

# First Amendment to the Fourth Round Housing Plan Element and Fair Share Plan

## Borough of Paramus Bergen County, New Jersey

**Prepared:**  
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**Prepared for:**  
Borough of Paramus Planning Board

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Adopted on March 10, 2026 by the Borough of Paramus Planning Board.  
Endorsed on March 10, 2026 by the Paramus Borough Mayor and Council.

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

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## Introduction

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The Borough of Paramus (“Borough”), Bergen County, adopted a Fourth Round Housing Element and Fair Share Plan (“Plan”) on June 25, 2025 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., as amended by P.L. 2024, c.2).

The Plan addressed a Prospective Need obligation of 1,000 affordable units for the Fourth Round, as calculated by the NJ Department of Community Affairs (DCA) and re-affirmed its strategies to address its Prospective Need from the First, Second, and Third Rounds of affordable housing. In the case of its fourth round obligation, the Borough conducted a vacant land analysis and determined that it could adjust its Prospective Need from 1,000 units down to 87 units (Realistic Development Potential or RDP). The Borough was also able to adjust the 254-unit Present Need (a.k.a. its rehabilitation obligation) calculated by DCA down to 19 units based upon a structural conditions survey.

The Plan was challenged by Paramus HRP, LLC (“HRP”) by way of submittal to the Affordable Housing Dispute Resolution Program (“Program”) dated August 26, 2025, and by Fair Share Housing Center (“FSHC”) by way of a submittal to the Program dated August 29, 2025. The first mediation session between HRP, FSHC, and the Borough was held on September 26, 2025, with Honorable Ronald E. Bookbinder, A.J.S.C. (Retired, appointed Program Judge) and Special Adjudicator David Banisch, P.P., in order to attempt to resolve the challenges to the Plan. A Settlement Agreement was executed between the Borough and FSHC on December 29, 2025, and HRP withdrew its challenge.

### HRP Challenge

HRP is the contract purchaser of a 19-acre tract of land consisting of Lots 4 through 6 on Block 413, which is currently occupied by an appliance store and auto-body shop, as well as outdoor parking and storage of trucks and tractor trailers. A 10.54-acre portion of the tract is constrained by wetlands and regulatory wetland transition areas. The site shares an access driveway known as Mildred Avenue with the Coach bus depot to the south on Block 414, Lot 4 and Block 412, Lot 1.

HRP proposed to develop the site with 1,050 apartments, a portion of which would be affordable. The gross density of the proposal (the number of units divided by the entire tract area) is 55.26 dwelling units per acre. The net density, however, (the number of units divided by the developable portion of the tract after accounting for environmental constraints) is 120 units per acre. The densities proposed are not in line with the densities permitted or sought in the Borough’s highway corridors, nor are they compatible with the surrounding land uses or roadway capacity in Paramus.

The conceptual project would be accessible from only Mildred Avenue, the 33-foot-wide driveway shared with the Coach site to allow vehicles to access a busy and often congested stretch of NJ Highway Route 17. The same stretch of highway is the subject of a road widening and construction project by the NJ DOT to alleviate traffic congestion on NJ-17, which as currently designed would consume a substantial portion of the developable area of the property for a new road, making the proposed project unfeasible. Additionally, given the efforts by the State to mitigate traffic along this stretch of the NJ-17 corridor, development of the site for inclusionary housing would not only obstruct efforts to resolve traffic on one of the most congested roads in New Jersey but would also exacerbate existing traffic problems both on and off site.

For these reasons the Borough amends its Fourth Round Housing Element and Fair Share Plan to identify this project and the relevant properties as Lands Considered but not included in the plan to address the Borough's Prospective Need.

### FSHC Challenge

Fair Share Housing Center is a non-profit organization with a stated mission of reducing barriers to safe, healthy, and affordable housing in New Jersey. FSHC challenged the 4<sup>th</sup> Round Plans of hundreds of municipalities in New Jersey for a variety of reasons. In the case of the Borough of Paramus' 4<sup>th</sup> Round Plan, the primary purpose of FSHC's challenge was to request information about the affordable housing projects proposed to satisfy the Borough's Third Round and Fourth Round affordable housing obligations. This included questions about the effectiveness of the Borough's HCC-Highway Corridor Commercial Zone at creating affordable housing, and how the Borough intended to fund the construction of a 100% affordable development at the Oster Property, also known as the Genesis Property, at Block 601, Lot 5, off of South Farview Avenue. Although the FSHC challenge did not include concerns about the Borough's vacant land analysis, the resolution of FSHC's questions regarding the Oster/Genesis property resulted in a six-unit increase in the Borough's 4<sup>th</sup> Round RDP.

## **Amending the Fourth Round HEFSP**

As a result of the amicable resolution of the challenges between the Parties, the Borough hereby amends the Adopted Fourth Round HEFSP in the following ways:

- The Lands Considered section of the adopted HEFSP is amended to identify the HRP property as land considered but not included in the Plan;
- The description for the Oster/Genesis Property shall detail a proposed strategy for funding the 100% affordable project;
- The Spending Plan shall be amended to account for the Oster/Genesis funding strategy;
- The 87-unit RDP will be revised to 93-units to reflect a 20% set-aside on the Oster/Genesis property, and the compliance plan will be revised to show satisfaction of the revised obligation;

- Other necessary changes to implement the Settlement Agreement.

## Amended Fair Share Plan

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### Affordable Housing Obligation

A municipality's affordable housing obligation is made up of both a present need (rehabilitation obligation) and a prospective need obligation (new construction obligation). Obligations are calculated in time periods known as "rounds." Whereas present need obligations reset each round, prospective need obligations accumulate over time.

Pursuant to an order dated May 16, 2025, by the Honorable Lina P. Corriston, J.S.C., the Borough has a fourth round prospective need obligation of 1,000 units and a present need obligation of 254 units.

Paramus' affordable housing obligations are as follows:

- Prior Round (Rounds 1 & 2, from 1987-1999) Obligation: 698 units
- Round 3 (from 1999-2025) Prospective Need Obligation: 1,725 Units
- Round 4 (from 2025-2035) Present Need (Rehabilitation Obligation): 254 units, reduced to 19 units through a Structural Conditions Survey
- Round 4 (from 2025-2035) Prospective Need Obligation: 1,523 Units, capped at 1,000 units

### Vacant Land Adjustment & Realistic Development Potential (RDP)

As a mostly built-out municipality, the Borough was eligible to adjust its 1,000-unit fourth round prospective need based upon a lack of vacant land, in order to reduce the portion of its prospective need that is required to be created by the end of the fourth round on June 30, 2035. The adjustment is determined through an analysis of geospatial data, in which the Borough is statutorily required to identify all properties in the Borough that are "vacant" and "available", determine the portion of those properties that are not environmentally constrained or legally encumbered, and calculate the number of affordable units that could hypothetically be produced on the unconstrained portions of those properties based upon a suitable density and a presumption that 20% of the housing units produced on the properties would be set-aside for low- and moderate-income households. The resulting number is referred to as the realistic development potential, or RDP. The analysis guiding the development of the Adopted Fourth Round HEFSP identified an RDP of 87 units.

As part of its settlement with FSHC, and to reflect changes to the calculated yield from the Oster/Genesis property, the Borough has revised its calculated RDP to 93 affordable units.

Historically, the difference between the prospective need and the RDP has been referred to as the “unmet need”, and has been addressed in part or in whole through mechanisms like overlay zoning or accessory apartment incentive programs which create opportunities for affordable housing, but which are not required to create that housing during the 10-year affordable housing round. The unmet need from an RDP of 93 and a prospective need of 1,000 units is **907 units**. FHA2 requires towns that receive a vacant land adjustment to provide for zoning or other mechanisms that provide a realistic opportunity for at least 25% of the unmet need to be created during the fourth round. For Paramus Borough, that number is **227 units**.

### **Prior Round and Round 3 Obligations**

The Borough adopted a Third Round Housing Element and Fair Share Plan on December 5, 2024, which addressed its affordable housing obligations from the first, second, and third rounds (“Prior Rounds”), accumulated between 1987 to 2015 and projected from 2015 to 2025 in accordance with a settlement agreement between the Borough and FSHC executed on February 6, 2020 and amended April 19, 2023.

The Third Round HEFSP addressed the Borough’s **698-unit** first and second round prospective need and **1,725-unit** third round prospective need obligations, which had been adjusted to RDPs of 260 and 385, respectively. The Borough’s Third Plan left a 23-unit surplus to be carried into the Fourth Round.

The Adopted Fourth Round HEFSP reaffirmed the construction status and creditworthiness of the housing units addressing the obligations of the prior rounds, while noting that the Borough would be using affordable housing trust funds to convert the previously inclusionary Oster/Genesis project to a 100% affordable development.

### **Round 4 Present Need**

No amendments to the Borough’s Adopted Fourth Round HEFSP are necessitated by the agreement with FSHC with respect to the Borough’s present need compliance plan. However, the Borough reserves the right by way of this Amended Fourth Round HEFSP to address some or all of its fourth round present need through qualified improvements to its Borough-owned affordable housing units.

### **Round 4 Prospective Need**

This Amendment to the Adopted Fourth Round HEFSP modifies the fourth round compliance plan only with respect to the Oster/Genesis Redevelopment Project.

**Oster/Genesis Redevelopment.** The Borough will provide affordable housing trust funds to assist in the development of the former Oster site at Block 601, Lot 5 with 101 units, which will include **100 affordable units** and one (1) superintendent unit. In order to fund these improvements, the Borough will arrange for payments in-lieu of constructing on-site affordable housing from unmet need redevelopment projects at Paramus Park, Garden State Plaza, and Bergen Town Center. The Borough will accept payments for up to five (5) affordable units from each site at \$300,000 per unit for a total of \$4,500,000 which will be contributed to Genesis Paramus Housing Urban Renewal. Of the 100 affordable housing units created at this site, **45 will be applied toward the third round RDP** and **20 will be applied toward the fourth round RDP**, leaving a balance of **35 surplus units** which may be carried into the fifth round.

As a result of this amendment, the Borough is addressing its 93-unit amended RDP with 71 units and 23 bonuses, for a total of **94 credits**.

### **Lands Considered but Not Included in the Compliance Plan**

As stated in the introduction to this Amendment to the Adopted Fourth Round HEFSP, the Borough has considered the development proposed by HRP, via its challenge, for a 1,050-unit housing development at Lots 4 through 6 on Block 413, and has determined that the site is not suitable for housing development, due to the combination of environmental constraints and severe traffic congestion, and that the proposed development is not realistic, due to the property playing a critical role in the State’s proposed plan for relieving traffic on Route 17. For these reasons, and with the withdrawal of HRP’s challenge to the Borough’s Fourth Round HEFSP, the property will continue to be excluded from the Borough’s Amended Fourth Round HEFSP.

## **Other Amendments and Agreements**

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Pursuant to the agreement executed by the Borough of Paramus and FSHC on December 29, 2025, the Borough will amend its ordinance at Chapter 210, “Affordable Housing – Inclusionary Zoning Requirements” to reflect changes to the Fair Housing Act pursuant to P.L. 2024, c.2, amendments to the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq., and newly adopted rules at N.J.A.C. 5:99 which amend and replace portions of COAH’s rules at N.J.A.C. 5:93 and N.J.A.C. 5:97.

### **Zoning and Redevelopment Plans**

Not later than March 15, 2026, the Borough will adopt an ordinance amending the Redevelopment Plan for the Oster/Genesis Redevelopment Area.

## Spending Plan

Consistent with the Borough's agreement with FSHC, the Borough amends its Spending Plan based upon N.J.A.C. 5:99. The Spending Plan will also be amended to reflect the newly devised funding strategy for the Oster Genesis project.

## Minimums & Maximums

The FHA2 stipulates certain requirements within C.52:27D-311.k(10)1 which the Paramus plan meets. The following is noted:

- A maximum of 30% of the affordable housing units, exclusive of any bonus credits, to address its prospective need affordable housing obligation, may be addressed with age restricted housing. The Borough's fourth round compliance strategy is composed entirely of family units.
- A minimum of 50% of the actual affordable housing units, exclusive of bonus credits, created to address its prospective need obligation must be satisfied with the creation of housing available to families with children. The Borough's fourth round compliance strategy is composed entirely of family units.
- A minimum of 25% of the actual affordable housing units, exclusive of bonus credits, created to address its prospective need obligation, must be satisfied with the creation of rental housing. The Borough's fourth round compliance strategy is composed entirely of rental units, except that development in the HCC zone or Nursery Redevelopment Area may include owner units.
- A minimum of 13% percent of all affordable units referenced in this HEFSP addressing the Borough's fourth round prospective need obligation shall be very low-income units for households earning 30 percent or less of the regional median income, with half of the very low-income units being available to families. All units created in projects addressing the fourth round prospective need will comply with the Borough's affordable housing ordinance, which includes the 30 percent very-low income set-aside requirement.

The Borough will ensure to the best of its ability that all affordable housing units satisfying the prior round obligations will continue to meet the applicable minimums and maximums set forth in the third round settlement agreement with FSHC as well as any applicable regulatory or statutory requirements.

## Conclusion

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The adoption of this document by the Paramus Planning Board and its endorsement by the Paramus Mayor and Council shall constitute an amendment to the Fourth Round HEFSP adopted on June 26, 2025 to address the terms of the agreements between the Borough and FSHC with respect to the satisfaction of the Borough's

fourth round obligation and its compliance the constitutional obligation to produce a realistic opportunity for affordable housing.

## Appendices

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This report contains the following appendices.

Appendix A: Agreement with Fair Share Housing Center

Appendix B: Amended Vacant Land Adjustment

Appendix C: Amended Development Fee & Affordable Housing Ordinances

Appendix D: Amended Spending Plan

Appendix E: Amendment to the Oster/Genesis Redevelopment Plan

Appendix F: Evidence of Oster/Genesis Funding Strategy

Appendix G: Evidence of Transfer of Funds to Regan Development for Columbus Way

Appendix H: Amended Administrative Manuals and Affirmative Marketing Plan

Appendix I: June 2025 Adopted Fourth Round Housing Element and Fair Share Plan

**Appendix A: Agreement with Fair Share Housing Center**

MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE  
RESOLUTION PROGRAM

In the Matter of the Application of the Borough of Paramus, County of Bergen,  
Docket No. BER-L-529-25

**WHEREAS**, the Borough of Paramus (the “Borough” or “Paramus”) having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the “Program”) and a declaratory judgment action pursuant to N.J.S.A. 52:27D-391 et. Seq. (the “Fair Housing Act”) on January 23, 2025; and

**WHEREAS**, the Court entered an order on May 16, 2025 setting the Borough’s Fourth Round fair share obligations as a Present Need of 254 units and a Prospective Need of 1,000 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan (“HEFSP”) by June 30, 2025; and

**WHEREAS**, the Borough having filed its HEFSP on June 26, 2025 (“Adopted HEFSP”);  
and

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

**WHEREAS**, Paramus HRP, LLC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough’s HEFSP on August 28, 2025; and

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

**THEREFORE**, the Borough and FSHC agree:

**Fair Share Obligations**

1. The Borough’s Fourth Round Present Need or Rehabilitation Obligation is 254, the Borough’s Prior Round Obligation (1987-1999) is 698, adjusted to a Prior Round RDP of 260, the Borough’s Third Round Obligation (1999-2025) is 1,725 units, adjusted to a Third Round RDP of 385, the Borough’s Fourth Round Prospective Need (2025-2035) is 1,000.

**Satisfaction of Fair Share Obligations**

2. The Borough’s Fourth Round Present Need of 254 units, which it has reduced to 22 units through a Structural Conditions Survey, and then further reduced to 19 units through application of the deterioration ratio, will address its Fourth Round Present Need by providing funds from the Borough’s Affordable Housing Trust Fund for rehabilitation at an average rate of \$25,000 per applicant.
3. The Borough’s Prior Round Obligation is 698, adjusted to a Prior Round RDP of 260, and has been met with the following mechanisms:

<b>MECHANISM</b>	<b>TYPE</b>	<b>UNITS</b>	<b>BONUS</b>	<b>TENURE S</b>	<b>STATUS</b>
Walter Behnke Senior Complex (Block 212, Lot 8)	Age-restricted	33	6	Rental	Complete
Parkview Residences (Block 210, Lot 1; Block 207, Lots 1, 2, 3)	Family	46	46	Rental	Complete
RCA with Jersey City		130	0		Complete
<b>Total</b>		<b>209</b>	<b>52</b>		

4. The Borough's Third Round Obligation is 1,725, adjusted to an RDP of 385, and shall be met with the following mechanisms:

MECHANISM	TYPE	UNITS	BONUS	TENURES	STATUS
Spectrum for Living (Block 6406, Lot 3) (Prior Cycle Credit)	Group Home	7	0	Group Home	Complete
Care Plus NJ (Block 7504, Lot 17) Prior Cycle Credit)	Group Home	4	0	Group Home	Complete
Care One at Cupola (Block 6725, Lot 1)	Assisted Living	16	0	Assisted Living	Complete
Care One at Cupola (Block 1601, Lots 3, 4, 5)	Assisted Living	13	0	Assisted Living	Complete
Brightview at Paramus (Block 4610, Lots 1, 2, 3.01)	Assisted Living	14	0	Assisted Living	Complete
Joy Farms (Block 7701, Lot 3)	Assisted Living	18	0	Assisted Living	Complete
Walter Behnke Senior Complex (Block 212, Lot 8)	100% affordable, age-restricted	31	0	Rental	Complete
Oster Property (Block 601, Lot 5)	Family	45	45	Rental	Proposed
PACBC / Columbus Crossing (Block 205, Lots 1, 2, 3; Block 204, Lots 1, 3)	100% affordable, family & supportive	120	32	Rental	Approved by Planning Board 11/7/24; Expected to be occupied by Feb 2027
ARC of Bergen County Group Home (Block 7501, Lot 7)	Group Home	4	0	Group Home	Complete
Paramus Veterans Housing (Block 1902, Lot 10)	Group Home	6	6	Group Home	Complete
Soldier Hill Commons/Shamrock	Family	14	14	Rental	Complete

Creek LLC (Block 7706, Lot 1)					
Joy Farms (Block 7701, Lot 3)	Age-restricted	25	0	Rental	Complete
<b>Total</b>					
		<b>317</b>	<b>97</b>		

5. The Borough’s Fourth Round Prospective Need obligation is 1,000, adjusted to an RDP of 9387, and shall be met with the following mechanisms:

MECHANISM	TYPE	UNITS	BONUS	TENURES	STATUS
615 Winters Avenue (Block 6203, Lot 2)	Inclusionary, family	20	<u>10</u>	Rental	Site plan approved November 2024
West Ridgewood Avenue and Paramus Road (Block 6701, Lot 7)	Inclusionary, family	8	<u>4</u>	Rental	Redevelopment plan adopted May 20, 2025
Oster Site / Genesis Paramus (Block 601, Lot 5)	100% affordable, family	<u>2055</u>	<u>921</u>	Rental	Proposed
Prior Round surplus credits		23			
<b>Total</b>					
		<u>71&gt;87</u>	<u>23</u>		

6. **Oster/Genesis (B 601 L 5)** The Borough designated Genesis Paramus Housing Urban Renewal LLC (Genesis) as Redeveloper with the expectation that Genesis would develop an inclusionary project and apply for 9% Low Income Housing Tax Credits (LIHTC) to provide at least forty (45) affordable units credited towards the Borough’s Third Round prospective need obligation. The inclusionary project received site plan approval on

November 19, 2020, for one hundred and four (104) units including forty-five (45) affordable units.

- a) The developer now wants to convert the building to a one-hundred-one (101) unit 100% affordable complex (with a single unit being reserved for the building superintendent, for a net of 100 affordable units).
- b) In accordance with N.J.A.C. 5:93-5.5, the Borough recognizes that it must provide evidence that it has adequate and stable funding for any non-inclusionary affordable housing developments. The Borough is required to provide a pro forma of both total development costs and sources of funds and documentation of the funding available to the Borough and/or project sponsored, and any pending funding applications. In the case where an application for outside funding is still pending, the Borough shall provide a stable alternative source, including municipal bonding, in the event that the funding request is not approved. The Borough shall demonstrate in its HEFSP how it meets these obligations on the Oster/Genesis site.
- c) The Borough shall accept payment in-lieu funding from three Round 3 unmet need projects (Paramus Park, Garden State Plaza and Bergen Town Center) in the amount of ~~\$250,000, or~~ \$300,000 per unit. Payments in-lieu for around fifteen (15) units, or five (5) units from each project, would yield a total of four (4) to four and half (4.5) million dollars that the Borough would use, together with current and projected affordable housing trust fund revenues, to pay Genesis to increase the current affordable unit yield from forty (45) affordable units to one hundred (100) affordable units (a 100% affordable project).

- d) In addition the requirements addressed in paragraphs (b) and (c), in accordance with N.J.A.C. 5:93-5.5, for municipally sponsored / 100% affordable projects, the Borough shall provide the following: (1) a construction or implementation schedule, or timetable, to be submitted for each step in the development process (including preparation of a site plan, granting of municipal approvals, applications for State and Federal permits, selection of a contract and construction) and (2) identify the administrative agent who will income qualify tenants and administer units once occupied.
- e) As provided for in the Borough’s HEFSP, forty-five (45) affordable units and eligible bonus credits will continue to be applied toward the Round 3 Realistic Development Potential (RDP), and ~~fifty-five~~fifteen ~~twenty-three~~ (23)~~(515)~~ affordable units and eligible bonuses will be applied toward the Round 4 RDP. A surplus of 3040 affordable units and 1 surplus credit from the Fourth Round will be available toward satisfaction of the Fifth Round of affordable housing in 2035. This change would result in the following changes to the number of affordable units at the three (3) payment in-lieu sites as follows:

	Approved Affordable Units	Affordable Units After PIL
Paramus Park	24	19
Garden State Plaza	208	203
Bergen Town Center	68	63

There is no change to the Third Round RDP calculation. These units are being created at previously approved, but not yet built, projects in the HCC Zone, which is an unmet need mechanism created in the Third Round.

- a. The Borough's Fourth Round Prospective Need obligation is 1,000. The Borough's Fourth Round RDP of 9387 results in an unmet need 90713 for the Fourth Round. Its Prior Round, Third Round, and Fourth Round unmet need shall be met with the following mechanisms:
- i. The Borough previously received court approval for addressing its Prior Round and Third Round unmet need primarily through the Highway Corridor Commercial (HCC) Zone, which extends along the majorities of the NJ-17 and NJ-4 highway corridors and covers five-hundred-fifty-nine 559 acres. The HCC Zone permits a density of twenty-four (24) dwelling units per acre and requires a twenty (20) percent on-site set-aside for for-sale residential development, and fifteen (15) percent on-site set-aside for rental residential development. This zoning has been successful in generating significant redevelopment including the developments listed in paragraph 6 and continues to provide substantial opportunities to address unmet need and the Borough agrees to continue the zoning throughout the Fourth Round.
  - ii. The Borough also agrees to continue to address unmet need through the Nursery Redevelopment Plan on Block 7002, Lot 1; Block 7701, Lot 3; Block 7003, Lot 1; Block 7101, Lot 4; Block 2701, Lot 12; and Block 2801, Lot 1. The Nursery Redevelopment Plan adopted by the Borough for these properties provides inclusionary zoning permitting residential development at eight (8) dwelling units per acre and requiring a twenty 20 percent set-

aside for for-sale residential development and a fifteen (15) percent for rental residential development.

- iii. The Borough also agrees to maintain a mandatory set-aside ordinance for all new multifamily residential developments of five (5) units or more. The set aside for any such rental developments shall be fifteen percent (15%) and the set aside for any such for-sale developments shall be twenty percent (20%). Payments in lieu of affordable housing are only permitted for fractional amounts. For example, if a developer's set-aside is fifteen (15%) percent and is 25.4 units the developer shall provide 25 affordable units and may make a payment in lieu for the .4 in the amounts described in the Ordinance.

#### **Unit Type and Income Distribution Requirements**

- 7. The Borough and FSHC agree that the Borough's HEFSP as presented above satisfies the following standards set forth in P.L. 2024, c. 2, including but not limited to, with respect to the following, and that the Borough shall maintain satisfaction with such requirements for the Fourth Round:
  - a. Age Restricted Cap. The Borough agrees that it shall not exceed the age-restricted cap found in N.J.S.A. 52:27D-311(l), which requires age-restricted units to be capped at 30 percent of the overall Fourth Round affordable housing units that address the Fourth Round Prospective Need obligation exclusive of any bonus credits.
  - b. Family units. Pursuant to N.J.S.A. 52:27D-211(l), the Borough shall satisfy a minimum of 50 percent of the actual affordable housing units, exclusive of any

bonus credits created to address its Fourth Round Prospective Need affordable housing obligation through the creation of housing available to families with children and otherwise in compliance with the requirements and controls established pursuant to Section 21 of P.L.1985, c.222 (C.52:27D-321).

- c. Rental and family rental units. Pursuant to N.J.S.A. 52:27D-311(l), at least 25 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its Prospective Need affordable housing obligation shall be addressed through rental housing, including at least half as available to families with children.
  - d. Very low-income units. Pursuant to N.J.S.A. 52:27D-329.1, 13 percent of all affordable units referenced in this Agreement addressing the Borough's Prospective Need obligation shall be very low-income units for households earning 30 percent or less of the regional median income, with half of the very low-income units being available to families.
  - e. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311(a) and (b), and all other applicable law.
  - f. All Prior Round and Third Round compliance shall continue to meet with the applicable percentages and standards for bonuses, family and senior housing, rental and family rental, very low-income units, and adaptability set forth in any prior settlement agreement between FSHC and the Borough, statutory requirements, and the Prior Round and Third Round regulations.
8. In all developments that produce affordable housing, the Borough and FSHC agree that, unless varied by a prior court order of the trial court, the below terms shall apply:

- a. All of the affordable units shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. (“UHAC”), including but not limited to the required bedroom and income distribution, length of affordability controls, and phasing of affordable units.
- b. The applicability of the updated form of UHAC versus the prior form of UHAC shall be as set forth in the statute and most current form of UHAC adopted by HMFA. Any terms of a prior agreement, judgment, or grant of substantive certification as to prior round of obligations modifying UHAC as to affordability controls longer than the now current regulations or as to very low-income units shall remain in effect as to those prior rounds of obligations.
- c. The Borough agrees that in order to meet the low-income and very low-income requirement of the Fair Housing Act, it shall adopt an ordinance requiring for all affordable housing developments in its HEFSP that 50 percent of the affordable units within each bedroom distribution 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.
- d. The Borough agrees to review its Affordable Housing Ordinance and other ordinances to ensure that it complies with the most up to date requirements of UHAC and revise those ordinances accordingly as part of its Fourth Round HEFSP and implementing ordinances.

- e. The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law. The affirmative marketing plan shall include the following community and regional organizations: FSHC; the Latino Action Network; the New Jersey State Conference of the NAACP; East Orange NAACP; Newark NAACP; Morris County NAACP; Elizabeth NAACP; and the Supportive Housing Association.

### **Process for Approval and Implementation**

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

is sooner, the Borough shall file the information required by Paragraph 10 and any other adopted ordinances and resolutions on eCourts.

- d. No later than April 15, 2026, the Borough and FSHC shall provide via filing on eCourts a form of consent order granting final compliance certification for the Court's review or identify any remaining issues of compliance that may be disputed at which point the court shall schedule a conference to review any such areas.
- e. Both parties agree to implement the terms of this Agreement. If the Program, county level housing judge, or any appellate court rejects this Agreement, the parties reserve their right to rescind any action taken in anticipation of the Program's approval and return to status quo ante. All parties shall have an obligation to fulfill the intent and purpose of this Agreement, unless to do so would be inconsistent with the final, unappealable adjudication of any Program or court ruling or judgment. The terms of this agreement may be enforced through an enforcement motion in this declaratory judgment or a separate action before the Program or the Superior Court, Law Division.

10. The Borough and FSHC agree that following conditions remain to be met prior to March 15, 2026 as conditions of compliance certification, and that the municipality shall provide these documents to FSHC in draft form for comment by January 1, 2026:

- a. The Borough shall provide the draft amendment to the Oster Site Redevelopment Plan no later than January 1, 2026 for FSHC's comment, and shall adopt the Amended Redevelopment Plan no later than March 15, 2025.
- b. The Borough shall provide the project pro forma, building plans, and construction schedule no later than January 1, 2026.

- c. The Borough shall provide deed restrictions for 615 Winters Avenue and West Ridgewood Avenue when they are available.
  - d. The Borough shall provide evidence of the Russo property's financing approval, notify FSHC once the Regan Development closes on the purchase of its property, and notify FSHC once construction commences at the Russo property.
  - e. The Borough will adopt a Fourth Round Spending Plan in accordance with P.L. 2024, c. 2 and the forthcoming regulations at N.J.A.C. 5:99. Paramus shall project these payments and its plan to expend these funds towards the Oster/Genesis Site in its Fourth Round Spending Plan.
  - f. Paramus Park, Garden State Plaza, and Bergen Town Center shall confirm commitment, in writing, to make the payment-in-lieu of five units, in the amount of 250,000 or 300,000 per project no later than January 1, 2026.
  - g. The Borough will update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents in accordance with the forthcoming regulations at N.J.A.C. 5:80-26.1, et seq., and N.J.A.C. after they are adopted and before March 15, 2026.
11. The Borough and FSHC recognize that substantial changes in circumstances affecting the Borough's RDP are possible pursuant to the holding in *Fair Share Housing Center v. Cherry Hill*, 173 N.J. 393, (2002) and related law. In the event such a substantial changed circumstance occurs, the Borough shall have one hundred twenty (120) days to present to the trial court and FSHC a plan to address such change in circumstances on notice and opportunity to be heard from FSHC. The Borough agrees that any additional RDP

generated due to changed circumstances must be addressed in a manner that is consistent with controlling law.

12. The Borough's Compliance Certification shall be subject to required ongoing monitoring as follows:

- a. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of a detailed accounting of all development fees and any other payments into its trust fund that have been collected including residential and non-residential development fees, along with the current balance in the municipality's affordable housing trust fund as well as trust funds expended, including purposes and amounts of such expenditures, in the previous year from January 1<sup>st</sup> to December 31<sup>st</sup>.
- b. The Borough by February 15, 2026, and annually, agrees to electronically enter data into the AHMS system of the Department of Community Affairs of up-to-date municipal information concerning the number of affordable housing units actually constructed, construction starts, certificates of occupancy granted, and the start and expiration dates of deed restrictions. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations.
- c. For the midpoint realistic opportunity review as of July 1, 2030, pursuant to N.J.S.A. 52:27D-313, the Borough or other interested party may file an action through the Program seeking a realistic opportunity review and shall provide for

notice to the public, including a realistic opportunity review of any inclusionary development site as set forth in the adopted HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. Any such filing shall be through eCourts or any similar system set forth by the Program with notice to any party that has appeared in this matter.

13. This Agreement may be executed in counterparts, all of which together shall constitute the same agreement, and any exhibits or schedules attached hereto shall be hereby made a part of this Agreement. This Agreement shall not be modified, amended or altered in any way except by a writing signed by each of the parties. Each party acknowledges that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each signatory is the proper person and possesses the authority to sign the Agreement, and that this Agreement was not drafted by any one of the parties, but was drafted, negotiated and reviewed by all parties, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections. No member, official or employee of the municipality shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

On behalf of the Borough of Paramus:



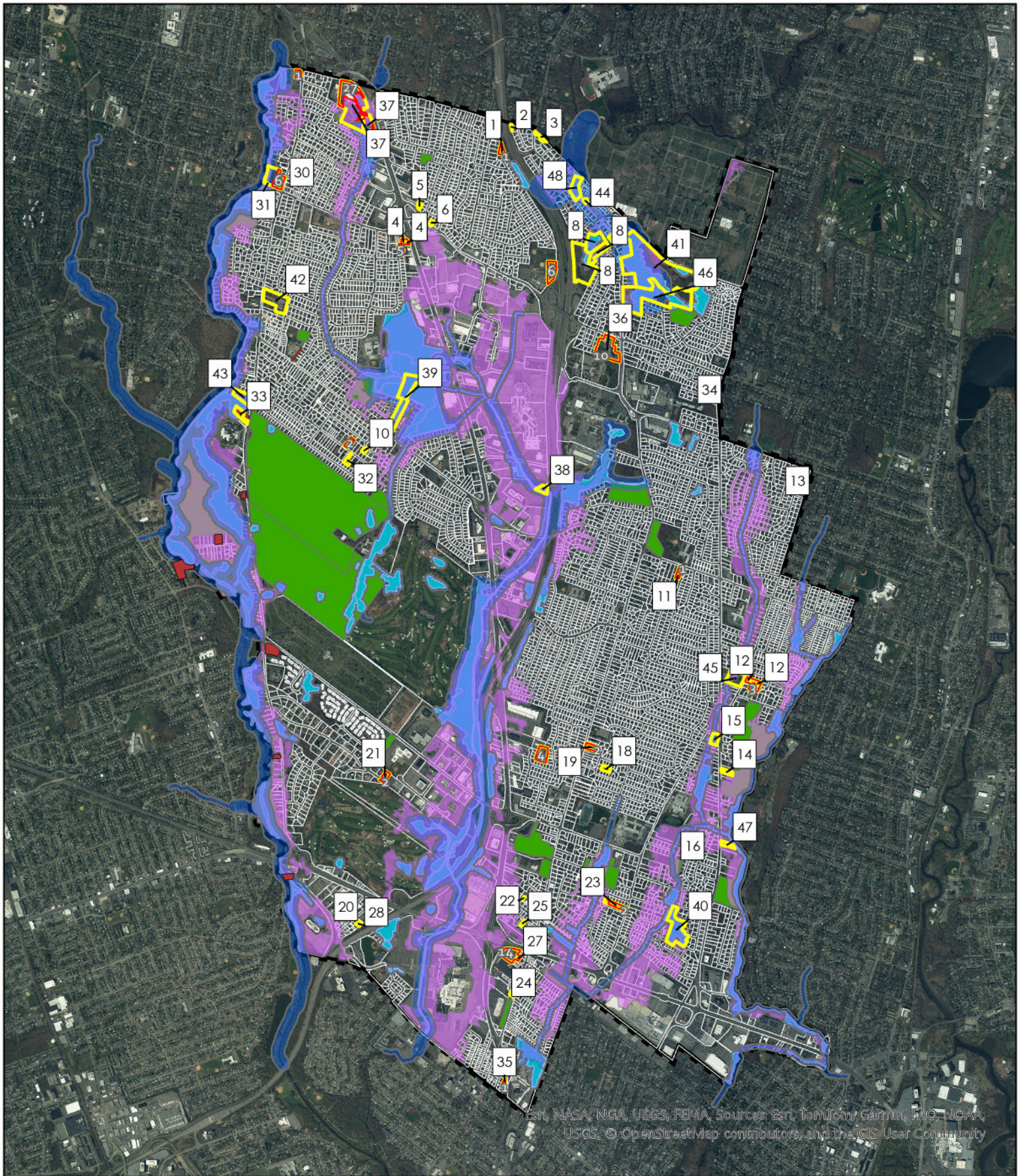
CHRISTOPHER DIPIAZZA, MAYOR  
Date: 12/29/25

On behalf of Fair Share Housing Center:



Adam M. Gordon, Esq.  
Date: December 19, 2025

## **Appendix B: Amended Vacant Land Adjustment**



Esri, NASA, NOAA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

## BOROUGH OF PARAMUS PRELIMINARY 4TH ROUND VACANT LAND ADJUSTMENT ANALYSIS



## Block and Lot by TractID

TractID	Block	Lot	Assessed Use	Street Address	Notes
1	7514	5			
2	7517	1	Vacant	LINWOOD AVENUE	Too small
3	7601	7	Vacant		Too small
4	6017	13	Vacant	689 SYCAMORE STREET	Contiguous vacant land
4	6809	6	Vacant	OFF ROUTE 17	Contiguous vacant land
4	6809	5	Vacant	ROUTE 17	Contiguous vacant land
5	6813	10	Vacant	RIDGEWOOD AVENUE	Too small
6	6813	22	Vacant	RIDGEWOOD AVENUE	Historic
7	7002	1.QQ	Agricultural	OFF RIDGEWOOD AVE.	
8	7701	2.Q	Agricultural	725 PASCACK ROAD	Approved third round development site
8	7701	3.Q	Agricultural	731 PASCACK RD.	Approved third round development site
8	7003	1.QQ	Agricultural	OFF PASCACK RD	Approved round three inclusionary development
9	4103	14	Vacant	177 MIDWOOD ROAD	
10	4108	6	Vacant	WINDSOR RD	Too small
11	5508	10.03	Vacant	E 216 MIDLAND AVE	
11	5508	10.02	Vacant	395 HARRISON STREET	
12	4705	17.03	Vacant	5 SPRING VALLEY ROAD EXT.	
12	4705	16.02	Vacant	4 SPRING VALLEY ROAD EXT.	
12	4705	17.01	Vacant	334 SPRING VALLEY RD	

## Block and Lot by TractID

TractID	Block	Lot	Assessed Use	Street Address	Notes
12	4705	17.02	Vacant	3 SPRING VALLEY ROAD EXT.	
12	4705	17.04	Vacant	8 SPRING VALLEY ROAD EXT.	
13	6611	9			Too small
14	3905	1	Vacant	238A FOREST AVENUE	Too small
15	3902	15	Vacant	269 FOREST AVENUE	Excessive environmental constraints
16	2706	8	Vacant	VILLAGE CIRCLE WEST	Too small
17	2506	17	Vacant5F	OFF MIDDLESEX AVE	
18	3305	11	Vacant	OFF LAWRENCE DR	Too small
19	3303	3	Vacant	FARVIEW AVE	
20	105	1	Vacant	12 BRIDLE WAY	Too small
21	1704	6	Vacant	173 ALPINE DRIVE	
22	1208	7	Vacant	PROSPECT ST	
23	1304	19	Vacant	71 SPRING VALLEY RD	
24	505	10	Vacant	RICHARD AVE.	MP-listed open space
24	505	2	Vacant	RICHARD AVE	MP-listed open space
25	1214	5	Vacant	34 FARVIEW TERRACE	Too small
26	502	7	Vacant	S 47 FARVIEW AVE	Too small
27	601	7	Vacant	31 MAPLE STREET	
27	601	5	Public	S 10 ROUTE 17	Oster Redevelopment Area

## Block and Lot by TractID

TractID	Block	Lot	Assessed Use	Street Address	Notes
28	109	2	Vacant	2 BRIDLE WAY	Too small
29	7301	1.02			
29	7301	1.03			
30	6706	9	Vacant	HAROLD STREET	Too small
31	6701	8	Public	RIDGEWOOD AVE.	
31	6701	7	Commerical	W 143 RIDGEWOOD AVENUE	
32	4104	24	Vacant	170 MIDWOOD ROAD	Too small
33	3501	3	Vacant	PARAMUS RD	Historic, environmentally constrained
34	7119	8	Vacant	OFF FOREST AVE	Too small
35	410	8	Vacant	ROUTE 17	
35	410	9	Vacant	ROUTE 17	
36	7101	4.QQ	Agricultural	ORADELL AVE.	
37	7401	2	Commerical	ROUTE 17	
37	7401	4	Commerical	ROUTE 17	
38	5304	2	Vacant	FROM RD.	Environmentally constrained
39	5102	3			Environmetally constrained, partially developed
40	2109	5.01	Vacant	ANDREA COURT	Environmentally constrained
41	7706	1.01	Vacant	1,3,5 SOLDIER HILL ROAD	Environmental constraints, inclusionary development
42	4808	6.QQ	Agricultural	578 PARAMUS ROAD	Approved third round development site

## Block and Lot by TractID

TractID	Block	Lot	Assessed Use	Street Address	Notes
43	4002	12	Vacant	PARAMUS ROAD	Environmentally constrained
44	7604	16	Vacant	783 MANCHESTER WAY	Environmentally constrained
45	4701	9.01	Vacant	337 SPRING VALLEY ROAD	Environmentally constrained
46	7706	2.01	Public	PASCACK ROAD	MP-listed open space
47	2710	2	Vacant	FOREST AVE	Environmentally constrained
48	7604	45	Vacant	778 PASCACK ROAD	Environmentally constrained



**Paramus Borough  
Fourth Round RDP  
By Tract ID**

TractID	Unconstrained Acres	Density*	Total Potential Units	Potential Affordable Units (RDP)
1	0.72	8	5	1
2	0.10	8	0	0
3	0.34	8	2	0
4	0.88	24	21	5
5	0.29	8	2	0
6	0.22	8	1	0
7	2.24	12	26	6
8	7.40			0
9	0.78	8	6	2
10	0.25	8	1	0
11	0.70	8	5	1
12	1.70	8	13	3
13	0.05	8	0	0
14	0.28	8	2	0
15	0.16	8	1	0
16	0.05	8	0	0
17	2.22	8	17	4
18	0.59	8	4	0
19	0.93	8	7	2
20	0.11	8	0	0
21	0.83	8	6	2
22	0.06	8	0	0
23	1.06	8	8	2
24	0.46	8	3	0
25	0.17	8	1	0
26	0.17	8	1	0
27	2.90	N/A	100	20
28	0.23	8	1	0
29	0.73	8	5	1
30	0.15	8	1	0
31	2.01	15	30	6
32	0.48	8	3	0
33	0.30	8	2	0
34	0.23	8	1	0
35	0.24	24	5	1
36	5.91	8	47	10
37	5.57	24	133	27
38	0.00	24	0	0
<b>Total</b>	<b>41.50</b>		<b>460</b>	<b>93</b>

\*Housing units per acre, applied for analysis

**Appendix C: Amended Development Fee & Affordable Housing  
Ordinances**

**COUNTY OF BERGEN  
BOROUGH OF PARAMUS  
ORDINANCE 2026-07**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 210, “AFFORDABLE HOUSING – INCLUSIONARY ZONING REQUIREMENTS” OF THE BOROUGH CODE IN ITS ENTIRETY**

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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 Paramus (the “Borough”) must amend certain sections of the Borough Code; and

WHEREAS, Chapter 210, “Affordable Housing – Inclusionary Zoning Requirements” of the Borough Code contain requirements for affordable housing provisions based on previous COAH regulations and regulations regarding affordable housing trust funds; and

**NOW, THEREFORE, BE IT ORDAINED,** by the Borough Council of the Borough of Paramus, County of Bergen, State of New Jersey, that Chapter 210 of the Borough Code are hereby repealed and replaced as follows:

**SECTION 1.** Chapter 210, “Affordable Housing – Inclusionary Zoning Requirements” of the Borough Code, shall hereby be renamed “Affordable Housing and Development Fee Ordinance”, and shall be repealed and replaced with the following:

210-1. Introduction & Applicability

- A. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in *the Borough of Paramus* consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
- B. This Ordinance is intended to ensure that very-low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very-low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100 percent affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to affirmative marketing and random selection procedures set forth in UHAC.

**COUNTY OF BERGEN  
BOROUGH OF PARAMUS  
ORDINANCE 2026-07**

- C. The *Paramus* 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 Borough 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.
- D. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- E. Applicability
- (1) The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that are proposed to be created pursuant to the Borough's most recently adopted HEFSP.
  - (2) This Ordinance shall apply to all developments that contain very-low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very-low-, low- and moderate-income housing units.
  - (3) Projects receiving federal Low Income Housing Tax Credit financing and proposed for credit in the Borough's most recently adopted HEFSP shall comply with the affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

## 210-2. 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).

**COUNTY OF BERGEN  
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“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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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“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.

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“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.

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“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.

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“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

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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.

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“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

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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

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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

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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.

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“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.

### 210-3. Monitoring and Reporting Requirements

A. The Borough 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:

- (1) The Borough 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

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shall be available to the public on the Department's website at <https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml>.

- (2) On or before February 15 of each year, the Borough 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.
- (3) 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.

210-4. Municipality-wide Mandatory Set-Aside

- A. All new multi-family development providing a minimum of five new housing units at a density at or above six units per acre is required to include an affordable housing set-aside of 20%.
- B. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
- C. 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.
- D. 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.
- E. 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 Borough to grant such rezoning, variance or other relief.
- F. This Borough-wide mandatory set-aside requirement does not supersede the set-asides specified in any zoning, redevelopment plans, or approvals for projects specifically identified in the HEFSP to address the realistic development potential, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.
- G. In the event that the inclusionary set-aside of 20 percent of the total number of residential units does not result in a full integer, the developer shall choose one of two options for addressing the fractional unit:
  - (1) The developer may round the set-aside upward to construct a whole additional affordable unit; or
  - (2) If the set-aside includes a fractional unit equal to 0.49 or less, the developer may round the set-aside downward and construct the lesser whole number of affordable units and shall also contribute the fractional subsidy payment ("fractional subsidy payment") to

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be made to the Borough and deposited in the municipal Affordable Housing Trust Fund. The fractional subsidy payment amount shall be calculated as the fractional unit multiplied by the base subsidy payment amount currently established by the Borough as the average subsidy reflected in financial pro formas for 100 percent affordable housing or subsidized developments in the Borough or region on file with the Borough. For example, if seven total units are developed at an inclusionary site, a 20 percent set-aside would require 1.4 affordable units. Per the requirements above:

The developer shall round up the 0.4 unit to one whole affordable unit so as to construct a total of two (2) affordable housing units; or The developer shall round the set-aside downward so as to construct only one affordable unit AND shall pay into the municipal affordable housing trust fund a fractional subsidy payment equal to the dollar amount established by the Borough multiplied by 0.4.

210-5. Affordable Housing Programs

- A. 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.
- B. Rehabilitation Programs (per N.J.A.C. 5:93-5.2 with updated provisions herein per N.J.A.C. 5:97-6.2 related to credit towards a municipal present need obligation).
  - (1) The rehabilitation program shall be designed to renovate deficient housing units occupied or intended to be occupied by very low-, low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28-1.1 et seq or the Rehabilitation Subcode, N.J.A.C. 5:23-6 to the extent applicable.
  - (2) Both ownership and rental units shall be eligible for rehabilitation funds.
  - (3) All rehabilitated units shall remain affordable to very low-, low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period shall be enforced with a mortgage and note and for renter-occupied units the control period will be enforced with a deed restriction.
  - (4) The Borough shall dedicate a minimum average hard cost of \$10,000 for each unit to be rehabilitated through this program and in addition shall dedicate associated rehabilitation program soft costs such as case management, inspection fees and work write-ups.

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- (5) The Borough shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with P.L. 2024, Chapter 2. The Administrative Agent(s) shall provide rehabilitation manuals for ownership and rental rehabilitation programs. Manuals shall be adopted by resolution of the governing body. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and on the municipal affordable housing web page.
- (6) Households determined to be very low-, low-, or moderate-income may participate in a rehabilitation program. Rehabilitated units shall be exempt from the very low-income requirements, low/mod split, and bedroom distribution requirements of UHAC, but shall be administered in accordance with the following:
  - (a) If a unit is vacant at the time of rehabilitation, or if a rehabilitated unit becomes vacant and is re-rented before the expiration of the affordability controls, the deed restriction shall require that the unit be rented to a low- or moderate-income household at an affordable rent.
  - (b) If a rental unit is occupied by a tenant at the time rehabilitation is completed, the rent charged after rehabilitation shall not exceed the lesser of the tenant’s current rent or the maximum rent permitted under UHAC.
  - (c) Rents in rehabilitated units may increase annually based on the standards in UHAC.
  - (d) At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.

210-6. New 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.).

- A. 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.
- B. 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

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90	100
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C. Design. The following design requirements apply to affordable housing developments, excluding prior round units.

(1) Design of 100 percent affordable developments:

- (a) 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.
- (b) Each bedroom in each restricted unit must have at least one window.
- (c) Restricted units must include adequate air conditioning and heating.

(2) Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) Each bedroom in each restricted unit must have at least one window.
- (g) Restricted units must be of the same unit type as market-rate units within the same building.

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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.

- (3) 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 (2) above. Restricted sale units shall comply with the below:
- (a) 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.
  - (b) 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.
  - (c) 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.
  - (d) 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.
  - (e) 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).
  - (f) 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.
  - (g) Each bedroom in each restricted unit must have at least one window; and
- viii. Restricted units must include adequate air conditioning and heating.

D. Utilities.

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- (1) Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
  - (2) 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.A.C 5:80-26.13(e).
- E. Low/moderate split and bedroom distribution.
- (1) 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.
  - (2) In each affordable housing development, at least 50 percent of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units.
  - (3) 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.
  - (4) Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
    - (a) At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
    - (b) Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
    - (c) 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.
    - (d) At least 30% of all low- and moderate-income units, rounded up shall be two-bedroom units.
    - (e) At least 20% of all low- and moderate-income units, rounded to the nearest whole number, shall be three-bedroom units.
    - (f) The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
  - (5) 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-

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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.

F. Accessibility requirements.

- (1) 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.
- (2) 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:
  - (a) An adaptable toilet and bathing facility on the first floor;
  - (b) An adaptable kitchen on the first floor;
  - (c) An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
  - (d) 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;
  - (e) 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
  - (f) 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 Borough 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.

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- (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.
- (g) 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.

G. Assisted Living Residence (per N.J.A.C. 5:97-6.11).

- (1) 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.
- (2) 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.
- (3) A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
- (4) 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.
- (5) Low- and moderate-income residents cannot be charged any upfront fees.
- (6) The units shall comply with UHAC with the following exceptions:
  - (a) Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
  - (b) The deed restriction may be on the facility, rather than individual apartments or rooms;
  - (c) 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

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- (7) 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.
- H. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
- (1) The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
- (a) 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.
  - (b) Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
  - (c) Occupancy shall not be restricted to youth under 18 years of age.
  - (d) 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.
  - (e) 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).
  - (f) 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.
  - (g) 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.
  - (h) The following documentation shall be submitted by the sponsor to the Borough prior to marketing the completed units or facility:
    - (a) An Affirmative Marketing Plan; and

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(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.

(i) The sponsor/owner shall complete annual monitoring as directed by the MHL.

210-7. Regional Income Limits.

- A. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
- B. 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.
- C. 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.

210-8. Maximum Initial Rents And Sales Prices.

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. 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

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for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.

- F. 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.
- G. 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:
- (1) A studio or efficiency unit shall be affordable to a one-person household;
  - (2) A one-bedroom unit shall be affordable to a one and one-half person household;
  - (3) A two-bedroom unit shall be affordable to a three-person household;
  - (4) A three-bedroom unit shall be affordable to a four and one-half person household; and
  - (5) A four-bedroom unit shall be affordable to a six-person household.
- H. 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:
- (1) A studio or efficiency unit shall be affordable to a one-person household;
  - (2) A one-bedroom unit shall be affordable to a one and one-half person household; and
  - (3) 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.
- I. 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.
- J. 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

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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.

- K. 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.

210-9. Affirmative Marketing.

- A. The Borough 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.
- 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, 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.
- C. 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.
- (1) Where the Borough 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-

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- 311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
- (2) There shall be a regional preference for all households that live and/or work in Housing Region 1 comprised of Hudson, Bergen, Passaic, and Sussex Counties.
  - (3) Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
  - (4) 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.
- D. The Borough 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 Borough 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.
- E. 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.
- F. 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 Borough 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.
- G. 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. Additional notice shall be provided to FSHC; the Latino Action Network; the New Jersey State Conference of the NAACP; Bergen County NAACP; Urban League of Bergen County, Bergen County Housing Coalition; 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.
- H. 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.

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- I. 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.
- J. 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.
- K. 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.
- 210-10. Selection of Occupants of Affordable Housing Units.
- A. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
- B. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.
- 210-11. Occupancy Standards.
- A. 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:
- (1) Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
  - (2) Provide a bedroom for every two adult occupants;
  - (3) 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
  - (4) Avoid placing a one-person household into a unit with more than one bedroom.
- 210-12. 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. 5:80-26.6, 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.
- B. 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).

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- C. 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.
  - D. 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.
  - E. 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:
    - (1) If the Borough exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
    - (2) If the Borough does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
  - F. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the Borough shall record a preliminary instrument provided by the Administrative Agent.
  - G. 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.
  - H. 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.
  - I. 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.
- 210-13. Price Restrictions for Restricted Ownership Units and Resale Prices.
- A. 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:
    - (1) The initial purchase price and affordability percentage for a restricted ownership unit shall be set 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 standards set forth in N.J.A.C 5:80-26.7.

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- (a) 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.
  - (b) 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
- (3) 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:
- (a) those that render the unit suitable for a larger household or the addition of a bathroom.
  - (b) 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);
- (4) 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.
- 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 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.

210-14. Buyer Income Eligibility.

- A. 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

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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.

- B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough, 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.
- 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, 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:
- (1) 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;
  - (2) 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

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- (3) The household is currently in substandard or overcrowded living conditions;
- (4) The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments

210-15. 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 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).

210-16. Control Periods for Restricted Rental Units.

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the Borough shall record a preliminary instrument provided by the Administrative Agent.
- F. 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.

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- G. 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;
  - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
  - (4) 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.

210-17. Rent Restrictions for Rental Units; Leases and Fees.

- A. The initial rent for a restricted rental unit shall be set by the Administrative Agent.
- B. 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.
- C. 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.
  - (1) 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.
- D. 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.
- E. 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.
- F. 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.
- G. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
- H. 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.

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210-18. Tenant Income Eligibility.

- A. 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:
  - (1) 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.
  - (2) 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.
  - (3) 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.
- B. 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:
  - (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 any of the circumstances in B(1) through B(5) above with the Administrative Agent, who shall counsel the household on budgeting.

210-19. Municipal Housing Liaison.

- A. The Municipal Housing Liaison shall be approved by municipal resolution.
- B. 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.

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C. 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:

- (1) 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.
- (2) The oversight of the Affirmative Marketing Plan and affordability controls.
- (3) When applicable, overseeing and monitoring any contracting Administrative Agent.
- (4) Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
- (5) Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
- (6) Coordinating meetings with affordable housing providers and administrative agents, as needed.
- (7) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.
- (8) 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.
- (9) 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.
- (10) Listing on the municipal website contact information for the MHL and Administrative Agents.

210-20. Administrative Agent.

A. 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.

B. The fees for administrative agents shall be paid as follows:

- (1) Administrative agent fees related to rental units shall be paid by the developer/owner.
- (2) Administrative agent fees related to initial sale of units shall be paid by the developer.
- (3) Administrative agent fees related to resales shall be paid by the seller of the affordable home.
- (4) Administrative agent fees related to ongoing administration and enforcement shall be paid by the Borough.

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- C. 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.
- D. 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:
- (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
  - (2) Affirmative marketing:
    - (a) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough and the provisions of N.J.A.C. 5:80-26.16.
    - (b) 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.
  - (3) Household certification.
    - (a) Soliciting, scheduling, conducting and following up on interviews with interested households.
    - (b) 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;
    - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility within five (5) business days of the determination thereof.
    - (d) 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.
    - (e) 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.
    - (f) Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
  - (4) Affordability controls.
    - (a) 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.
    - (b) 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

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Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.

- (c) Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
  - (d) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
- (5) Records retention.
- (a) 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.
  - (b) Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the Borough as defined by N.J.S.A. 47:3-16, and are legal property of the Borough.
- (6) Resales and re-rentals.
- (a) 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.
  - (b) 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.
- (7) Processing requests from unit owners.
- (a) 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.
  - (b) 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.
  - (c) Notifying the Borough of an owner's intent to sell a restricted unit.
  - (d) Making determinations on requests by owners of restricted units for hardship waivers.
- (8) Enforcement.
- (a) Securing annually from the Borough 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;

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- (b) 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;
  - (c) 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;
  - (d) Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
  - (e) 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.
- (9) The Administrative Agent(s) shall, as delegated by the Borough, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

210-21. Responsibilities of The Owner of a development containing affordable units.

- A. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
  - (1) 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.
  - (2) The total number of units in the project and the number of affordable units.
  - (3) 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.
  - (4) Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
  - (5) A projected construction schedule.
  - (6) The location of any common areas and elevators.
  - (7) 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.
- B. 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:

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- (1) 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.
  - (2) Provide to the administrative agent a description of any applicable fees.
  - (3) Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
  - (4) 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.
  - (5) Provide to the administrative agent a proposed form of lease for any rental units.
  - (6) 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.
  - (7) Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
- C. 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:
- (1) Proposed pricing for all units, including any purchaser options and add-on items.
  - (2) Realistic condominium or homeowner association fees and any other applicable fees.
  - (3) Estimated real property taxes.
  - (4) Sewer, water, trash disposal, and any other utility assessments.
  - (5) Flood insurance requirement, if applicable.
  - (6) The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.
- 210-22. 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 Borough 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.
  - B. 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 Borough may take the following action against the owner, developer or

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tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

- (1) The Borough 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:
  - (a) A fine of not more than \$500 or imprisonment for a period not to exceed 30 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
  - (b) 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;
  - (c) 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.
- C. The Borough 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.
- D. The Borough 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.
  - (1) Such judgment shall be enforceable, at the option of the Borough, 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 Borough, 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.
  - (2) 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 Borough 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 Borough in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and

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all costs incurred by the Borough 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 Borough 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 Borough 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 Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the owner or forfeited to the Borough.

- (3) 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.
  - (4) 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 Borough 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.
  - (5) Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the Borough shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the Borough, 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.
  - (6) 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.
- E. 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

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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.

- F. 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.
- G. 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.
- H. Appeals
  - (1) 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.

210-23. Development Fees.

A. Purpose

- (1) 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.

B. Basic Requirements

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

C. Residential Development Fees

- (1) Imposed fees

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- (a) Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one (1) 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.
- (b) 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 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.

(2) Eligible exactions, ineligible exactions and exemptions for residential development

- (a) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the Borough, 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 Borough as part of an approved HEFSP, shall be exempt from development fees.
- (b) 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.
- (c) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee

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requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

- (d) No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.

**D. Non-Residential Development Fees**

(1) Imposition of fees

- (a) 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.
- (b) 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.
- (c) 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.

(2) Eligible exactions, ineligible exactions and exemptions for non-residential development

- (a) 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.
- (b) 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.

(3) 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.

(4) 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

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three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

- (5) 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 Borough as a lien against the real property of the owner.

**E. Collection Procedures**

- (1) Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- (2) For 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) Should the Borough fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- (8) Fifty percent (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

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construction permit and that determined at the time of issuance of certificate of occupancy.

F. 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 that board, collected fees shall be placed in an interest-bearing escrow account by the Borough. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- (2) 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 Borough. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing Trust Fund

- (1) A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the Borough for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- (2) 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:
  - (a) Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the Borough 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;
  - (b) Funds contributed by developers to make 10 percent of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  - (c) Rental income from municipally operated units;
  - (d) Repayments from affordable housing program loans;
  - (e) Recapture funds;
  - (f) Proceeds from the sale of affordable units; and
  - (g) Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.

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- (3) The Borough shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the Borough, 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.
- (4) 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:
  - (a) Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
  - (b) 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;
  - (c) Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
  - (d) Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
  - (e) Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
  - (f) Revocation of compliance certification or a judgment of compliance and repose;
  - (g) 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;
  - (h) Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- (5) All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

H. Use of Funds

- (1) 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

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Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.

- (2) Funds shall not be expended to reimburse the Borough or activities that occurred prior to the authorization of a municipality to collect development fees.
- (3) 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.
  - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, 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.
  - (b) 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.
- (4) 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 Borough of resolving a challenge.

I. Monitoring

- (1) On or before February 15 of each year, the Borough 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 Borough 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

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expenditures of revenues and implementation of the Spending Plan approved by the Court.

J. Ongoing Collection of Fees

- (1) The ability to impose, collect and expend development fees shall continue so long as the Borough retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
- (2) If the Borough 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).

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

Repealer

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

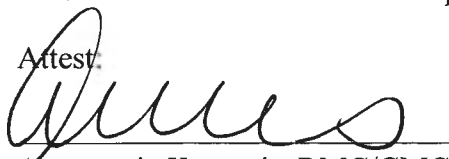
Severability

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

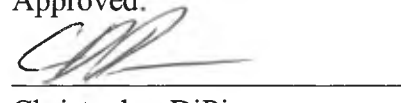
Effective Date

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

Attest:

  
 Annemarie Krusznis, RMC/CMC  
 Borough Clerk

Approved:

  
 Christopher DiPiazza  
 Mayor

Introduced: February 19, 2026

Final: March 10, 2026

*First Amendment to the Fourth Round Housing Plan Element and Fair Share Plan  
Borough of Paramus — Prepared: February 19, 2026*

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## **Appendix D: Amended Spending Plan**



## AMENDED BOROUGH OF PARAMUS

### FOURTH ROUND AFFORDABLE HOUSING SPENDING PLAN

March 2, 2025

#### INTRODUCTION

The Borough of Paramus has prepared a Housing Element and Fair Share (“HEFSP”) 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). The Borough of Paramus first adopted a development fee ordinance in 1995 to begin funding its affordable housing trust fund.

N.J.A.C. 5:99 requires that a municipality which has adopted a HEFSP and intends to collect development fees and other permitted revenues to fund the implementation of an approved HEFSP shall adopt a plan for spending current funds and funds anticipated to be collected during the affordable housing round (“spending plan”). The most recent spending plans were adopted by the Borough in December of 2024 for the implementation of the Borough’s Third Round HEFSP and in June of 2025 for the implementation of the Borough’s Fourth Round HEFSP.

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 “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 January 1, 2026, the Borough of Paramus has a balance of **\$4,415,140** in its Affordable Housing Trust Fund. All of Paramus’s development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, interest generated on the trust fund, and other permitted revenues, are deposited in separate interest-bearing affordable housing trust funds in Spencer 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 **\$23,792,762** in fees and interest and **\$3,510,000** in payments in lieu of construction of on-site affordable housing. The Borough has expended **\$20,215,151** on affordable housing activities and **\$3,228,909.16** in consulting fees and other administrative costs.

The Borough projects the following revenue through the end of Round 4 (June 30, 2035).

- (a) Development fees: Based on historical trends, the Borough is estimating annual development fees that total **\$5,279,609** through June 30, 2035.
- (b) Payment in lieu (PIL): The Borough anticipates the **\$3,510,000** in additional payments in lieu of constructing affordable housing from 650 From Road, as approved prior to P.L. 2024, c.2 prohibiting new PILs, and up to **\$3,750,000** from three approved inclusionary projects based on \$250,000 per unit for five (5) units each at Paramus Park, Garden State Plaza, and Bergen Town Center, as permitted by the Fourth Round agreement with Fair Share Housing Center.
- (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 Paramus will collect approximately **\$150,278** in total interest through June 30, 2035.

<b>TABLE 1: PROJECTED REVENUES</b>											
<b>Affordable Housing Trust Fund, January 1, 2026 through June 30, 2035</b>											
<b>Source</b>	<b>1/1/26-12/31/26</b>	<b>1/1/27-12/31/27</b>	<b>1/1/28-12/31/28</b>	<b>1/1/29-12/31/29</b>	<b>1/1/30-12/31/30</b>	<b>1/1/31-12/31/31</b>	<b>1/1/32-12/31/32</b>	<b>1/1/33-12/31/33</b>	<b>1/1/34-12/31/34</b>	<b>1/1/35-6/30/35</b>	<b>Total</b>
a) Development Fees	\$510,000	\$520,200	\$530,604	\$541,216	\$552,040	\$563,081	\$574,343	\$585,830	\$597,546	\$304,749	\$5,279,609
b) PIL Construction	\$5,760,000	\$2,250,000									\$8,010,000
c) Other Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
d) Interest	\$10,079	\$29,038	\$25,471	\$21,999	\$18,624	\$15,346	\$12,168	\$9,092	\$6,120	\$2,341	\$150,278
<b>Total</b>	<b>\$7,780,079</b>	<b>\$549,238</b>	<b>\$556,075</b>	<b>\$563,216</b>	<b>\$570,664</b>	<b>\$578,427</b>	<b>\$586,511</b>	<b>\$594,922</b>	<b>\$603,667</b>	<b>\$307,089</b>	<b>\$12,689,887</b>

The Borough of Paramus projects a total of **\$12,689,887** in development fees, PIL, and interest to be collected between January 1, 2026 and June 30, 2035. This projected amount, when added to the Borough of Paramus’s trust fund balance of **\$4,415,140** results in anticipated total revenue of **\$17,778,351** 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 Paramus.

(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 by the governing body of a 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.

**3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS**

The Borough of Paramus anticipates utilizing its trust fund resources as follows:

(a) **Creation of Affordable Housing (N.J.A.C. 5:99-2.3)**

- The Borough is party to a developers agreement which will result in the transfer of a \$6,800,000 million dollar payment in-lieu from a mixed-use development at 650 From Road to the 100% affordable, Columbus Way / Columbus Crossing development which was included in the Borough's Third Round HEFSP.
- The Borough will commit **\$4,500,000** to create 100 affordable housing units in the Oster Redevelopment Area.

(b) **Improvements to Existing Housing (N.J.A.C. 5:99-2.3)**

The Borough will reserve up to **\$3,935,601** for continued maintenance and improvement of existing Borough-owned-and-operated housing sites.

(c) **Housing Rehabilitation (N.J.A.C. 5:93-5.2 / 5:97-6.2)**

The Borough will set-aside **\$475,000** for rehabilitation of 19 substandard housing units occupied by low- and moderate-income households including both renters and homeowners. The Borough intends to use **\$160,000** and **\$320,000** of those funds for improvements to 32 apartments at the Borough-operated Behnke affordable senior living facility to convert bathtubs for greater accessibility for mobility-impaired seniors.

(d) **Administrative Expenses (N.J.A.C. 5:99-2.4)**

The Borough is permitted to spend up to 20% of the of all affordable housing trust funds, exclusive of those collected prior to July 17, 2008, to fund an RCA (regional contribution agreement), on administrative expenses. Because "affordable housing trust funds" includes

payments in lieu of constructing affordable units on site, the Borough's administrative expenses allowance is estimated at **\$4,515,908** as detailed in Table 2, below.

Administrative expenses may include costs reasonably related to the determination of the fair share obligation and the development of a municipal housing element and fair share plan and may include fees necessary to develop or implement affordable housing programs, an affirmative marketing program, and/or expenses that are reasonably necessary for compliance with the processes of the Affordable Housing Dispute Resolution Program ("Program"), including, but not limited to, the costs to the municipality of resolving a challenge pursuant to the Program. Administrative expenses may also include costs associated with functions carried out in compliance with UHAC, including activities related to the marketing program and waitlist management, administering the placement of occupants in housing units, income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with the Division's monitoring requirements.

The Borough anticipates spending **\$2,894,426** from the affordable housing trust fund on administrative expenses over the course of the Fourth Round.

TABLE 2: ADMINISTRATIVE EXPENSE CALCULATION		
		Total
Actual trust fund revenues through January 1, 2026		\$28,634,199
Projected development fees and interest through June 30, 2035	+	\$5,429,887
Other projected revenues through June 30, 2035	+	\$7,260,000
Sum of trust fund revenues	=	\$41,324,086
Less revenues expended on RCA Programs	-	\$2,600,000
<b>Net trust fund revenues</b>		<b>\$38,724,086</b>
20% Maximum for Admin. Expense	x .20	\$7,744,817
Less Admin through 1/1/2026	-	\$3,228,909
<b>Available for Admin. Through June 30, 2035</b>	=	<b>\$4,515,908</b>

(e) **Affordability Assistance (N.J.A.C. 5:99-2.5)**

The Borough is required to "set aside a portion of all development fees collected and interest earned for the purpose of providing affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipality's fair share plan". This may use of funds to subsidize the creation of very-low income housing, including special needs and supportive housing. The Paramus Affordable Housing Corporation has historically operated a rental assistance program, and will continue to do so. If for-sale affordable units are created in Paramus, PAHC will create a down payment assistance program for eligible buyers. The Borough will set aside not more than **\$2,000,000** for this program.

#### 4. EXPENDITURE SCHEDULE

The Borough of Paramus intends to expend its affordable housing trust funds in accordance with the schedule detailed in Table 3. In accordance with N.J.A.C. 5:99-5.5, the Borough will spend or commit to expend all development fees on authorized activities or purposes within four years of the date of collection.

<b>TABLE 3: EXPENDITURE SCHEDULE</b>											
<b>Projects/ Program</b>	<b>Projected Expenditure Schedule July 1, 2025 – December 31, 2035</b>										
	<b>1/1/26- 12/31/26</b>	<b>1/1/27- 12/31/27</b>	<b>1/1/28- 12/31/28</b>	<b>1/1/29- 12/31/29</b>	<b>1/1/30- 12/31/30</b>	<b>1/1/31- 12/31/31</b>	<b>1/1/32- 12/31/32</b>	<b>1/1/33- 12/31/33</b>	<b>1/1/34- 12/31/34</b>	<b>1/1/35- 6/30/35</b>	<b>Total</b>
Affordability Assistance	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$2,000,000
Rehabilitation	\$142,500	\$36,944	\$36,944	\$36,944	\$36,944	\$36,944	\$36,944	\$36,944	\$36,944	\$36,944	\$475,000
Oster/Genesis Subsidy	\$4,500,000										\$4,500,000
Columbus Way	\$3,300,000										\$3,300,000
Improvements to Existing Housing	\$393,560	\$393,560	\$393,560	\$393,560	\$393,560	\$393,560	\$393,560	\$393,560	\$393,560	\$393,560	\$3,935,601
Administrative Expenses	\$289,443	\$289,443	\$289,443	\$289,443	\$289,443	\$289,443	\$289,443	\$289,443	\$289,443	\$289,443	\$2,894,426
<b>Total</b>	<b>\$8,825,503</b>	<b>\$919,947</b>	<b>\$919,947</b>	<b>\$919,947</b>	<b>\$919,947</b>	<b>\$919,947</b>	<b>\$919,947</b>	<b>\$919,947</b>	<b>\$919,947</b>	<b>\$919,947</b>	<b>\$17,105,027</b>

#### 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, and/or additional affordable housing activity related to emergent opportunities. In the event that a shortfall of anticipated revenues occurs, the Borough of Paramus will address the shortfall of funds through an alternative funding source to be identified by the Borough, or the Borough will amend its spending plan to reduce the amount of funds available for the affordability assistance program, administrative expenses, or maintenance/improvement of existing housing. The Borough adopted a resolution of intent to fund its fourth round affordable housing obligation on June 24, 2025.

#### 6. BARRIER- FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough of Paramus's Affordable Housing Ordinance and in accordance with N.J.A.C. 5:99.

#### 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 and the 2026 Amendment to the Housing Element and Fair Share Plan.

The Borough's Affordable Housing Trust Fund has a balance of **\$4,415,140** as of January 1, 2026 and estimates a total of **\$12,689,887** in potential revenue and interest to be collected by June 30, 2035, when the fourth round ends. This projected amount, when added to the Borough of Paramus's trust fund balance results in anticipated total of **\$17,105,027** of trust funds available to fund and administer its affordable housing plan. The Borough intends to exhaust its current and projected trust funds as shown in Table 4, Spending Plan Summary, below.

<b>TABLE 4: SPENDING PLAN SUMMARY</b>		
		<b>Total</b>
<b>Balance as of January 1, 2026</b>		<b>\$4,415,140</b>
<b>Projected Revenue Through June 30, 2035</b>		
Development fees	+	\$5,279,609
Interest	+	\$150,278
Payments in lieu of construction	+	\$7,260,000
Other funds	+	\$0
<b>Total Available Funds</b>		<b>\$12,689,887</b>
		<b>\$17,105,027</b>
<b>Projected Expenditures through 2035</b>		
Affordability Assistance	+	\$2,000,000
Administration	+	\$2,894,426
Rehabilitation	+	\$475,000
Columbus Crossing Payment	+	\$3,300,000
Improvements to Existing Facilities	+	\$3,935,601
Oster/Genesis Payment	+	\$4,500,000
<b>Total Projected Expenditures</b>	<b>=</b>	<b>\$17,105,027</b>
<b>Remaining Balance on July 1, 2035</b>	<b>=</b>	<b>\$0</b>

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

**Appendix E: Amendment to the Oster/Genesis Redevelopment Plan**

**COUNTY OF BERGEN  
BOROUGH OF PARAMUS  
ORDINANCE 2026-08**

**AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN FOR BLOCK 601, LOT 5,  
KNOWN AS THE OSTER SITE REDEVELOPMENT PLAN, FOR FOURTH ROUND AFFORDABLE  
HOUSING COMPLIANCE**

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WHEREAS, in July of 2020, the Mayor and Council of the Borough of Paramus adopted the Oster Site Redevelopment Plan, prepared by Elizabeth C. Leheny, PP, of Phillips Preiss Grygiel Leheny Hughes LLC, dated July 2020, which provided for the development of up to 120 residential units on Block 601, Lot 5 (hereinafter the “Oster Property”) of which not less than 45 were required to be affordable housing units; and

WHEREAS, on September 17, 2020, the Planning Board of the Borough of Paramus approved a development application by Genesis Paramus Housing Urban Renewal, LLC (“Genesis”) to construct 104 apartments including 45 affordable apartments in accordance with the Oster Site Redevelopment Plan; and

WHEREAS, in order to comply with its constitutional obligation to provide a realistic opportunity for affordable housing and with the New Jersey Fair Housing Act and other applicable regulations, the Borough adopted a Third Round Housing Element and Fair Share Plans on December 5, 2024 that relied upon the 45 affordable units from the project for satisfaction of the Borough’s Third Round obligation; and

WHEREAS, the Borough and Genesis desire to utilize affordable housing trust fund revenues now in the Borough’s possession or projected to be earned over the next decade to enable the development of the Oster Property with 101 units including 100 affordable units for families and one (1) superintendent’s unit, instead of the previously approved 104 units including 45 affordable units; and

WHEREAS, the Borough on June 25, 2025 adopted its Fourth Round Housing Element and Fair Share Plan, which relies upon the site for the creation of 45 affordable units towards the Third Round obligation and a minimum of 15 units towards the Fourth Round obligation; and

NOW, THEREFORE, BE IT ORDAINED, pursuant to the agreement between the Borough of Paramus and Fair Share Housing Center executed on December 29, 2025, the Oster Site Redevelopment Plan shall be amended as below. Changes are indicated by **bold text**, with deletions indicated by ~~strikethroughs~~ and additions indicated with underlines:

**COUNTY OF BERGEN  
BOROUGH OF PARAMUS  
ORDINANCE 2026-08**

SECTION 1: Chapter 1, Introduction, of the Redevelopment Plan shall be amended as follows:

1.1 Statutory Basis for the Redevelopment Plan

On March 13, 2018, per Resolution 18-03-208, the Mayor and Council of the Borough of Paramus authorized and directed the Planning Board to undertake an investigation to determine if the subject property qualified as “an area in need of redevelopment” pursuant to criteria of the Local Redevelopment and Housing Law (“LRHL”) at N.J.S.A. 40A:12A-5 et seq. Pursuant to Section 6 of the Redevelopment Law, the Mayor and Council also determined that, if the property, or a portion thereof, is an “area in need of redevelopment,” such area would be a “Non-Condemnation Redevelopment Area,” authorizing the Borough to use all powers provided by applicable law for use in a redevelopment area other than the use of eminent domain.

The redevelopment investigation found that the subject property qualified under criterion “d,” as the dilapidated and deleterious conditions on the site presented detriments to the safety, health, morals, and welfare of the surrounding neighborhood and the greater community. Following these findings, the Mayor and Council formally designated this property as an area in need of redevelopment via Resolution 18-06-385 on June 12, 2018. On June 23, 2020, the Mayor and Council subsequently authorized and directed the Borough’s Special Planner (Phillips Preiss Grygiel Leheny Hughes) to prepare a redevelopment plan for this designated Plan Area.

**In order to implement the Borough’s Third Round and Fourth Round Housing Element and Fair Share Plans, which rely upon the development of the Oster Property, and to comply with a Settlement Agreement entered into between the Borough of Paramus and Fair Share Housing Center on December 29, 2025, the Borough authorized T&M Associates to amend the Redevelopment Plan to cause the property to be redeveloped as a 100% affordable project in compliance with applicable statutes and regulations.**

1.2 PLAN OVERVIEW

This Redevelopment Plan provides standards for land use, circulation, parking, architecture and urban design for future development within the Plan Area. The provisions set forth in this Redevelopment Plan shall supersede, govern, and control the equivalent standards set forth in Chapter 429 Zoning of the Borough of Paramus Municipal Code. For items not addressed in this Redevelopment Plan, relevant regulations and guidelines in the Zoning Ordinance shall be applicable. Adoption of this Redevelopment Plan by the Mayor and Council shall be considered an amendment to the Borough of Paramus Zoning Map.

The remaining chapters of this Redevelopment Plan are organized as follows: Chapter 2 outlines the major goals and objectives of the Redevelopment Plan. Chapter 3 sets forth the development standards within the Redevelopment Area, including permitted uses, lot and bulk

**COUNTY OF BERGEN  
BOROUGH OF PARAMUS  
ORDINANCE 2026-08**

standards, access and parking requirements, and other provisions related to on-site and off-site improvements. Chapter 4 provides a Consistency Review to establish the Redevelopment Plan's relationship with relevant local, county, and state plans. Finally, Chapter 5 summarizes the required redevelopment actions and Chapter 6 sets forth certain general provisions of the Redevelopment Plan. ~~The Appendix includes concept plans for a proposed redevelopment project, including preliminary site and floor plans.~~

SECTION 2: The following text shall be added to the end of §§ 2.2 Relationship to Local Objectives

The Borough's 2024 Third Round Housing Element and Fair Share Plan, included the Oster Site Redevelopment Plan as a mechanism to address the Borough's 385-unit realistic development potential with 45 units and 45 bonus credits. Subsequently, the 2025-adopted Fourth Round Housing Element and Fair Share Plan relied upon an additional 15 units and 15 bonus credits to address a portion of the Fourth Round realistic development potential of 87 units.

SECTION 3: Subsection §§ 3.2.2, Maximum Unit Yield and Affordable Housing Obligation, shall be amended as below:

3.2.2 Maximum Unit Yield and Affordable Housing Obligation

The development shall include ~~up to 120~~ a minimum of 101 residential units, of which 100 units shall be ~~Of the total number of residential units not less than 45 units shall be~~ affordable to low- and moderate-income households and one (1) shall be a superintendent's unit.

Low- and moderate-income units are required to comply with all applicable regulations of the Uniform Housing and Affordability Controls at N.J.A.C. 5:80-26.1 *et seq.*, particularly bedroom distribution, low and moderate-income split, affirmative marketing, deed restrictions, and controls on affordability. To the extent applicable, the requirements at NJ Fair Housing Act and N.J.A.C. 5:99, subject to and Federal Low Income Housing Tax Credit affordability requirements **shall also apply.**

SECTION 4: New subsection §§ 3.5.6 shall be added, as follows:

3.5.6 Affordable Housing Design

**COUNTY OF BERGEN  
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ORDINANCE 2026-08**

**The project shall be designed for compliance with the Uniform Housing and Affordability Controls at N.J.A.C. 5:80-26.1 et seq.**

SECTION 5: Chapter 7, entitled "Appendix: Concept Plans" shall be removed.

Attest:



Annemarie Krusznis, RMC/CMC  
Borough Clerk

Approved:



Christopher DiPiazza  
Mayor

Introduced: February 19, 2026

Final: March 10, 2026

**Appendix F: Evidence of Oster/Genesis Funding Strategy**

**Appendix G: Evidence of Transfer of Funds to Regan Development for  
Columbus Way**

*First Amendment to the Fourth Round Housing Plan Element and Fair Share Plan  
Borough of Paramus — Prepared: February 19, 2026*

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**Appendix H: Amended Administrative Manuals and Affirmative Marketing Plan**



**BOROUGH OF PARAMUS**  
**County of Bergen**  
**State of New Jersey**

**RESOLUTION NO. 26-03-156**

**Dated: March 10, 2026**

At a Regular Meeting of the Mayor and Council of the Borough of Paramus; County of Bergen, State of New Jersey, held on March 10, 2026.

**RESOLUTION ADOPTING AN "AFFIRMATIVE MARKETING PLAN" FOR THE  
 BOROUGH OF PARAMUS AFFORDABLE HOUSING**

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

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

**Affirmative Marketing Plan**

- A. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Borough of Paramus is located in Housing Region 1, consisting of Bergen, Hudson, Passaic, and Sussex Counties.
- B. The Borough of Paramus has a plan to address both its Prior Round Obligation (1987-2025) and its Fourth Round Obligation (2025-2035). This Affirmative Marketing Plan shall apply to all developments that contain or will contain very low-, low- and moderate-income units, including those that are part of the municipality's Housing Element and Fair Share Plan, and
- C. those that may be constructed in future developments not yet anticipated by the Housing Element and Fair Share Plan.



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- D. The Affirmative Marketing Plan shall be implemented by the Administrative Agent under contract to the Borough of Paramus, or the Administrative Agent of any specific developer approved by the municipality.
- E. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developers/sellers/owners of affordable unit(s), and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Administrative Agent.
- F. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days prior to expected occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very low-, low- and moderate-income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.
- G. The Affirmative Marketing Plan is a continuing program that shall be followed throughout the entire period of affordability restrictions. In implementing the Affirmative Marketing Plan, the Administrative Agent, whether acting on behalf of the Borough of Paramus or on behalf of a specific developer, shall meet the following requirements at a minimum:
1. The primary marketing and advertising must be employed at the start of the marketing program and continue until all units are leased or sold or until the number of applications received is at least three times the number of units. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.
  2. The advertisements shall, at a minimum, include:
    - a. The name and location of the housing project;
    - b. An address sufficient to find directions to the housing units;
    - c. A range of prices or rents for the affordable housing units;
    - d. The sizes, as measured in number of bedrooms of the affordable housing units;
    - e. The types (that is, family, age-restricted, or supportive) and number of affordable units available;
    - f. The number of units available to very low-, low-, and moderate-income households;
    - g. The accessibility features, if any, of the affordable housing units;
    - h. The maximum income permitted to qualify for the affordable housing units;
    - i. The population(s), if any, given preference in the selection process pursuant to N.J.A.C. 5:80-26.17(k)2;
    - j. Where applications (paper and online) for the affordable housing units may be found;



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- k. The expected lease-up/closing date(s) for the affordable housing units;
  - l. The expected date of the random selection;
  - m. The business hours when interested households may obtain paper applications for the affordable housing units;
  - n. Contact information, including an email address and phone number that are regularly monitored by the administrative agent;
  - o. The name of the sales agent and/or rental manager; and
  - p. Application fees, if any.
3. Affirmative fair marketing of affordable units must be completed in accordance with the requirements set forth in UHAC at N.J.A.C. 5:80-26.16 in all media and outlets required by the rules.
4. Each affordable housing development must complete worksheet substantially in the form of the model affirmative marketing worksheet published by the state.
5. Affordable units must be listed on the New Jersey Housing Resource Center's website ([www.njhrc.gov](http://www.njhrc.gov)) in accordance with N.J.A.C. 5:80-26.16(f)1 at least 60 days before the random selection.
6. Applications, or notices thereof, used as part of the affirmative marketing program must be available in the following locations:
- a. All county administration buildings in the Region
  - b. All county libraries in the Region
7. The Borough will provide special notice of available affordable housing units to FSHC, the Latino Action Network, Bergen County NAACP, Urban League of Bergen County, Bergen County Housing Coalition, the Supportive Housing Association
8. The municipality's Administrative Agent, or the Administrative Agent of a specific developer, shall comply with all requirements set forth in N.J.S.A. 52:27D-321.3 et seq. with regard to the affirmative marketing of affordable housing units.
- H. The municipality's Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Bergen, Hudson, Passaic, and Sussex Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers.
- I. The municipality's Administrative Agent shall develop, maintain and update a list of major employers in Bergen, Hudson, Passaic, and Sussex Counties that will aid in the affirmative marketing program.



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- J. A random selection method to select occupants of very low-, low- and moderate-income housing will be used by the municipality's Administrative Agent, or the Administrative Agent of any specific developer, in conformance with N.J.A.C. 5:80-26.16(d). This Affirmative Marketing Plan provides a regional preference for very low-, low- and moderate-income households that live and/or work in Housing Region 1, which is comprised of Bergen, Hudson, Passaic, and Sussex Counties, with a subordinate and secondary state-wide preference. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the municipality prior to the affirmative marketing of the units.
- K. All developers/owners of very low-, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the municipality's Administrative Agent.

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

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

Approved by a roll call vote: March 10, 2026

I hereby certify that this is a true and exact copy of resolution adopted by the Mayor and Council of the Borough of Paramus on the 10th day of March 2026

**Annemarie Krusznis, RMC, CMC**  
**Borough Clerk**

Motion Councilman Antonio, Second: Councilman Kaiser,  
Yeas: Councilman Antonio, Councilman Kaiser, Councilman Nadera, Councilwoman Rizzo,  
 Councilwoman Weber, Councilman Wilkins  
Nays: None  
Abstain: None  
Absent: None  
**Motion carries 6-0**

*First Amendment to the Fourth Round Housing Plan Element and Fair Share Plan  
Borough of Paramus — Prepared: February 19, 2026*

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**Appendix I: June 2025 Adopted Fourth Round Housing Element and Fair Share Plan**