

- (e) 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 or sale of the unit and the accessory apartment.
 - (f) The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
 - (g) The Borough of Oakland accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
 - (h) No accessory apartment created as a result of this article or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.
 - (i) Municipal building permit fees shall be waived in all cases involving affordable accessory apartment development under this section. An annual license and inspection fee, if required, shall be paid by unit owners.
- (2) The maximum number of creditable accessory apartments shall be equal to no more than 10.
 - (3) The Borough of Oakland shall designate an administrative entity to administer the accessory apartment program that shall have the following responsibilities:
 - (a) The administrative agent shall administer the accessory apartment program, including advertising, income-qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the affordable accessory apartment program in accordance with the UHAC.
 - (b) The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the provisions of this section/article. All denials shall be in writing with the reasons clearly stated.
 - (c) In accordance with COAH requirements, the Borough of Oakland shall provide at least \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or provide compensation for reduced rental rates.
 - (4) Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
 - (a) A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;

(b) Rough elevations showing the modifications of any exterior building façade to which changes are proposed; and

(c) A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for dwelling units; and any man-made conditions which might affect construction.

(d) Health department approval of an on-site septic system unless the property is connected to a sanitary sewer treatment facility.

I. Occupancy Standards.

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

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

J. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Oakland takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, except that, for any units approved after October 13, 2016, such controls shall be for at least 50 years, or until such time after the initial 50 year period as the Borough of Oakland elects to release the unit from such requirements.

B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first 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.
- E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.
- K. **Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.**
 - A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:
 - 1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
 - 2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
 - 3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
 - 4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 3 -16.
- L. **Buyer Income Eligibility.**
 - A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be

reserved for households with a gross household income less than 80 percent of median income.

- B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.
- M. Limitations on Indebtedness Secured by Ownership Unit; Subordination.**
 - A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
 - B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).
- N. Capital Improvements To Ownership Units.**
 - A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 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 owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

O. Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Oakland takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, except that, for any units approved after October 13, 2016, such controls shall be for at least 50 years, or until such time after the initial 50 year period as the Borough of Oakland elects to release the unit from such requirements. For new projects receiving nine percent Low Income Housing Tax Credits, a control period of not less than a 30 year compliance period plus a 15 year extended use period shall be required.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
1. Sublease or assignment of the lease of the unit;
 2. Sale or other voluntary transfer of the ownership of the unit; or

3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

P. Rent Restrictions for Rental Units; Leases.

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

Q. Tenant Income Eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.
- R. Municipal Housing Liaison.**
- A. The Borough of Oakland shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Oakland shall adopt an Ordinance creating the position of Municipal Housing Liaison. Oakland shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Oakland, including the following responsibilities which may not be contracted out to the Administrative Agent:
1. Serving as Oakland's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 2. Monitoring the status of all restricted units in Oakland's Fair Share Plan;
 3. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;

4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
 5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the Court, the Borough of Oakland shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

S. Administrative Agent.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single-family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

A. Affirmative Marketing:

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

B. Household Certification:

1. Soliciting, scheduling, conducting and following up on interviews with interested households;
2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Oakland when referring households for certification to affordable units.

C. Affordability Controls:

1. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
2. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Bergen County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
4. Communicating with lenders regarding foreclosures; and
5. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Rerentals:

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

E. Processing Requests from Unit Owners:

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

F. Enforcement:

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

G. Additional Responsibilities:

1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
2. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
3. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

T. Affirmative Marketing Requirements.

- A. The Borough of Oakland shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative

Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the New Jersey State NAACP, the Trenton Branch of the NAACP, FSHC, Supportive Housing Association and the Latino Action Network of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 1 and is required to be followed throughout the period of restriction.

- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 1, comprised of Bergen, Hudson, Sussex and Passaic Counties.
- D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of Oakland shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.
- U. **Enforcement of Affordable Housing Regulations.**
 - A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
 - B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - 1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

- (b) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Oakland Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
- 2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
 - (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

V. Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

SECTION II

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION III


If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be


deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV

This Ordinance shall take effect upon passage and publication as provided by law.

ATTEST:


Lisa M. Duncan, Borough Clerk


Linda H. Schwager, Mayor

This is to certify that this is a true copy
as adopted by the Mayor and Council
of the Borough of Oakland at a meeting
held on June 23, 2021.

Borough Clerk



Appendix C: Development Fee Ordinance

BOROUGH OF OAKLAND
COUNTY OF BERGEN
STATE OF NEW JERSEY
ORDINANCE 21-CODE-836

AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE
BOROUGH OF OAKLAND, CHAPTER 18 ENTITLED "AFFORDABLE HOUSING"

BE IT ORDAINED by the Borough Council of the Borough of Oakland, County of Bergen, State of New Jersey, that the following amendments and revisions are made to the Revised General Ordinances of the Borough of Oakland, Chapter 18 entitled "Affordable Housing".

Section 1

Chapter 18 AFFORDABLE HOUSING is hereby deleted in its entirety and replaced with the following provisions.

Section 18-1.1 Purpose and authority.

- A. In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), The New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- B. Pursuant to P.L. 2008, c. 46 Section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH or Court approved spending plan may retain fees collected from nonresidential developments.
- C. This article establishes standards for the collection, maintenance, and expenditures of development fees pursuant to P.L. 2008, c. 46, Sections 8 and 32 through 38 (c. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act) c.40:55D-8.1 through 8.7). Fees collected pursuant to this article shall be used for the sole purpose of providing low-and moderate-income housing in accordance with a Court-approved Spending Plan.

- D. This article shall not be effective until approved by the Court. Oakland shall not spend development fees until the Court has approved a plan for spending such fees.

Section 18-1.2 Definitions.

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

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

COAH or COUNCIL- The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

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

DEVELOPMENT FEE- Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

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

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

Section 18-1.3 Residential development fees.

A. Imposed fees.

- (1) Within the zoning districts allowing residential development, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1½% of the equalized assessed value for residential development, provided that no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning of 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.

- (3) Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1½% of the equalized value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units. Provided that the zoning on the site has not changes during the two-year period preceding the filing of such a variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development.

- (1) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (3) Development fees shall be imposed and collect when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (4) Development fees shall not be imposed and collected on single-family residential structures.

Section 18-1.4 Nonresidential development fees.

A. Imposed fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2½% of the equalized assessed value of land and improvements for all new nonresidential construction on an improved lot or lots.
- (2) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2½% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.

- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2½% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time of final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for nonresidential development.

- (1) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the development fee of 2½% unless otherwise exempted below.
- (2) The fee of 2½% shall not apply to an increase in equalized assessed value resulting from alterations, changes in use within existing footprint, reconstruction, renovations and repairs.
- (3) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF, State of New Jersey Non-Residential Development Certification/Exemption Form. Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (5) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of Oakland as a lien against the real property of the owner.
- (6) Developers of municipal buildings and houses of worship shall be exempt from paying a development fee.

Section 18-1.5 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 nonresidential 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 as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The tax assessor shall verify exemptions and prepare estimated 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 local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development, calculate the development fee, and thereafter notify the developer of the amount of the fee.
- G. Should the Borough of Oakland 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 of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- I. Appeal of development fees.
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Oakland. Appeals from a determination of the Board of Taxation may be made to the tax court in

accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

Section 18-1.6 Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fee collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of affordable units;
 - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the Borough of Oakland's affordable housing program. In the event of a failure by the Borough of Oakland to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgement of compliance or a revocation of the judgement of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp of Monroe, 442 N.J. Super .565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditures of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practical, be utilized for affordable housing programs within the Borough of Oakland, or, if not practical, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

- C. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by the Court.

Section 18-1.7 Use of Funds.

- A. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Oakland's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted by the Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the Borough of Oakland for past housing activities.
- C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low-and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordable assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, and assistance with emergency repairs.
 - (2) Affordability assistance to households earning less than 30% of median income by region may include buying down the cost of low- or moderate-income units in the municipal Fair Shar Plan to make them affordable to households earning 30% or less of median income. The use of development fees in this manner may entitle the Borough of Oakland to bonus credits pursuant to N.J.A.C. 5:97-3.7.

- (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguishing controls shall be exempt from the affordability assistance requirement.
- D. The Borough of Oakland may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and /or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to COAH regulations and/or actions are not eligible use of the Affordable Housing Trust Fund.

Section 18-1.8 Monitoring.

The Borough of Oakland shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provide to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amount of 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, payments in lieu of constructing affordable housing units on site (if permitted by Ordinance or by agreement with Oakland), funds from the sale of units with extinguishing controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Oakland's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

Section 18-1.9 Ongoing collection of fees.

The ability for the Borough of Oakland to impose, collect and expend development fees shall expire with its repose period covered by its Judgement of Compliance unless Oakland has filed an adopted Housing Element and Fair Share Plan with the Court, or with a designated state administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a state

administrative agency authorized to approved and administer municipal affordable housing compliance, and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan. If the Borough of Oakland fails to renew its ability to impose and collect development fees prior to the expiration of its Judgement of Compliance, it may be subject to forfeiture of any or all funds remaining within its municipal 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 (N.J.S.A. 52:27D0320). The Borough of Oakland shall not impose a residential development on a development that receives preliminary or final site plan approval after the expiration of its Judgement of Compliance, nor shall Oakland retroactively impose a development fee on such a development. The Borough of Oakland shall not expend development fees after the expiration of its Judgement of Compliance.

Section 2

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

Section 3

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

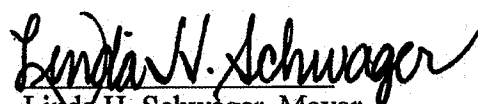
Section 4

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:

BOROUGH OF OAKLAND
COUNTY OF BERGEN
STATE OF NEW JERSEY


Lisa Duncan, Borough Clerk


Linda H. Schwager, Mayor

This is to certify that this is a true copy
as adopted by the Mayor and Council
of the Borough of Oakland at a meeting
held on June 23, 2021

Borough Clerk 

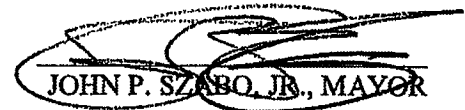
Appendix D: Municipal Housing Liaison & Administrative Agent Resolutions



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

Resolution 09-264

BE IT RESOLVED that Kathy Gurney is appointed as Municipal Housing Liaison for the Borough of Oakland at an annual stipend of \$ 1,500 effective January 1, 2010.


JOHN P. SZABO, JR., MAYOR

ATTEST:


LISA M. DUNCAN, BOROUGH CLERK

December 23, 2009
DATE ADOPTED

	Motion	Second	Ayes	Nays	Abstain	Absent
Burns			✓			✓
Di Pentima	✓		✓			
Marcalus			✓			
Pignatelli		✓	✓			
Stagg			✓			
Visconti			✓			
Mayor Szabo						



BOROUGH OF OAKLAND BERGEN COUNTY, NEW JERSEY



Resolution No: 25-69

TITLE:

**AWARD CONTRACT TO CGP&H FOR AFFORDABLE HOUSING ADMINISTRATIVE AGENT
SERVICES FOR 2025**

WHEREAS, the Borough of Oakland needs to retain a firm to administer its Affordable Housing Program and Housing Rehabilitation Program for 2025 under a non-fair and open contract pursuant to the provisions of N.J.S.A.19:44A-20.5; and

WHEREAS, The Borough Administrator has determined and certified in writing that the value of the acquisition will exceed \$17,500.00; and

WHEREAS, the anticipated term of this contract is one (1) year; and

WHEREAS, Community Grants, Planning, and Housing, 1249 South River Road, Suite 301, Cranbury, N.J. 08512, has submitted a proposal to act as Affordable Housing Administrative Agent and Rehabilitation Program Manager for the Borough of Oakland for the year 2025; and

WHEREAS, Community Grants, Planning, and Housing has completed and submitted a Business Entity Disclosure Certification which certifies that CGP&H has not made any reportable contributions to a candidate committee in the Borough of Oakland in the previous one year, and that the contract will prohibit the CGP&H from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer has certified in accordance with N.J.A.C. 5:30-5.4 that funds are available in account #T-27-26-286-002;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Borough Council of the Borough of Oakland, in the County of Bergen, and State of New Jersey, hereby award a contract to Community Grants, Planning, and Housing to act as Affordable Housing Administrative Agent at a cost not to exceed \$5,000.00, and Rehabilitation Program Manager at a cost not to exceed \$36,000.00; and

BE IT FURTHER RESOLVED, that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FURTHER RESOLVED, that the Mayor and Borough Clerk are hereby authorized to sign the contract on behalf of the Borough of Oakland.


BE IT FUTHER RESOLVED, that a copy of this Resolution with CGP&H shall be advertised in the newspaper of record.


RECORD OF COUNCIL VOTE:

Motion – by Councilman: Pignatelli Second – by Councilman: Talamini

COUNCIL	Yes	No	Absent	Abstain	COUNCIL	Yes	No	Absent	Abstain
McCann				✓	Saliani	✓			
Pignatelli	✓				Slasinski	✓			
Rose	✓				Talamini	✓			
MAYOR (Tie-Break Vote): Yes <input type="checkbox"/> No <input type="checkbox"/>									

Date of Adoption: January 21, 2025


Eric Kulmala, Mayor


Wendi Seelin, Acting Borough Clerk

This resolution, when adopted, must remain in the possession of the Borough Clerk. Certified copies are available.

Appendix E: Draft Ordinance & Zoning

DRAFT ORDINANCE – June 11, 2025
Downtown I Affordable Housing Overlay Zone (DT-1 AHO)
Borough of Oakland, Bergen County
Density Increase in Existing Affordable Housing Overlay Zone
Amendment to Zoning Ordinance Section 59-53.1.1

Intent and purpose. It is the intent and purpose of this Zoning Ordinance Amendment to increase the maximum permitted density within the Downtown I Affordable Housing Overlay Zone within the Borough as stipulated in Oakland's Round 4 Housing Element and Fair Share Plan.

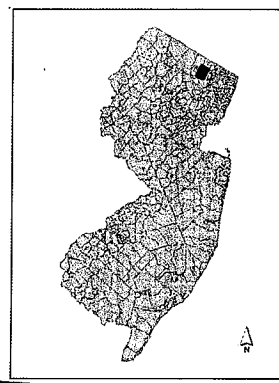
Note: Language that is strikethrough is proposed to be removed, and language that is bolded and underlined is proposed to be added.

- A. All principal permitted uses and accessory uses for the underlying zone are allowed.
- B. Each and every use prohibited in the Downtown-I District Zone is also prohibited in the Downtown-I Affordable Housing Overlay.
- C. Inclusionary housing developments on upper floors only as a principal permitted use. Residential use on the ground or first floor of any property in the DT-I AHO is a prohibited use. Inclusionary housing development is a permitted principal use only within the second and third floors.
- D. Each inclusionary housing development shall provide Council on Affordable Housing or Court credit-worthy affordable housing dwelling units on-site. Payments in lieu of constructing affordable units does not increase the amount of affordable housing in Oakland and is therefore not a permitted development option in this zone. In specific situations the Borough will accept a payment in lieu of constructing affordable housing, but only in those circumstances when a developer's affordable housing obligation is a fractional requirement of less than 0.5 affordable units. If the obligation includes a fraction equal to or greater than 0.5, the obligation will be rounded up and an additional affordable housing unit will be required.
- E. Schedule of Limiting Lot and Yard sizes and Bulk Principal Building and Use as adopted for the DT-I zone is hereby adopted for the DT-I Affordable Housing Overlay with the only change between the DT-I and DT-I Overlay shall be concerning building height. The number of building stories remains the same at three with permitted building height for the DT-I Overlay established at 44 feet. In all other ways, the area and bulk standards between the DT-I and DT-II Overlay are the same.[1]
 [1] Editor's Note: The Schedule may be found as an attachment to this chapter.
- F. The affordable housing units generated by this zone shall comply in all respects with the requirements and conditions contained within the Settlement Agreement between Oakland and Fair Share Housing Center I.T.M. Bo. BER-L-6359-15, all

relevant Orders of the Honorable Christine A. Farrington, J.S.C., the Oakland Affordable Housing Ordinance, all requirements of Oakland's Fourth Round Housing Element and Fair Share Plan, and all applicable New Jersey requirements pertaining to the operation of privately developed affordable housing.

- G. Permitted residential density shall not exceed ~~18~~ **22** dwelling units per acre.
- H. All residential parking shall comply with the New Jersey Residential Site Improvement Standards. Pursuant to N.J.A.C. 5:21-4.14(e), when housing is included in mix-use development, a shared parking approach to the provision of parking shall be permitted. Furthermore, if applicants can demonstrate there is sufficient overnight on-street parking in proximity to their site, applicants can apply those available spaces to their development on a non-exclusive basis.
- I. Residential uses are permitted in this zone in the upper floors of buildings. If residential use of any type is to occupy building space lower than the second floor, compliance with the following provisions is required:
 - (1) The parcel of land upon which first-floor residential construction is proposed is larger than 21,780 square feet in area.
 - (2) The total amount of first-floor residential building area, including but not limited to apartments, corridors, lobbies, stair and elevator space, amenity space, package delivery space, mail room, bike storage areas and other residential support space, shall not exceed 25% of the first-floor area of the building.
- J. All developments increasing total impervious surface coverage in this zone shall be treated as if classified as a major development under current NJ DEP stormwater regulations and shall enhance stormwater quality by reducing the average annual total suspended solids loading in the site's post-construction runoff by 80% and shall manage stormwater flows such that the peak rate of runoff exiting the site post-construction is no greater than the pre-construction peak runoff rate.

End of Draft Ordinance

Mahwah
Township

Appendix F: Spending Plan



| YOUR GOALS. OUR MISSION.

DRAFT BOROUGH OF OAKLAND AFFORDABLE HOUSING SPENDING PLAN

June 12, 2025

INTRODUCTION

The Borough of Oakland has prepared a Housing Element and Fair Share in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and the Fair Housing Act (N.J.S.A. 52:27D-301). A development fee ordinance creating a dedicated revenue source for affordable housing was initially adopted by the municipality on June 20, 2001. The development fee ordinance was last revised on June 23, 2021. This ordinance establishes the Borough's Affordable Housing Trust Fund (AHTF) and has been prepared in accordance with current standards.

All development fees, payments in-lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited into this separate, interest-bearing Affordable Housing Trust Fund for the purposes of affordable housing. These funds shall be spent in accordance with applicable affordable housing regulations.

1. REVENUES FOR CERTIFICATION PERIOD

As of May 2025 Borough of Oakland has a balance of \$704,654 in its Affordable Housing Trust Fund. All of Oakland's development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in separate interest-bearing affordable housing trust funds at TD Bank for the purposes of affordable housing. All housing trust fund monies shall be spent in accordance with current affordable housing rules as described in the sections that follow.

To date, the Borough has collected \$513,819 in development fees, \$510,000 in payments in lieu of construction, and earned \$233,843 in interest.

The Borough has expended \$247,224 in administrative costs and \$305,784 in housing activity. The housing activity expenditures include \$191,934 for land purchase of Block 1901, Lot 14, and \$113,850 for rehabilitation costs.

The Borough projects the following revenue through the end of Round 4 (2035).

- (a) **Development fees:** The Borough estimates annual development fees of \$50,000 per year based on historical trends.
- (b) **Payment in lieu (PIL):** The Borough anticipates a PIL from the Fanale property (Block 4202, Lots 1-3) of \$1,000,000. Per the Borough's settlement agreement with Fair Share Housing Center, these funds are to be used for affordability assistance in connection with the Fanale development.

In addition, as referenced in the Borough's prior Spending Plan, Oakland has an agreement with Bi-County Development to contribute a PIL to the Borough's Trust Fund. However, it is unlikely that the development will proceed and Oakland will issue certificates of occupancy during the lifetime of this spending plan. Should that change, the Borough will revise its spending plan.

- (c) **Other funding sources:** The Borough does not currently anticipate the contribution of any other funds toward the municipal Affordable Housing Trust Fund through 2035.
- (d) **Projected interest:** It is estimated that the Borough of Oakland will collect approximately \$21,000 in total interest through 2035.

Source	7/1/25- 12/31/25	1/1/26- 12/31/26	1/1/27- 12/31/27	1/1/28- 12/31/28	1/1/29- 12/31/29	1/1/30- 12/31/30	1/1/31- 12/31/31	1/1/32- 12/31/32	1/1/33- 12/31/33	1/1/34- 12/31/34	1/1/35- 12/31/35	Total
a) Development Fees	25,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	525,000
b) PIL Construction	250,000	250,000	250,000	250,000	0	0	0	0	0	0	0	1,000,000
c) Other Funds	0	0	0	0	0	0	0	0	0	0		\$0.00
d) Interest	1,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	21,000
Total	\$276,000	\$302,000	\$302,000	\$302,000	\$52,000	\$52,000	\$52,000	\$52,000	\$52,000	\$52,000	\$52,000	\$1,546,000

The Borough of Oakland projects a total of \$1,546,000 in revenue and interest to be collected between July 1, 2025 and December 31, 2035. This projected amount, when added to the Borough of Oakland's trust fund balance of \$704,654 results in anticipated total revenue of \$2,250,654 available to fund and administer its affordable housing plan. All interest earned on the account shall be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Oakland.

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Borough's development fee ordinance for both residential and non-residential developments in accordance with all applicable rules, regulations and legislation.

(b) Distribution of development fee revenues:

The release of funds requires adoption of the governing body resolution in accordance with the spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the Trust Fund for the specific use approved in the governing body's resolution.

1. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

The plan contained the following mechanisms for the Borough's trust funds. This 2025 Spending Plan continues to utilize the same mechanisms.

Rehabilitation

- The Borough of Oakland has implemented a successful rehabilitation program, and has allocated \$500,000 towards the rehabilitation program through 2035.

Affordability Assistance

At least 30% of the development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipality's Fair Share Plan. One-third of the affordability assistance portion shall be used to provide affordability assistance to very low income households. Trust Fund fees shall only be used for affordable units.

Pursuant to applicable rules, the Borough will commit to spend at least 30% of the development fees collected and interest earned to provide affordability assistance to very low, low and moderate income households. As shown in the Table 2, a minimum of \$749,363 is required to be available from the affordable housing trust fund for this purpose through 2035. We note that the Borough's Spending Plan will exceed this amount.

Oakland proposes a variety of mechanisms to provide for the affordability assistance requirements, as follows:

- The Borough of Oakland shall provide \$1,000,000 in affordability assistance to the Fanale development.
- The Borough of Oakland shall make trust fund monies available for Payment Assistance, including down payments, closing costs (title work and policy, reasonable attorney's fees for closing of title, preparation of survey, homeowners insurance, recording fees and other

necessary closing expenses to third parties), payment of lenders fees (mortgage points, application fees, appraisal fees, bank attorney review fees, and necessary mortgage closing expenses) and rental assistance (rental subsidies, moving expenses and security deposits). This program would also assist with security deposits, homeowners association and condominium fees, special assessment fees, and for assistance with emergency repairs for low and moderate income households. With this program, priority will be given to very low income households for compliance with the requirement that one-third of the affordability assistance requirement be used for the very low income population. Depending on actual development fees collected, the Borough's trust fund could provide \$200,000 toward this funding option.

- The Borough of Oakland shall develop a program to assist affordable households and developments with repairs of water heaters and furnaces. Depending on actual development fees collected, the Borough's trust fund could provide a minimum of \$200,000 to assist with the replacement of water heaters or furnaces in existing affordable units that are more than ten years old. New water heaters are more energy efficient and could potentially reduce water bills; similarly, new furnaces would be more efficient and could assist the household with a reduction in utility costs. The Borough will target the existing very low income development in the Borough. This initiative assists the Borough in complying with the requirement that one-third of the affordability assistance requirement be used for the very low income population.
- The Borough shall develop a program to fund green building techniques, such as solar panel installations, at the future municipal development, or other affordable developments. Solar panels could provide affordability assistance by reducing the building's utility expenses. The. Depending on actual development fees collected, the Borough's trust fund could provide \$237,000 to fund green building techniques.
- If the municipality demonstrates that there are no units for which affordability assistance programs can be offered, the Borough will request a waiver of the requirement pursuant to N.J.A.C 5:97-8.8c. In that situation, any unused funds that were anticipated to be used for Affordability Assistance should instead be used to cover construction costs at the Massachusetts Ave. project as needed.
- The Borough's durational adjustment may impact the above referenced programs.

Table 2 includes the calculation of the required affordability assistance amounts through 2035.

TABLE 2: AFFORDABILITY ASSISTANCE CALCULATION		
		Total
Actual development fees, PIL and interest through 5/2025	+	\$1,127,662

TABLE 2: AFFORDABILITY ASSISTANCE CALCULATION		
Projected development fees and interest through 2035.	+	1,546,000
Less Housing Activity Expenditure in the Third Round	-	305,784
Total	=	\$2,497,878
30% Requirement	x .30	\$749,363
Less Affordability assist. Expenditures thru 5/15/2025	-	\$0.00
Projected Min. Afford. Asst. through 2035	=	\$749,363
Projected Min. Afford. Asst. for Very Low Income through 2035	x 1/3	\$249,787

(c) Administrative Expenses

Per affordable housing regulations, no more than 20% of the revenues collected from development fees shall be expended on administration. The Borough projects that a maximum of \$113,508 will be available from the affordable housing trust fund to be used for administrative expenses.

TABLE 3: ADMINISTRATIVE EXPENSE CALCULATION		
		Total
Actual fees and interest and PIL thru 5/2025		\$1,257,662
Projected Development Fees and interest through 2035	+	\$546,000
Total for Admin. Calculation, through 2035	=	\$1,803,663
20% Maximum for Admin. Expense	x .20	\$360,732
Less Admin through 5/15/2025	-	\$247,224
Available for Admin. through 2035	=	\$113,508

Legal or other fees related to litigation opposing affordable housing sites or objecting to the COAH's regulations and/or actions are not eligible uses of the affordable housing trust fund.

Projected administrative expenditures, subject to the 20% cap, are as follows:

1. Expenditures for consultant and professional fees in connection with future revisions and amendments to the Housing Element and Fair Share Plan.
2. Preparation of this Spending Plan and revisions thereto as required by any future reviewing body.
3. Expenditures for consultant and professional fees in connection with future revisions to the affordable housing ordinances necessary to implement the Borough's Housing Element and Fair Share Plan.
4. Additional expenses and training for the Municipal Housing Liaison.
5. Expenditures for the provision of Administrative Agent services.
6. Expenditures for consultant and professional fees in connection with planning, development and implementation of affordable housing sites and developments.

7. Expenditures for consultant and professional fees to further any section or proposal from the adopted Housing Element and Fair Share Plan, and revisions and amendments thereto.
8. Expenditures for professional fees for annual affordable housing monitoring and required reviews.
9. Municipal Housing Liaison and Administrative Agent training and on-going certification.
10. Research and preparation of the annual trust fund and affordable housing activity monitoring as required by the Settlement Agreement.
11. Preparation of the very-low income monitoring every three years as required by the Settlement Agreement.
12. Preparation of a Housing Element and Fair Share Plan and a Spending Plan to satisfy future Round 5 requirements.

4. EXPENDITURE SCHEDULE

The Borough of Oakland intends to use affordable housing trust fund revenues to both an affordability assistance program and administrative expenses as detailed in Table 4.

TABLE 4: EXPENDITURE SCHEDULE

	7/1/25- 12/31/25	1/1/26- 12/31/26	1/1/27- 12/31/27	1/1/28- 12/31/28	1/1/29- 12/31/29	1/1/30- 12/31/30	1/1/31- 12/31/31	1/1/32- 12/31/32	1/1/33- 12/31/33	1/1/34- 12/31/34	1/1/35- 12/31/35	Total
Rehabilitation	0	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	\$500,000
Affordability Assistance - Fanale	0	100,000	200,000	200,000	200,000	75,000	75,000	75,000	75,000	0	0	\$1,000,000
Other Afford. Assistance	0	50,000	0	100,000	100,000	57,000	50,000	100,000	100,000	40,000	40,000	\$637,000
Administrative Expenses	10,000	13,654	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	\$113,654
Total	\$10,000	\$213,654	\$260,000	\$360,000	\$360,000	\$192,000	\$185,000	\$235,000	\$235,000	\$100,000	\$100,000	\$2,250,654

5. EXCESS OR SHORTFALL OF FUNDS

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be dedicated to rehabilitation and/or affordability assistance program. In the event that a shortfall of anticipated revenues occurs, the Borough of Oakland will address the shortfall of funds through an alternative funding source to be identified by the Borough or by adopting a resolution with an intent to bond, or the Borough will amend its spending plan to reduce the amount of funds available for the affordability assistance program and administrative expenses.

6. BARRIER- FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough of Oakland's Affordable Housing Ordinance and in accordance with applicable rules.

SUMMARY

The Borough intends to spend affordable housing trust fund revenues pursuant to applicable rules and to be consistent with the housing programs outlined in the 2025 Housing Element and Fair Share Plan.

The Borough's Affordable Housing Trust Fund has a balance of \$704,654 as of May 2025 and estimates a total of \$1,546,000 in potential revenue and interest to be collected December 31, 2035. This projected amount, when added to the Borough of Oakland's trust fund balance results in anticipated total revenue of \$2,250,654 available to fund and administer its affordable housing plan.

The Spending Plan summary is provided below.

TABLE 5: SPENDING PLAN SUMMARY		
		Total
Balance as of May 15, 2025		\$704,654
Projected Revenue Through 2035		
Development fees	+	\$525,000
Payments in lieu of construction	+	\$1,000,000
Other funds	+	\$0.00
Interest	+	\$21,000
Total Available Funds		\$2,250,654
Projected Expenditures through 2035		
Rehabilitation	+	\$500,000
Affordability Assistance - Fanale	+	\$1,000,000
Affordability Assistance, Other	+	\$637,000
Administration	+	\$113,654
Total Projected Expenditures	=	2,250,654
Remaining Balance	=	0

* Actual affordability assistance minimums are calculated on an ongoing basis, based on actual revenues.

** Administrative expenses are limited to 20 percent of what is actually collected.