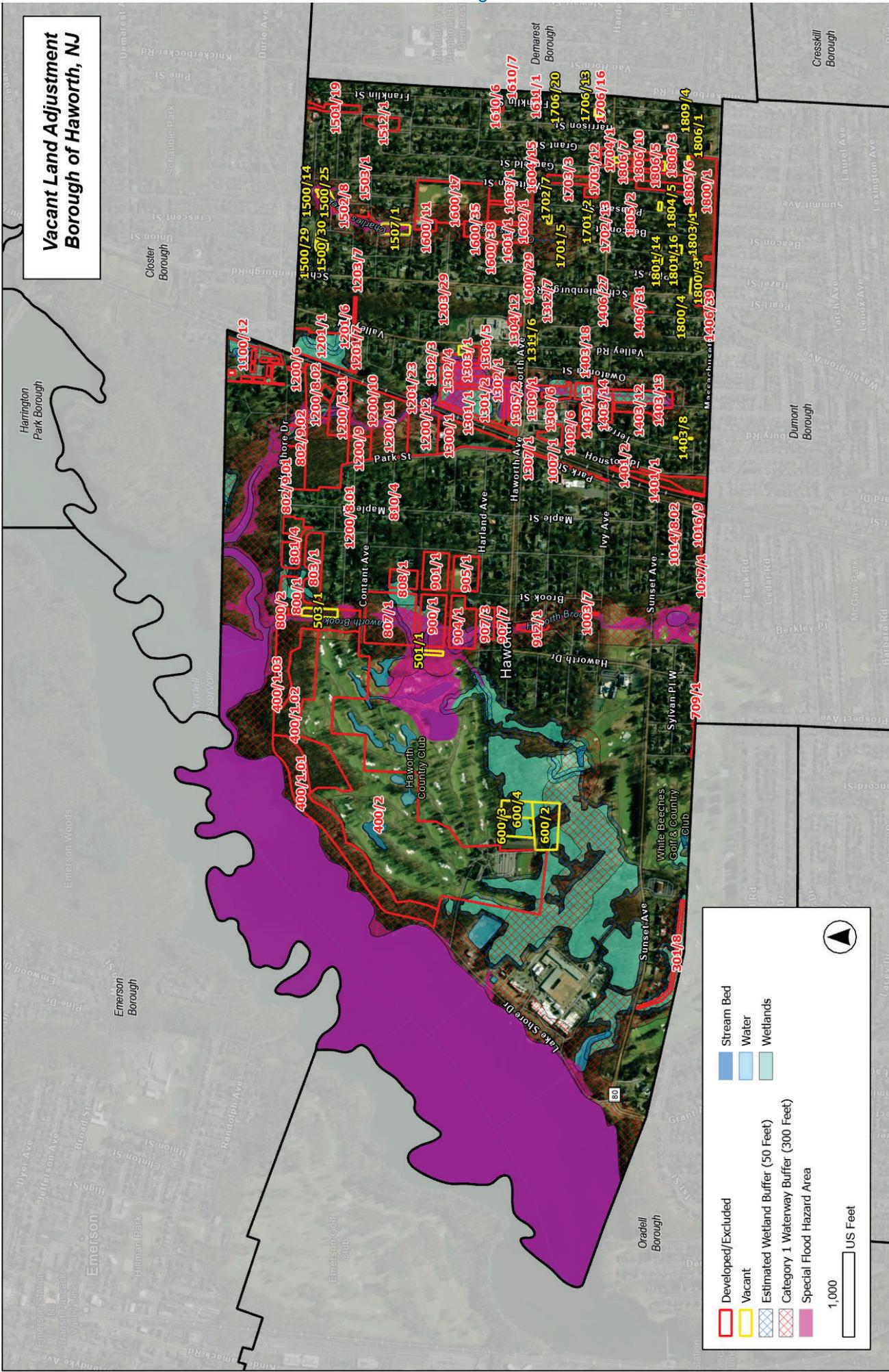
Appendix F: Ordinance Revising the Set-Aside in the Business Zone “D”

Appendix G: Spending Plan

Appendix A: Vacant Land Adjustment Documentation



**Vacant Land Adjustment
Borough of Haworth, NJ**

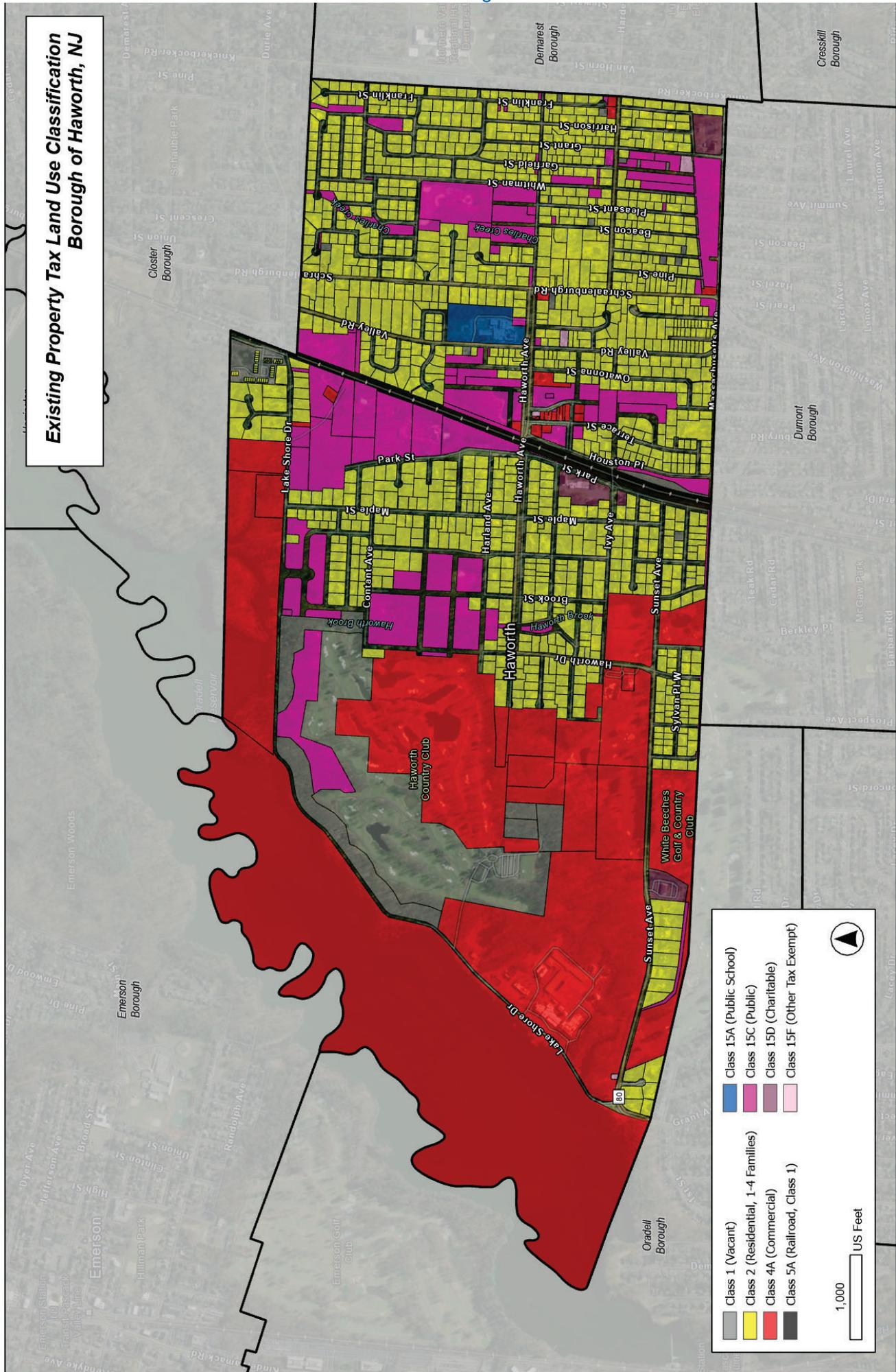


Legend

- Developed/Excluded
- Vacant
- Stream Bed
- Water
- Wetlands
- Estimated Wetland Buffer (50 Feet)
- Category 1 Waterway Buffer (300 Feet)
- Special Flood Hazard Area

1,000 US Feet

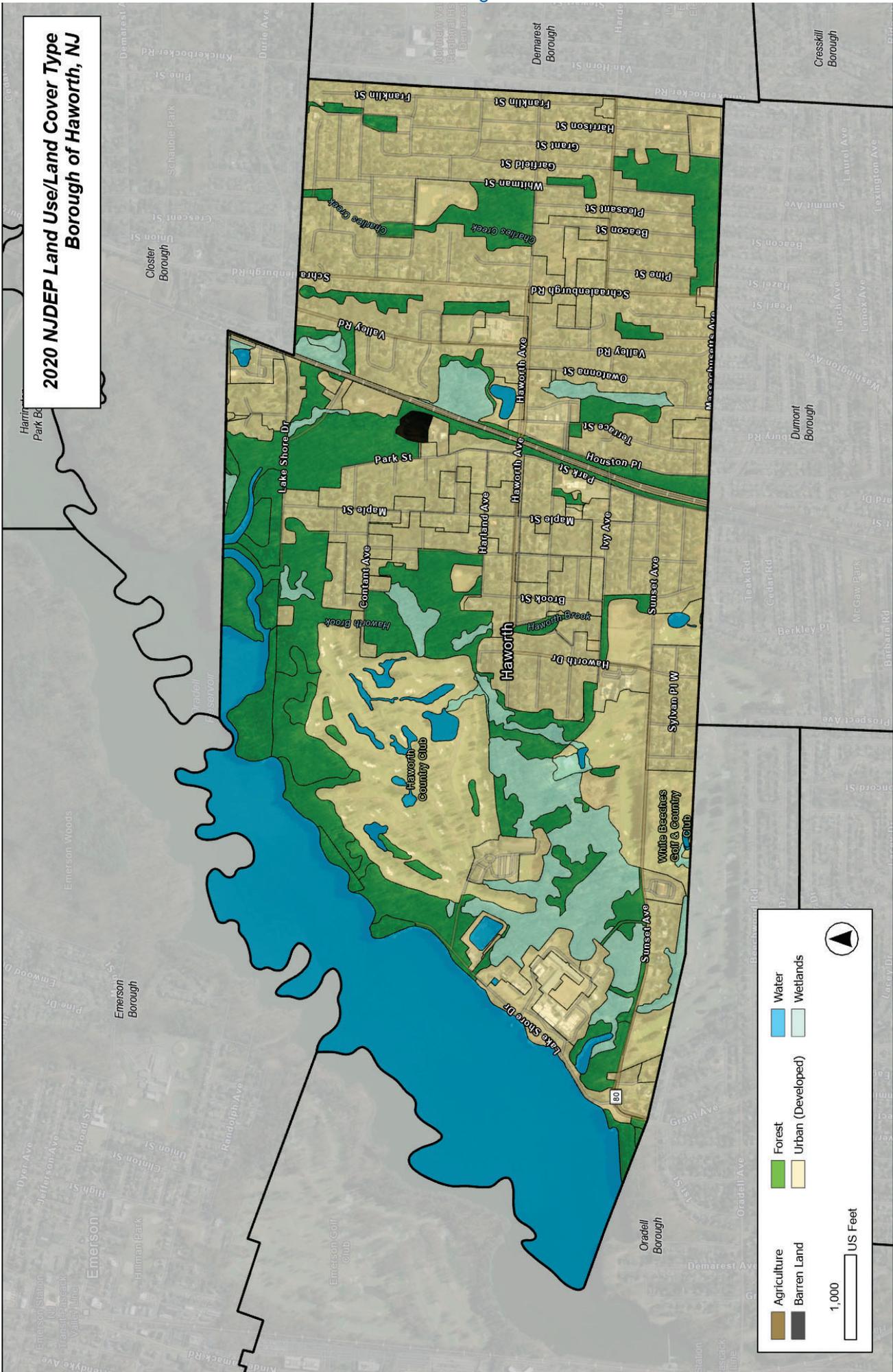
**Existing Property Tax Land Use Classification
Borough of Haworth, NJ**



	Class 1 (Vacant)
	Class 2 (Residential, 1-4 Families)
	Class 15A (Public School)
	Class 15C (Public)
	Class 4A (Commercial)
	Class 15F (Other Tax Exempt)

1,000 US Feet

**2020 NJDEP Land Use/Land Cover Type
Borough of Haworth, NJ**



	Agriculture		Forest		Water
	Barren Land		Urban (Developed)		Wetlands

1,000 US Feet

Appendix B: Affordable Housing Ordinance, which includes the development fee ordinance and mandatory set-aside ordinance



**BOROUGH OF HAWORTH
BERGEN COUNTY
ORDINANCE NO. 2026-002**

**AN ORDINANCE TO AMEND THE BOROUGH CODE TO INCLUDE A NEW
AFFORDABLE HOUSING AND DEVELOPMENT FEE ORDINANCE**

WHEREAS, the State of New Jersey has adopted an Amended Fair Housing Act at P.L. 2024, c. 2 (A4) which provides new Fourth Round affordable housing fair share requirements for each municipality; and

WHEREAS, the State has adopted new Fourth Round substantive affordable housing regulations at N.J.A.C. 5:99; and

WHEREAS, The New Jersey Department of Community Affairs (DCA) and the Housing and Mortgage Finance Agency (NJHMFA) have adopted new Uniform Housing and Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq; and

WHEREAS, in order to maintain compliance with said state regulations regarding affordable housing, the Borough of Haworth (the “Borough”) must amend certain sections of the Borough Code; and

WHEREAS, Chapter 30, Affordable Housing and Affirmative Marketing, and Article 26-1100, Development Fees, contain requirements for affordable housing provisions and development fees based on previous COAH regulations and **NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Haworth, County of Bergen, State of New Jersey, that Chapter 30 and Article 26-1100 of the Borough Code are both hereby repealed and replaced as follows:

The entireties of Chapter 30 (Affordable Housing and Affirmative Marketing) and Article 26-1100 (Development Fees) of the Borough Code are hereby removed and replaced as follows with the following Chapter 30, Affordable Housing Regulations

Chapter 30

A. Purpose, Applicability & Interpretation

1. This Chapter of the Code sets forth regulations regarding the creation, use, occupancy, administration and preservation of very low-, low- and moderate-income affordable housing units in the Borough of Haworth consistent with the Mount Laurel doctrine; the New Jersey Fair Housing Act, as amended by P.L. 2024, c.2, N.J.S.A. 52:27D-301 et seq., (hereinafter the “Act,” “FHA” or FHA-2”); the regulations promulgated pursuant thereto by the New Jersey Department

of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., (“Affordable Housing Rules”), and the Housing and Mortgage Finance Agency’s (HMFA) Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; and the ; and the municipality’s Fourth Round Housing Element and Fair Share Plan (“HEFSP”).

2. This Chapter is intended to ensure that very low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units in accordance with applicable statutory and regulatory requirements. This Chapter of the Code shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit-financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The Borough of Haworth Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Chapter implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of the Mt. Laurel doctrine, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented.
5. Applicability
 - a. Except where specifically exempted hereinafter, 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 pursuant to the municipality’s most recently adopted HEFSP.
 - b. Except where specifically exempted hereinafter, this Chapter shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, as well as any unanticipated future development or redevelopment projects that will include, are proposed to provide or required by the municipality to provide very low-, low- and moderate-income housing units.
 - c. Projects receiving federal Low Income Housing Tax Credit financing shall be required to follow the UHAC unless exempt pursuant to N.J.A.C. 5:80-26.1, including but not limited to developments with anticipated funding from the Federal Low-Income Housing Tax Credit (LIHTC) pursuant to Section 42 of the Internal Revenue Code. Developers, landlords and program sponsors shall be required to comply with administration and affirmative marketing of the affordable units within such developments.
 - d. A waiver from any provision of this Chapter may be granted by the County-level Mount Laurel Judge, the Program or any trial court if it would advance the interests of low-and moderate-income households or if strict compliance would cause an unreasonable result.

6. Interpretation

- a. In the event of any ambiguity, the provisions of this Chapter shall be interpreted and liberally construed in favor of the Municipality.
- b. For any subject matter that is not otherwise addressed hereinafter, or is not otherwise covered by the Act, the Affordable Housing Rules or the UHAC, the Municipality may rely upon the provisions of COAH's prior round regulations at N.J.A.C. 5:93 and 5:97 that were deemed valid by binding Court precedent and that are most favorable to the municipality.
- c. The provisions of the Mount Laurel doctrine; the Act; the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, LPS; the Affordable Housing Rules; the HMFA Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; and the municipality's Fourth Round HEFSP, as set forth in Subsection A 1 above shall supersede and take precedence over the provisions of this Chapter.

7. Reservation of Rights

- a. **The** Borough of Haworth reserves the right at any time to add to, remove from, or modify any provision of this Chapter provided that such addition, removal or modification is not inconsistent with the Mount Laurel doctrine; the Act; the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, LPS; the Affordable Housing Rules; the HMFA Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; or the municipality's Fourth Round HEFSP, as set forth in Subsection A 1 above.
-

B. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Affordable unit” means a housing unit proposed or developed pursuant to the Act, including, but not limited to, units created with municipal affordable housing trust funds.

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

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

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

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

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

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

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

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

“Commissioner” means the Commissioner of the Department of Community Affairs.

“Compliance certification” means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a “judgment of compliance” or “judgment of repose.” The term “compliance certification” shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c. 222 (C.52:27D-313).

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

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

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

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

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

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

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

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

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

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

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

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

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

“Equity share amount” means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt

sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Non-residential development” means:

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

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

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

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

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

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

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

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

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

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

“Prior round unit” means a housing unit that addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Supportive housing household” means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or program guidance as eligible for supportive or special needs housing. Such populations include, but are not limited to: persons with intellectual or developmental disabilities, persons with serious mental illness, person with head injuries (as defined in Section 2 of P.L. 1977), persons with physical disabilities or chronic health conditions, persons who are homeless as defined by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 578, survivors of domestic violence, youth aging out of foster care, and other special needs populations recognized under programs administered by the U.S. Department of Housing and Urban Development, the Low-Income Housing Tax Credit Program, the McKinney–Vento Act, or the New Jersey Department of Human Services. A supportive housing household may include family members, unrelated individuals, or live-in aides, provided that the household meets the income eligibility requirements of this subchapter, except that in the case of unrelated individuals not operating as a family unit, income eligibility shall be tested on an individual basis rather than in the aggregate; the unit is leased or sold subject to the affordability controls established herein; and the supportive services available to the household are designed to promote housing stability, independent living, and community integration. The determination of whether unrelated individuals are operating as a family unit shall be made based on the applicant’s self-identification of household members on the affordable housing application.

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

“Supportive housing unit” means a restricted rental unit that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. A supportive housing unit is intended to provide long-term, community-based

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

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

“Treasurer” means the Treasurer of the State of New Jersey.

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

“UHORP” means the Agency’s Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

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

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

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

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

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

“Veterans’ preference” means the agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given

preference for up to 50 percent of rental units in relevant projects, as provided for at N.J.S.A. 52:27D-311.j.

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

C. Monitoring and Reporting Requirements

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

D. Borough-wide Mandatory Set-Aside

1. A development, other than single-family detached, providing a minimum of five new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six units per acre, is required to include an affordable housing set-aside of 20 percent. In any situation where the 20% set-aside results in a fraction, the required set-aside shall be rounded upward to the next full integer.
2. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
3. All such affordable units shall be governed by this ordinance the controls on affordability, including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.
4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.

5. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.
6. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.
 - a.

E. Affordable Housing Programs

1. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, “All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions.” The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.

F. Construction Programs (per N.J.A.C. 5:93 as may be updated per various sections in N.J.A.C. 5:97 and N.J.S.A. 52:27D-301 et seq.).

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

Maximum Percentage of Market-Rate Units Issued a Temporary or Final Certificate of Occupancy	Minimum Percentage of Affordable Units Issued a Temporary or Final Certificate of Occupancy
25+1	10
50	50
75	75
90	100

3. Design. The following design requirements apply to affordable housing developments, excluding prior round units.
 - a. Design of 100 percent affordable developments:

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

restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.

- ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.
 - iv. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
 - v. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
 - vi. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - vii. Each bedroom in each restricted unit must have at least one window; and
 - viii. Restricted units must include adequate air conditioning and heating.
4. Utilities.
 - a. Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
 - b. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.AC 5:80-26.13(e).
 5. Low/moderate split and bedroom distribution.
 - a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 - b. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution, rounded up to the nearest whole number, shall be required to be

- for low-income households earning 50 percent or less of the regional median income, including 13 percent of the affordable units within each bedroom distribution shall be required to be for very low income households earning 30 percent or less of the regional median income.
- c. Within rental developments, of the total number of affordable rental units, at least 13 percent, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development
 - d. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
 - i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down, of the total number of low- and moderate-income units.
 - iv. At least 30% of all low- and moderate-income units, rounded up to the nearest whole integer, shall be two-bedroom units.
 - v. At least 20% of all low- and moderate-income units, rounded to the nearest whole number, shall be three-bedroom units.
 - vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
 - e. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least five percent of those restricted units.
6. Accessibility requirements.
- a. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a

dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.

- b. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
 - iv. An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
 - v. If not all of the foregoing requirements in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
 - vi. An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - (a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (b) To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - (c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
 - (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.

- vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is “site-impracticable” to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.
7. Accessory Apartment program (per N.J.A.C. 5:93-5.9 as may be updated per various sections in N.J.A.C. 5:97-6.8).
- a. An accessory apartment program shall provide low- and moderate-income units or may be limited to only low- or only moderate-income units.
 - b. Per N.J.A.C. 5:97-6.8(c)1, at the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to income eligible households consistent with the income category and rent structure of the unit.
 - c. Rents of accessory apartments shall be established using the same methodology of affordable rental units discussed herein.
 - d. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental for the duration of the control period.
 - e. The municipal accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
 - f. Per N.J.A.C. 5:97-6.8(b)2, the municipality shall provide a minimum of \$50,000 for a very low income accessory apartment, \$40,000 per unit to subsidize the creation of each low-income accessory apartment or \$30,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
8. Market to Affordable program (per N.J.A.C. 5:97-6.9).
- a. The market to affordable program permits the purchase or subsidization of unrestricted units through a mortgage write-down provided to an income-certified buyer or through a sale or rental as a low- or moderate-income unit to an income-eligible household. The market to affordable program may produce both low- and moderate-income units.
 - b. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
 - c. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 - d. A minimum subsidy of \$25,000 per moderate-income unit and/or \$30,000 per low-income unit shall be provided, with additional subsidy depending on the market prices or rents in a municipality.
 - e. The units shall comply with UHAC with the following exceptions:
 - i. Bedroom distribution (N.J.A.C. 5:80-26.4).
 - ii. Low/moderate income split (N.J.A.C. 5:80-26.4).

- f. Affordability average (N.J.A.C. 5:80-26.4); however:
 - i. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
 - ii. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.
9. Extension of Controls Program (for ownership units per N.J.A.C. 5:97-6.14 and UHAC at N.J.A.C. 5:80-26.6(h) through (k) and (m); and for rental units per N.J.A.C. 5:97-6.14 and N.J.A.C. 5:80-26.12(h) through (k)).
- a. An extension of affordability controls program is established to maintain and extend the affordability of deed restricted units scheduled to come out of their affordability control period, subject to N.J.A.C. 5:97-6.14 and UHAC, including the following:
 - i. The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits set forth in N.J.A.C. 5:97.
 - ii. The affordability controls for the unit are scheduled to expire in the current round; or in the next round of housing obligations if the municipal election to extend controls is made no earlier than one year before the end of the current round;
 - iii. The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.
 - iv. If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.
 - v. The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100 percent affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.
10. Assisted Living Residence (per N.J.A.C. 5:97-6.11).
- a. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.
 - b. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
 - c. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.

- d. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
- e. Low- and moderate-income residents cannot be charged any upfront fees.
- f. The units shall comply with UHAC with the following exceptions:
 - i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
 - ii. The deed restriction may be on the facility, rather than individual apartments or rooms;
 - iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
- g. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.

11. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).

- a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - i. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - ii. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - iii. Occupancy shall not be restricted to youth under 18 years of age.
 - iv. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.
 - v. The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan, if applicable, approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
 - vi. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a

supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.

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

G. Regional Income Limits.

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

H. Maximum Initial Rents And Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
2. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
3. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60 percent of regional median income. The maximum rent may be increased to no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units; however, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent (rounded up) of the restricted units.
4. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units. Very low-

income units, if required, should be distributed between each bedroom count as proportionally as possible to the total number of restricted units within each bedroom count, and shall be part of the low-income requirement.

5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70 percent of median income, and each affordable housing development must achieve an affordability average that does not exceed 55 percent for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
6. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
7. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
8. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.
9. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and

condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.

10. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
11. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following a minimum 90-day notice provided to the occupant household, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." The maximum allowable rent increase for the year will be effective as of the same date as the regional median income limits determined pursuant to N.J.A.C. 5:80-26.3 and published by the Agency. This rent increase may not exceed five percent in any one year and notice thereof must be filed with the administrative agent. If the landlord has charged a tenant less than the initial maximum allowable rent for a restricted unit, the landlord may, with the approval of the administrative agent, use the maximum allowable rent instead of the current rent in performing this multiplication to establish the rent for the next tenant under a new lease. LIHTC units are not governed by the provisions of this section, but rather by the provisions of the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40.

I. Affirmative Marketing.

1. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age (except for "housing for older persons" as defined at N.J.S.A. 10:5-1 et seq., and age-restricted units as permitted pursuant to 42 U.S.C. §§ 3601 et seq.), number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 through 50, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 1 and is required to be followed throughout the period of deed restriction.

3. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
 - a. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 - b. There shall be a regional preference for all households that live and/or work in Housing Region 1 comprising Bergen, Hudson, Passaic and Sussex Counties.
 - c. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.
5. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent should consider the use of language translations where appropriate.
6. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
7. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website, including the Fair Share Housing Center, the Latino Action Network, the Bergen County NAACP, Urban League of Bergen County, and the Supportive Housing Association. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.
8. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of HUD-certified housing counselors or otherwise experienced entities approved by the Division providing counseling services on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

9. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy and may begin before construction commences. For owner-occupied units, affirmative marketing advertising and outreach activities must continue until all of the marketed units have been sold, except that paid advertising may cease when the number of applications received is at least three times the number of units to be sold. For rental units, affirmative marketing advertising and outreach activities must continue, as long as applications are being accepted, except that paid advertising may cease when the number of applications received is at least three times the number of units to be filled.
 10. Applications must be accepted for no less than 45 days following the initial advertisement on the New Jersey Housing Resource Center, except for the resale of owner-occupied units, in which case, applications must be accepted for no less than 30 days.
 11. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.
- J. Selection of Occupants of Affordable Housing Units.
1. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
 2. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.
- K. Occupancy Standards.
1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - a. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
 - b. Provide a bedroom for every two adult occupants;
 - c. With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
 - d. Avoid placing a one-person household into a unit with more than one bedroom.
- L. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.
1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.
 2. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).

3. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction.
4. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.
5. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
 - a. If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
 - b. If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
6. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
7. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
8. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
9. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to price-restricted ownership units.

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

1. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, including:
 - a. The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.
 - b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C 5:80-26.7.
 - i. If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.

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

N. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30 percent of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80 percent of median income.

2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;
 - b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments

O. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed

indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

2. With the exception of original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.7(c).

P. Control Periods for Restricted Rental Units.

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

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

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

R. Tenant Income Eligibility.

1. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
 - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median income by household size.

- c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median income by household size.
 2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
 3. The applicant shall file documentation sufficient to establish the existence of any of the circumstances in 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.
- S. Municipal Housing Liaison.
1. The Municipal Housing Liaison shall be approved by municipal resolution.
 2. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.
 3. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:
 - a. Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.
 - b. The oversight of the Affirmative Marketing Plan and affordability controls.
 - c. When applicable, overseeing and monitoring any contracting Administrative Agent.
 - d. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.

- e. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
- f. Coordinating meetings with affordable housing providers and administrative agents, as needed.
- g. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.
- h. Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.
- i. Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.
- j. Listing on the municipal website contact information for the MHL and Administrative Agents.

T. Administrative Agent.

1. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
2. The fees for administrative agents shall be paid as follows:
 - a. Administrative agent fees related to rental units shall be paid by the developer/owner.
 - b. Administrative agent fees related to initial sale of units shall be paid by the developer.
 - c. Administrative agent fees related to resales shall be paid by the seller of the affordable home.
 - d. Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.
3. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
4. Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
 - a. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
 - b. Affirmative marketing:
 - i. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.

- ii. Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.
 - c. Household certification.
 - i. Soliciting, scheduling, conducting and following up on interviews with interested households.
 - ii. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within five (5) business days of the determination thereof.
 - iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - v. Creating and maintaining a referral list of eligible applicant households living in the housing region, and eligible applicant households with members working in the housing region, where the units are located.
 - vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
 - d. Affordability controls.
 - i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
 - ii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.
 - iii. Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
 - iv. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
 - e. Records retention.
 - i. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
 - ii. Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
 - f. Resales and re-rentals.

- i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
 - ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
- g. Processing requests from unit owners.
 - i. Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this ordinance.
 - ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems.
 - iii. Notifying the municipality of an owner's intent to sell a restricted unit.
 - iv. Making determinations on requests by owners of restricted units for hardship waivers.
- h. Enforcement.
 - i. Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - iii. Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
 - iv. Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
 - v. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.
- i. The Administrative Agent(s) shall, as delegated by the municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

U. Responsibilities of The Owner of a development containing affordable units.

1. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
 - a. Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - b. The total number of units in the project and the number of affordable units.
 - c. The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - d. Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
 - e. A projected construction schedule.
 - f. The location of any common areas and elevators.
 - g. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.
2. In addition to A above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
 - a. Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
 - b. Provide to the administrative agent a description of any applicable fees.
 - c. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
 - d. Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
 - e. Provide to the administrative agent a proposed form of lease for any rental units.
 - f. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
 - g. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.

3. In addition to A, above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
 - a. Proposed pricing for all units, including any purchaser options and add-on items.
 - b. Realistic condominium or homeowner association fees and any other applicable fees.
 - c. Estimated real property taxes.
 - d. Sewer, water, trash disposal, and any other utility assessments.
 - e. Flood insurance requirement, if applicable.
 - f. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

V. Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than \$2,000 unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements

(N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.

4. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.
 - a. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
 - b. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
 - c. Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
 - d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the

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

the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

W. Development Fees.

1. Purpose

- a. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

2. Basic Requirements

- a. The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.
- b. The municipality shall not spend development fees until the court has approved a plan for spending such fees.

3. Residential Development Fees

a. Imposed fees

- i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5 percent of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- ii. When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6.0 percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

- b. Eligible exactions, ineligible exactions and exemptions for residential development

- i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
 - ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.
 - iii. Developers that expand an existing structure shall be exempt from paying a development fee.
 - iv. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.
4. Non-Residential Development Fees
- a. Imposition of fees
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5 percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5 percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5 percent shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
 - b. Eligible exactions, ineligible exactions and exemptions for non-residential development

- i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5 percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption.” Any exemption claimed by a developer shall be substantiated by that developer.
 - d. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - e. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.
5. Collection Procedures
- a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
 - b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, “State of New Jersey Non-Residential Development Certification/Exemption,” to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
 - c. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
 - d. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.

- e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
 - f. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
 - g. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
 - h. Fifty percent (50 percent) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.
6. Appeal of development fees
- a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - b. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
7. Affordable Housing Trust Fund
- a. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
 - b. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 - ii. Funds contributed by developers to make 10 percent of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - iii. Rental income from municipally operated units;
 - iv. Repayments from affordable housing program loans;
 - v. Recapture funds;
 - vi. Proceeds from the sale of affordable units; and
 - vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
- c. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
- d. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
- i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 - ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
 - iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 - iv. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 - v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 - vi. Revocation of compliance certification or a judgment of compliance and repose;
 - vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
 - viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- e. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.
8. Use of Funds

- a. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.
- b. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
- c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - ii. Affordability assistance for very low-income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
- d. No more than 20 percent of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

9. Monitoring

- a. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting

of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

10. Ongoing Collection of Fees

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

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

Repealer

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

Severability

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

Effective Date

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

**Appendix C: Resolutions Appointing the Municipal Housing Liaison and
Administrative Agent**



**BOROUGH OF HAWORTH
NEW JERSEY**

**RESOLUTION APPOINTING
PIAZZA & ASSOCIATES AS
ADMINISTRATIVE AGENT FOR THE
MARKETING, REVIEW, SALE, AND RENTAL
OF AFFORDABLE HOMES AND
QUALIFICATION OF APPLICANTS**

WHEREAS, on June 20, 2019 the Honorable Christine A. Farrington entered an Order Approving Settlement Agreement In Connection With Fairness and Preliminary Compliance Hearing (“the Order”) in a matter entitled, “In The Matter of The Application of The Borough of Haworth”, Docket No. BER-L-5912-15; and

WHEREAS, said Order approved a Settlement Agreement between the Borough and Fair Share Housing Center and determines preliminarily that the Boroughs’ proposal for satisfying its affordable housing obligation through 2025 is constitutionally valid; and

WHEREAS, the Order further provides that the Borough is required to satisfy conditions set forth in the report of Special Master Michael P. Bolan dated June 13, 2019 (attached to the Order as Exhibit B); and

WHEREAS, the report of the Special Master requires that the Mayor and Council adopt a resolution appointing an Administrative Agent to administer affordable units in accordance with the Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.1, et seq.*; and

WHEREAS, the Borough is in receipt of a proposal from Piazza & Associates to serve as the Borough’s Administrative Agent; and

WHEREAS, the Governing Body has reviewed the proposal and credentials of Piazza & Associates.

NOW THEREFORE BE IT RESOLVED that Mayor Thomas Ference be and is hereby authorized to execute an Agreement with Piazza & Associates to provide affordable housing services to the Borough and to serve as its Administrative Agent.

Councilperson	Moved	Seconded	Aye	Nay	Abstain	Absent
Poosikian						✓
Rosenberg	✓		✓			
Bain		✓	✓			
Guenego			✓			
Siciliano						✓
Wasser			✓			

I hereby certify that the above resolution is a true copy of a resolution adopted by the Mayor and Council on August 13, 2019.



ANN E. FAY, Borough
Clerk/Administrator

**BOROUGH OF HAWORTH
BERGEN COUNTY
RESOLUTION 2025-112**

**RESOLUTION AMENDING RESOLUTION 2025-055 TO REFLECT A VACANCY IN
THE POSITION OF AFFORDABLE HOUSING LIAISON AND APPOINTING LIANA
PIRETRA TO THE POSITION**

WHEREAS, the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq., mandates that municipalities ensure the availability of affordable housing opportunities and may designate a liaison to facilitate communication between the municipality and the New Jersey Council on Affordable Housing (COAH) or other appropriate state agencies; and

WHEREAS, N.J.A.C. 5:97-1.1 et seq. requires municipalities to appoint an Affordable Housing Liaison to oversee the municipality's compliance with affordable housing obligations and regulations; and

WHEREAS, the Borough of Haworth previously adopted Resolution 2025-055, appointing Carolyn Lee as the Affordable Housing Liaison; and

WHEREAS, Carolyn Lee's departure has resulted in a vacancy in the position of Affordable Housing Liaison; and

WHEREAS, the Governing Body of the Borough of Haworth wishes to amend Resolution 2025-055 to reflect this vacancy and to appoint Liana Piretra as the Affordable Housing Liaison for the Borough, effective immediately, to fulfill the responsibilities outlined in N.J.A.C. 5:97 and other applicable statutes and regulations; and

WHEREAS, the salary for the Affordable Housing Liaison shall be determined in accordance with the provisions of the Borough's Local Salary Ordinance, as may be amended from time to time;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Haworth, County of Bergen, State of New Jersey, as follows:

1. **Amendment of Resolution 2025-055**
Resolution 2025-055 is hereby amended to reflect the vacancy created by the departure of Carolyn Lee from the position of Affordable Housing Liaison.
2. **Appointment of Affordable Housing Liaison**
The Borough of Haworth hereby appoints Liana Piretra as the Affordable Housing Liaison for the Borough, effective immediately. Ms. Piretra shall serve in this capacity for the Borough and shall be responsible for overseeing and managing all matters relating to affordable housing, including compliance with state regulations and coordination with the New Jersey Council on Affordable Housing or any successor agency.
3. **Duties of the Affordable Housing Liaison**
The Affordable Housing Liaison shall have the following responsibilities:

- Ensuring the Borough's compliance with affordable housing regulations, including the submission of required reports and documentation to state agencies;
- Acting as the primary point of contact for the New Jersey Council on Affordable Housing (COAH) or any successor agency;
- Coordinating with developers, residents, and other stakeholders on affordable housing matters within the Borough;
- Monitoring and assisting with the processing of affordable housing development applications and projects;
- Providing regular updates to the Governing Body regarding affordable housing matters;
- Assisting residents in accessing affordable housing programs and ensuring that the Borough remains compliant with all relevant laws and regulations.

4. Salary

The salary for the Affordable Housing Liaison shall be established in accordance with the provisions of the Borough's Local Salary Ordinance, which shall govern compensation for this position. The salary will be subject to review and adjustment as determined by the Governing Body in accordance with the salary ordinance.

Councilperson	Moved	Seconded	Aye	Nay	Abstain	Absent
Poosikian						X
Rosenberg	X		X			
Siciliano						X
Davis			X			
Di Iorgi			X			
Laub		X	X			

This resolution shall take effect immediately upon its adoption by the Mayor and Council and shall be enforced in accordance with all applicable laws and regulations.

I hereby certify that the above resolution is a true copy of a resolution adopted by the Mayor and Council on March 11, 2025.
 APPROVED:

 Greg Zagaja
 Municipal Clerk

 Heather Wasser
 Mayor

Appendix D: Property Map and Ordinance Revising the A/OZ Overlay (Driving Range)



***Proposed Affordable Housing Site
White Beeches Driving Range
Block 1008, Lot 1
Borough of Haworth, NJ***



 Block 1008, Lot 1



200

 US Feet

**BOROUGH OF HAWORTH
BERGEN COUNTY**

ORDINANCE NO. 2026-005

**AN ORDINANCE TO AMEND THE BOROUGH CODE TO REPEAL AND REPLACE
§26-502.7, A/OZ RESIDENTIAL/OVERLAY ZONE DISTRICT,
IN THE BOROUGH OF HAWORTH, BERGEN COUNTY, NEW JERSEY**

§ 26-502.7 — A/OZ Residential/Overlay Zone District is fully removed and replaced as follows:

The following standards shall apply to development within Zone A/OZ. All other zoning and land use provisions including by way of example the provisions of Chapter 26, Land Use Regulations, of the Haworth Code shall apply to development in Zone A/OZ only where specifically indicated as applicable in § 26-502.7. When the standards herein conflict with other provisions of Chapter 26, the standards herein shall apply.

- a. Intent; Description. The Mayor and Council of the Borough of Haworth desire to amend an existing overlay zone district to provide a realistic opportunity to address the Borough's Unmet Need from Round 4. This zoning ordinance shall implement the Borough's Housing Element and Fair Share Plan and the Borough's Mediation Agreement that was executed in February 2026. The subject amendment to the existing overlay zone shall provide the realistic opportunity for the provision of moderate, low and very low income housing in accordance with the Borough's obligation for New Jersey's Fair Housing Act Fourth Round (2025-2035). Lot 1 of Block 1008 of the Official Tax Maps of the Borough of Haworth has been identified as appropriate for an inclusionary multifamily housing overlay zone development in which 20% of the dwelling units therein can be set aside for moderate, low and very low income households.
- b. Permitted Principal Uses:
 1. All uses permitted in Residence Zone A, which shall be subject to the bulk requirements that are applicable to Residence Zone A.

2. Multifamily residential development.
 3. Townhouses.
 4. Stacked townhouses.
- c. Permitted Accessory Uses and Structures: private garages, off-street parking, sidewalks, walking paths, landscaping, buffering, fencing, walls, lighting, signage, stormwater detention facilities, common open space, outdoor recreational facilities or structures for the private use and enjoyment of residents and their guests, and other accessory structures and uses that are customary and incidental to the principal permitted uses.
- d. Bulk Area and Other Dimensional Standards for townhouse, stacked townhouse or multifamily residential development use:
1. Minimum tract area: Ten (10) acres.
 2. Minimum tract depth: 500 feet.
 3. Minimum setbacks:
 - (a) Minimum setback from Ivy Avenue, Haworth Drive, and Sunset Avenue: 50 feet.
 - (b) Minimum setback from adjacent property situated in the A (Residential) Zone District and/or improved with an existing single family detached residential dwelling: 150 feet.
 - (c) Minimum setback from driveways, access roads and parking areas:
 - (1) Front yards: 10 feet.
 - (2) Side yards: Zero (0) feet.
 4. Minimum distance between structures:

- (a) Side-to-side: 15 feet.
 - (b) Rear-to-rear: 30 feet.
 - (c) Front-to-front: 40 feet.
 - (d) Front-to-side and rear-to-side: 30 feet.
- 5. Maximum height of structure (feet): 35 feet.
- 6. Maximum building coverage: 35 percent.
- 7. Maximum impervious lot coverage: 65 percent.
- 8. Maximum residential density: 16 units per acre.
- e. Parking Requirements:
 - 1. Parking shall be provided per RSIS standards.
 - 2. For townhouses, at least one (1) parking space shall be provided in an enclosed garage. A second parking space may be provided in the driveway in front of the garage.
 - 3. Parking for multifamily residential development and stacked townhouses may be provided in off-street surface or covered parking spaces.
 - 4. Parking for visitors of townhouses, stacked townhouses, and multifamily residential development may be provided in off-street surface spaces.
- f. Signage. One double-sided ground-mounted sign shall be permitted, no taller than six (6) feet in height, with a sign area no greater than 32 square feet and set back a minimum of ten (10) feet from a public right-of-way and 75 feet from adjacent properties located in the A (Residential) Zone District.
- g. Fences and Walls:

1. No fence or wall shall exceed a height of six (6) feet.
 2. Fences along lot lines shall be set back a minimum of one-half (0.5) foot from all property lines.
- h. Landscaping. Development shall comply with the provisions of § 26-904.1 of the Haworth Code, entitled “Landscaping.”
- i. Buffering. Development shall comply with the provisions of § 26-903.5 of the Haworth Code, entitled “Required Buffering Areas and Setbacks.” Notwithstanding such provisions, along the frontages of Haworth Drive and Sunset Drive, a minimum of a row of evergreen trees interspersed with deciduous shade trees with a planting height of at least eight to 10 feet shall be planted. The spacing of such trees shall be such that, at maturity, such trees shall provide a continuous evergreen screen along such property lines. The deciduous shade trees interspersed with the evergreen buffer plantings shall be provided at intervals of not more than 40 feet. The same buffer, except that instead of one row of evergreen trees there shall be two rows of evergreen trees, shall be applied along the frontage of Ivy Avenue, the eastern tract boundary, and any other tract boundaries with adjacent properties in the A (Residential) Zone District. In addition, notwithstanding such provisions, no driveway or parking area shall be located closer than 75 feet to adjacent properties in the A (Residential) Zone District.
- j. Lighting. Development shall comply with the provisions of § 26-905 of the Haworth Code, entitled “Lighting.”
- k. Architectural Design Standards. Development shall comply with the provisions of § 26-907 of the Haworth Code, entitled “Architectural Design Standards of Structures Requiring Site Plan Review and Approval.” In addition, the following shall apply:
1. The development shall include either an indoor or an outdoor amenity or recreation facilities for residents.
 2. Building design shall include both vertical and horizontal articulation.
 3. All roof-mounted equipment shall be screened from public view by the use of a parapet wall or other architectural detail. The 35 ft. maximum building

height shall not be exceeded by the parapet wall or other architectural detail used to screen the roof-mounted equipment.

- l. Sidewalks. Development shall comply with the provisions of § 26-908.4 of the Haworth Code, entitled “Sidewalks.”
- m. Utilities. Development shall comply with the provisions of § 26-910 of the Haworth Code, entitled “Utilities.”
- n. Stormwater. Development shall comply with the provisions of § 26-911 of the Haworth Code, entitled “Stormwater Control.”
- o. Affordable Housing.
 - 1. Not less than 20% of the total dwelling units shall be restricted to low and moderate households, with 13% of the affordable units being available to very low income households. These households shall be available to families, and shall not be restricted to any specific demographic or population.
 - 2. If the required total number of residential units does not result in a full integer, the developer shall round up to the nearest full integer.
 - 3. The affordable units shall be developed and administered in accordance with the Fair Housing Act (NJSA 52:27D-301 et. seq.), Local Planning Services regulations (N.J.A.C. 5:99), and UHAC regulations (N.J.A.C. 5:80-26.1), and as required under Chapter 30, Affordable Housing and Affirmative Marketing Regulations, of the Code of the Borough of Haworth. Such requirements include but are not limited to the following: income distribution, bedroom distribution, affordability controls (not less than 40 years for rental units and 30 years for sale units).
 - 4. The affordable units shall be integrated throughout the development.

Repealer

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

Severability

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

Effective Date

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

**Appendix E: Property Map, Ordinances, and Concept Plans for 320 Haworth
Avenue and 139 Terrace Street**



***Proposed Affordable Housing Site
139 Terrace Street
Block 1308, Lot 1
Borough of Haworth, NJ***



 Block 1308, Lot 1



50

 US Feet

**BOROUGH OF HAWORTH
BERGEN COUNTY**

ORDINANCE NO. 2026-003

**AN ORDINANCE TO CREATE A NEW INCLUSIONARY ZONE DISTRICT FOR 139 TERRACE
STREET (BLOCK 1308, LOT 1)**

IN THE BOROUGH OF HAWORTH, BERGEN COUNTY, NEW JERSEY

WHEREAS, the Borough of Haworth has adopted a Housing Element and Fair Share Plan;
and

WHEREAS, the Borough of Haworth seeks to address its Round 4 Prospective Need
Obligation; and

WHEREAS, the Borough of Haworth seeks to create a new inclusionary zone district to
address a portion of its obligation:

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Haworth,

Section 26-401 is amended to add:

Zone H – 139 Terrace Street (Block 1308, Lot 1) Inclusionary Zone District

Section 26-502.11 is added to the Borough Code as follows:

- a. This ordinance creates a new zone district, known as Zone H to include only the property known as Block 1308, Lot 1/139 Terrace Street.
- b. Intent and purpose. It is the intent and purpose of this district to facilitate creation of an inclusionary development that will diversify housing opportunities and satisfy a portion of the Borough's Round 4 affordable housing obligation.

- c. Permitted uses. The following use is permitted.
 - (1) Mixed-use development, containing:
 - (a) The ground floor use shall be a business or commercial use that is permitted in Business District “D”/Business Zone, as provided in Subsection 26-502.4a. of the Land Use Ordinance, as well as a lobby or other common space for the residential units.
 - (b) The second and third floors shall contain residential dwelling units.
 - (c) Residential dwelling units are not permitted on the ground floor.

- d. The following accessory uses are permitted.
 - (1) Parking, both surface and/or structured.
 - (2) Accessory uses and accessory structures customarily incidental to the above uses and located on the same lot as the principal use to which they are accessory.

- e. Area and Bulk Requirements:
 - (1) Minimum lot size: 11,700 square feet
 - (2) Maximum gross density: 37 du/ac but not to exceed the maximum number of units stipulated herein
 - (3) Maximum number of dwelling units: 10 units
 - (4) Minimum tract perimeter building setbacks:
 - (a) Terrace Street: 3 feet
 - (b) St. Nicholas Ave. : 0 ft.
 - (c) Stevens Place: 0 ft.
 - (5) Parking & Loading
 - (a) 16 parking spaces shall be provided, including (1) one ADA accessible space and one (1) Electric Vehicle (EV) make ready space.
 - (b) A loading space is not required.
 - (6) Maximum principal building height: 35 ft. but in no event more than three (3) stories
 - (7) Maximum impervious coverage: 98.7%
 - (8) Maximum permitted building coverage: 96.1%

f. Site Design Requirements:

- (1) Signs are permitted pursuant to Section 26-702 (Signs in Business Zone “D”).
- (2) Parapets are excluded from building height calculations.
- (3) Architectural features including fenestration, step-backs, variations in building height and rooflines and varying color schemes are to be used to break up the mass and appearance of the building, in particular along the St. Nicholas Ave. frontage.
- (4) The site layout and design shall be substantially consistent with the engineering plan entitled, “Concept Map, 139 Terrace Street,” prepared by MCB Engineering Associates, LLC, dated April 2025, and architectural plans entitled, “Terrace Street Development,” consisting of four (4) sheets, prepared by Zampolin & Associates, dated April 25, 2025.
- (5) A minimum of six (6) bicycle parking spaces shall be provided.

g. Affordable Housing

- (1) Not less than 20% of the total dwelling units shall be restricted to low and moderate households, with 13% of the affordable units being available to very low income households. These households shall be available to families, and shall not be restricted to any specific demographic or population. In the event that the 20% affordable housing set-aside calculation results in a fractional unit, the set-aside shall be rounded up to the next whole number.
- (2) The affordable units shall be developed and administered in accordance with the Fair Housing Act (NJSA 52:27D-301 et. seq.), Local Planning Services regulations (N.J.A.C. 5:99), and UHAC regulations (N.J.A.C. 5:80-26.1), and as required under Chapter 30, Affordable Housing and Affirmative Marketing Regulations, of the Code of the Borough of Haworth. Such requirements include but are not limited to the following: income distribution, bedroom distribution, affordability controls (not less than 40 years for rental units and 30 years for sale units).
- (3) The affordable units shall be integrated throughout the development.

Repealer

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

Severability

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

Effective Date

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