SURENIAN, EDWARDS, BUZAK & NOLAN LLC

Jeffrey R. Surenian, Esq. ▲
Email – JRS@Surenian.com

Michael J. Edwards, Esq. ►
Email - MJE@Surenian.com

Edward J. Buzak, Esq.▼
Email – EJB@Surenian.com

Erik C. Nolan, Esq.
Email – EN@Surenian.com

Also admitted:
◄ CA▼DC ▲PA ■MA ►NY

A Limited Liability Company
Counselors at Law
311 Broadway, Suite A
Point Pleasant Beach, New Jersey 08742
Phone: (732) 612-3100
Fax: (732) 612-3101
www.Surenian.com

North Jersey location:
150 River Road, Suite N-4
Montville, NJ 07045
Phone: (973) 335-0600
Fax: (973) 335-1145

Keli L. Gallo, Esq.►
Email - KLG@Surenian.com

Susan L. Crawford, Esq.▲■
Email - SLC@Surenian.com

Nancy L. Holm, Esq. ▲
Email - NLH@Surenian.com

Jacquelin P. Gioioso, Esq.
Email - JPG@Surenian.com

William E. Olson, Esq.
Email - WEO@Surenian.com

March 13, 2026

Via eCourts
Honorable Sherri L. Schweitzer, P.J.Ch.
Camden County Hall of Justice
101 South 5th Street, Floor 6
Camden, New Jersey 08103

RE: In the Matter of the Application of the Township of Gloucester
Docket No. CAM-L-282-25

Dear Judge Schweitzer:

As the Court is aware, this office represents the Township of Gloucester with regard to affordable housing matters. In accordance with the Consent Order filed in this matter between the Township and Fair Share Housing Center ("FSHC"), and in accordance with the amended Fair Housing Act, N.J.S.A. 52:27D-304.1(f)(2)(c), please find the following documentation to be submitted in furtherance of the Township's application for a Certificate of Compliance:

1. Adopted, Amended Fourth Round Housing Element and Fair Share Plan ("HEFSP");
2. Planning Board Resolution Adopting the Amended Fourth Round HEFSP;
3. Council Resolution No. 26:03-104, Endorsing the Amended Fourth Round HEFSP;
4. Ordinance No. 26-06, Repealing and Replacing the Township's Affordable Housing Ordinance, as well as the Planning Board consistency resolution;
5. Ordinance No. 26-05, Repealing and Replacing the Township's Development Fee Ordinance, as well as the Planning Board consistency resolution;
6. Resolution No. 26:03-102 Adopting an Amended Spending Plan;
7. Resolution No. 26:03-104 Adopting an Affordability Assistance Manual;

8. Resolution No. 26:03-103 Adopting an Affirmative Marketing Plan; and
9. Resolution No. 26:03-106 Adopting a Rehabilitation Manual and attached Manual;
10. Resolution No. 26:01-051 Naming Triad as Township's Administrative Agent; and
11. All documentation listed in Paragraph 9biii of the Consent Order that is available has been previously submitted to FSHC. The Township has placed information requests for the supportive housing units and will supply that documentation to FSHC and the Court as it is received.

The Township has worked diligently to implement its Fourth Round HEFSP and all of the corresponding ordinances, agreements, and administrative documents. Should any documentation need to be corrected or amended, the City will do so timely, in accordance with the instructions of the Court and in collaboration with FSHC.

The Township extends its sincere appreciation to FSHC for working together with Gloucester to come to an agreement in an extremely short timeframe, and looks forward to finalizing its Fourth Round compliance with the Court in the coming months.

Respectfully submitted,

Nancy L. Holm

Nancy L. Holm

cc: Ashley J. Lee, Esq. (via eCourts and email)
Township of Gloucester (via email)
Steven Bach, PP, AICP (via email)

1

GLOUCESTER TOWNSHIP
Camden County, New Jersey

Amended Housing Element and Fair Share Plan

February 2026

Adopted by the Gloucester Township Planning Board on June 10, 2026

Amended Plan Adopted by the Gloucester Township Planning Board on March 3, 2026

Amended Plan Endorsed by the Gloucester Township Council on March 9, 2026 (Resolution R-26:03-105)

Steven M. Bach, PE, RA, PLS, PP, CME

Candace A. Kanaplue, AICP, PP

The original of this document was signed and sealed in accordance with NJAC 13:41-1.3.b

BACH Associates, PC
ENGINEERS • ARCHITECTS • PLANNERS

304 White Horse Pike, Haddon Heights, NJ 08035
(856) 546-8611 • Fax (856) 546-8612

Gloucester Township 2026 Planning Board

Michelle Marks, Chairwoman
Jimmy Coyle, Vice Chairman
Andrea MacPherson
Helen Albright-Troxell
Maureen Bergeron
Cathleen Bucceroni
Dennis Pfeil

Maryjo Dintino, Recording Secretary
Jenna Albano, Secretary

Steven M. Bach, PE, RA, PLS, PP, CME
Wade Dickey, Esq. Solicitor
Steven M. Bach, PE, RA, PP, CME, Engineer

2026 Gloucester Township Mayor and Council

Mayor David R. Mayer
Council President Orlando Mercado
Councilman Michael Mignone
Councilwoman Tara Walters
Councilwoman Helen Albright Troxell
Councilman Ciri Castro Jr.
Councilman James Nash
Councilwoman Carolyn Grace Love

Nancy Power, Township Clerk
Tom Cardis, Administrator
Vince Borrelli, Director of Community Development & Planning
Dan Hutchison, Esq. Director Department of Law
Remington and Vernick, Township Engineer

TABLE OF CONTENTS

I. INTRODUCTION 1

A. AFFORDABLE HOUSING IN NEW JERSEY 1
B. HOUSING ELEMENT AND FAIR SHARE PLAN REQUIREMENTS 3
C. MUNICIPAL SUMMARY 4
D. FAIR SHARE OBLIGATIONS 4
E. AFFORDABLE HOUSING HISTORY 6

II. HOUSING ELEMENT ANALYSIS 8

A. EXISTING HOUSING STOCK 8
B. DEMOGRAPHIC CHARACTERISTICS 11
C. EMPLOYMENT 16
D. PROJECTED HOUSING STOCK 17
E. FAIR SHARE CAPACITY 17

III. GLOUCESTER TOWNSHIP FAIR SHARE PLAN 18

A. CONTENTS OF A FAIR SHARE PLAN 18
B. REGIONAL INCOME LIMITS 18
C. REHABILITATION OBLIGATION COMPLIANCE 19
D. SUMMARY OF PRIOR, THIRD, AND FOURTH ROUND OBLIGATIONS (1987-2035) 20
E. PRIOR ROUND OBLIGATION COMPLIANCE (1987-1999) 20
F. THIRD ROUND OBLIGATION COMPLIANCE (1999-2025) 21
G. FORTH ROUND OBLIGATION COMPLIANCE (2025-2035) 24
E. ADDITIONAL PROVISIONS 26

APPENDICES

1. Municipal Resolution Adopting Fourth Round Affordable Housing Obligations

I. INTRODUCTION

A. AFFORDABLE HOUSING IN NEW JERSEY

The New Jersey Supreme Court ruled in 1975, in a decision now commonly referred to as "*Mount Laurel I,*" that developing municipalities in New Jersey have a constitutional obligation to provide a realistic opportunity for the construction of low and moderate income housing. Then in 1983 in the "*Mount Laurel II*" decision, the Supreme Court went further, creating an incentive for private developers to enforce the Mount Laurel doctrine by suing municipalities that have not chosen to comply with the *Mount Laurel* principles. Needing a mechanism to implement the *Mount Laurel* doctrine, the legislature adopted the Fair Housing Act (N.J.S.A. 52:27D-310) in 1985, and created the Council on Affordable Housing as the administrative alternative to dealing with affordable housing cases through the courts. COAH was given the responsibility to establish housing regions, estimate low and moderate income housing needs, set criteria for municipalities to determine and address their fair share affordable housing numbers, and review and approve housing elements and fair share plans.

On December 20, 2004, COAH's first version of the Third Round rules became effective. At that time the Third Round was to cover the time period from 1999 to 2014, since the First and Second Round covered the 1987 to 1999 period. The Third Round affordable housing delivery period was to run from January 1, 2004 through January 1, 2014. After much legal debate on the Third Round Rules, on March 10, 2015, the Supreme Court ruled that the New Jersey Council on Affordable Housing (COAH) failed to act, and as a result, the Courts assumed jurisdiction over municipal compliance with the Mount Laurel doctrine and the Fair Housing Act.

The Township's Third Round Housing Element and Fair Share Plan was prepared utilizing the Prior Round Rules (N.J.A.C. 5:91 Procedural and N.J.A.C. 5:93 Substantive) as well as the guidance provided in the March 5, 2018 Settlement Agreement - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15, the December 16, 2021 Amended Settlement Agreement - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15, and the April 14, 2022 Conditional Judgment of Repose - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15.

On March 20, 2024, Governor Murphy signed A4/S50 into law ushering in substantial amendments to the New Jersey Fair Housing Act (FHA) and significantly altering the manner in which municipalities will determine their Fourth Round "fair share" obligations, maintain immunity from Mount Laurel lawsuits, respond to objections, and secure approval of their Fourth Round Housing Element and Fair Share Plans. The new affordable housing legislation, A-4 and S-50, establishes processes for calculating municipal housing obligations, compliance filing deadlines, procedures for challenges and dispute resolution mechanisms. The legislation includes considerable amendments to the New Jersey Fair Housing Act and significantly changes the manner in which municipalities will determine their Fourth Round "fair share" obligations, maintain immunity from Mount Laurel lawsuits, respond to objections, and secure approval of their Fourth Round Housing Element and Fair Share Plans.

The amended FHA does the following:

1. Abolishes the Council on Affordable Housing (COAH);

2. Requires the DCA to calculate municipal "fair share" numbers;

3. Establishes a process for municipalities either to accept the DCA's numbers or to determine and substantiate their own present and prospective fair share obligations based on the formulas established in the bill;

4. Creates parameters for fair share plans, such as age-restricted unit maximums, "family-rental" minimums, bonus credit maximums, etc.;

5. Identifies various compliance techniques;

6. Provides criteria for municipalities to secure and maintain Fourth Round "temporary immunity" from exclusionary zoning/builder's remedy lawsuits during the process;

7. Permits interested parties to file formal challenges to the numbers and fair share plans, which will be addressed by the new "Affordable Housing Dispute Resolution Program;"

8. Provides a process for fair share plan approval either through the DCA or the courts via declaratory judgment actions; and

9. Delineates ongoing post-approval municipal monitoring and reporting requirements.

The amended FHA also establishes a series of deadlines for actions to be taken prior to, and after, the beginning of Fourth Round in July of 2025. These are:

January 31, 2025: Deadline for Towns to adopt their numbers via "Binding Resolution" (with or without using the DCA's numbers) thereby establishing temporary immunity.

This was completed via Resolution No. 2025-01-051, adopted by Township of Gloucester on January 27, 2025 and filed with the Program in a Declaratory Judgment action under the caption, In the Matter of the Application of the Township of Gloucester, County of Camden – Complaint for Fourth Round Declaratory Relief, Docket No.: CAM-L-000279-2, dated 1/28/2025.

February 28, 2025: Deadline to challenge the town's Binding Resolution and adopted numbers.

No challenge was made by Gloucester Township.

March 1, 2025: If no challenges are filed by interested parties, the Town's numbers are established by default and immunity remains in effect.

No challenges were filed by interested parties.

April 1, 2025: Deadline for the Affordable Housing Dispute Resolution Program ("AHDRP") to settle the number challenge(s). Not applicable to Gloucester Township.

June 30, 2025: Deadline to adopt and endorse a Housing Element and Fair Share Plan and file with the AHDRP to maintain temporary immunity.

July 1, 2025: First day of Fourth Round

August 31, 2025: Deadline to challenge the validity of a Town's Housing Element and Fair Share Plan.

December 31, 2025: Deadline for the Town to settle the challenge or provide an explanation as to why it will not make all, or some of the requested changes, or both.

March 15, 2026: Deadline for the fourth round of affordable housing obligations, the implementing ordinances and resolutions, proposed, and incorporating any changes from the program, shall be adopted. Failure to meet the March 15 deadline shall result in the municipality losing immunity from exclusionary zoning litigation.

B. HOUSING ELEMENT AND FAIR SHARE PLAN REQUIREMENTS

The Township must prepare and submit both a Housing Element (an element of Master Plan) and Fair Share Plan (describing how the Township will address the obligation). The requirements of the Housing Element are outlined below (N.J.A.C. 5:97-2.1, 2.3 and N.J.S.A. 52:27D-310).

The Housing Element must review and analyze the Township's housing stock, demographic and employment characteristics, leading into the Fair Share Plan, which will demonstrate how the Township will make an effort to provide for its Fair Share obligation. The Housing Element must provide an analysis demonstrating that the plan will provide a realistic opportunity to meet the housing Township's obligations and identify which ordinances must be revised to incorporate the provisions for low and moderate income housing. A municipality's housing element must be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing.

1. Housing Element Requirements under the Fair Housing Act:

A municipality's housing element shall be designed to achieve the goal of access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, and shall contain at least:

a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;

b. A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;

c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;

d. An analysis of the existing and probable future employment characteristics of the municipality;

e. A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);

f. A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;

g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20); and

i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

C. MUNICIPAL SUMMARY

The land area of Gloucester Township is 23.24 square miles and is located in south central Camden County. Gloucester Township is bordered by Runnemede, Magnolia, Somerdale, Hi-Nella, Stratford, Lindenwold and Pine Hill Boroughs and Winslow and Washington and Deptford Townships.

The 2023 population estimate for Gloucester Township is 66,245 persons based on ACS Census Bureau data as the number of certificates of occupancy, less any demolition permits, multiplied by the average number of persons per unit.

D. FAIR SHARE OBLIGATIONS

1. Prior Round (1987-1999) and Third Round (1999-2025) Obligations

As a result of a March 5, 2018 Settlement Agreement - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15, the December 16, 2021 Amended Settlement Agreement - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15, and the April 14, 2022 Conditional Judgment of Repose - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15; the Township's affordable housing obligation was determined to be rehabilitation need (2015) of 135 units, Prior Round (1987-1999) need of 359 units, and prospective need (1999-2025) of 1,014 units.

Included in the March 5, 2018 Settlement Agreement was the provision:

> 15. *The parties agree that if a decision of a court of competent jurisdiction in Camden County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Township for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Township may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Township shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms to address unmet need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Township's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its prospective need for the Third Round, the Township may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.*

This provision remained unchanged by the December 16, 2021 Amended Settlement Agreement and the April 14, 2022 Conditional Judgment of Repose.

On March 8, 2018, Mercer County Assignment Judge Mary C. Jacobson issued her opinion on the methodology for the calculation of affordable housing obligations under New Jersey's "Mount Laurel Doctrine" for two Mercer County municipalities.

While this plan utilizes the Third Round Obligation of 1,014 as stipulated under the March 5, 2018 Settlement Agreement, the Township reserves the right to pursue action in regards to the provisions of article 15 of settlement agreement and the Jacobson decision methodology which may result in a lower Third Round Obligation.

Gloucester Township Affordable Housing Obligations 1987-2025 (March 5, 2018 Settlement Agreement)	
Rehabilitation (Present Need 2015)	98
Prior Round (1987 – 1999)	359
Third Round (Prospective Need 1999-2025)	1,014

2. Fourth Round Obligations (2025-2035)

Under the Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background as issued by the New Jersey Department of Community Affairs (NJDCA), the Township's Fourth Round (2025-2035) obligations are:

Gloucester Township Affordable Housing Obligations (NJDCA)	
Rehabilitation (Present Need 2025)	221
Fourth Round (Prospective Need 2025-2035)	339

E. AFFORDABLE HOUSING HISTORY

A Summary of Gloucester Township's historic affordable housing timeline is provided below:

First and Second Round Obligation

1. On March 6, 1996, the Township of Gloucester secured substantive certification of its cumulative Cycle I/Cycle II Housing Element and Fair Share Plan ("Cycle II Plan") from the New Jersey Council on Affordable Housing ("COAH").

2. By voluntarily complying with its Mount Laurel obligations through COAH's administrative process, Gloucester Township secured immunity from Mount Laurel lawsuits until December 20, 2005.

3. While the Township was implementing its approved Cycle II Plan, COAH adopted its initial Cycle III regulations, which became effective on December 20, 2004.

Third Round Obligation

COAH first proposed Third Round substantive and procedural rules in October, 2003. 35 N.J.R. 4636(a); 35 N.J.R. 4700(a). Those rules remained un-adopted and COAH re-proposed both the substantive and procedural Third Round rules (N.J.A.C. 5:94 and 5:95) in August of 2004 and adopted the same effective on December 20, 2004. (the "2004 Regulations")

The Township of Gloucester's Third Round participation may be summarized as follows:

1. The Township commenced work on its initial Third Round Plan, but that work was suspended when, on January 25, 2007, the Appellate Division struck down COAH's original Third Round Methodology. See In re Adoption Of N.J.A.C. 5:94 and 5:95 By New Jersey Council On Affordable Housing, 390 N.J.Super. 1 (App. Div.), certif. denied 192 N.J. 72 (2007).

2. In August of 2008, COAH adopted amended Cycle III regulations, which became effective on October 20, 2008.

3. Pursuant to those amended regulations, the deadline for a municipality to adopt, endorse, and file its amended Cycle III plan was December 31, 2008.

4. On December 31, 2008, the Township met COAH's deadline and filed its duly adopted and endorsed Cycle III plan ("2008 Plan"), and petitioned COAH for Cycle III certification.

5. However, after COAH granted a number of reasonable extensions of the deadline to repetition, the Appellate Division again invalidated COAH's regulations in In Re the Adoption of 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 416 N.J.Super. 462 (App. Div. 2010).

6. On March 5, 2018 the Township entered into a Settlement Agreement - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15,.

7. On December 16, 2021 the Township entered into an Amended Settlement Agreement - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15.

8. On January 22, 2022 the Township Planning Board adopted the Gloucester Township, Camden Conty, New Jersey – Housing Element and Fair Share, Revised June 2022.

9. On April 14, 2022 Conditional Judgment of Repose - In the Matter of the Application of the Township of Gloucester, County of Camden, Docket No. CAM-L-2610-15 was granted.

II. HOUSING ELEMENT ANALYSIS

A. EXISTING HOUSING STOCK

An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards.

According to the Census estimate, in 2023 there were 26,296 year-round housing units in Gloucester Township, of which 25,226 were occupied and 1,070 were vacant. In 2023 the vacancy rate was 1.4% for homeowners and 8.8% for rentals.

1. Age of Housing Stock

The Gloucester Township housing stock is younger than the majority of the County stock and the number of persons per household is slightly larger than that of the county. The median year for housing unit construction in Gloucester Township is 1978.

	Persons Per Household	% Housing Stock Built 1939 or Earlier	Median Year Structure Built
Gloucester Township	2.61	5.4	1978
Camden County	2.58	18.1	1967

Source: U.S. Census Bureau, 2023 ACS

Gloucester Township Age of Housing Stock		
Year Constructed	Number of units	Percent of Total in Year 2023
2020 or later	298	1.1
2010 to 2019	729	2.8
2000 to 2009	1602	6.1
1990 to 1999	4373	16.6
1980 to 1989	4538	17.3
1970 to 1979	8209	31.2
1960 to 1969	2457	9.3
1950 to 1959	1777	6.8
1940 to 1949	886	3.4
1939 or earlier	1427	5.4

According to the residential building permit data from the New Jersey Department of Community Affairs, 49 residential certificates of occupancy were issued between 2020 and 2023 in the Gloucester Township.

2. Condition and Substandard Units

Of the 25,226 occupied housing units in existence in 2023, 142 units were reported to be without complete plumbing facilities and 142 units were lacking complete kitchen facilities. 549 units within the Township are estimated to have more than one (1) occupants per room. An assessment of the number of substandard units capable of being rehabilitated may be made by considering the number of homes without complete plumbing and kitchen facilities since this information is provided in the Census sample data, but there are other factors to consider as well. Occupied housing units with a low a market value relative to the average in the area may be an indicator of potential for rehabilitation. COAH has also used "crowding" and the age of the housing units to estimate the number of units in need of rehabilitation. There are surely at least a few units that are in need of rehabilitation, within the Township.

The table below presents a breakdown of the Township's housing stock by number of rooms as they relate to County averages. The Township has a larger percentage of homes with more than six rooms than Camden County overall, with the median number of rooms in the Township at 6.6 per housing unit.

Gloucester Township Number of Rooms in Housing Units			
Gloucester Twp # of Rooms	Gloucester Twp # of Units	Gloucester Twp %	Camden County
1	336	1.3	2
2	850	3.2	2.6
3	2,009	7.6	9.7
4	2,712	10.3	13.5
5	3490	13.3	14.9
6+	16,899	64.2	57.3
Median for Gloucester Twp	6.6 rooms		5.9 rooms

3. Ownership and Rental Characteristics

A majority, 75.2 percent, of Gloucester Township's population live in owner occupied housing units, while 24.8 percent of the population lived in rented housing units in 2023. 75 percent of the total housing units in Gloucester Township are single family dwellings (rented and owned), 0.4 percent are mobile homes.

Year Round Housing Units			Owner-occupied		Rental	
Occupied	Vacant	Total	No.	%	No.	%
25,226	1,070	26,296	18,980	75.2%	6,246	24.8%

4. Occupancy Characteristics and Housing Type

The vacancy rate for year round units is low in the Township, 1.4% vacancy for owner-occupied units and 8.8% occupancy for rental units. The average household size in the Township is 2.81 persons per owner occupied units and 2.01 for renter occupied units.

The number of bedrooms in a home is often reflective of the size of a home. The municipalities with a newer housing stock have a larger percentage of units with more bedrooms. This is reflective of the trend toward larger, more sprawling homes in America over the last several decades. Gloucester Township has an older stock of homes and therefore lends itself to a larger percentage of homes with two to three bedrooms.

	Bedroom Distribution Percent of Housing Stock With:		
	One or less Bedrooms	2 - 3 Bedrooms	4+ Bedrooms
Gloucester Township	11.2%	56.7%	32.1
Camden County	16.1%	60%	24%

Source: U.S. Census Bureau, ACS 2023 DP04

Percent Distribution of Housing Units by Structure Type Gloucester Township		
	Number of units	Percentage
1 (detached)	16,011	60.9
1 (attached)	3,712	14.1
2	1,026	3.9
3-4	714	2.7
5-9	1,282	4.9
10-19	1,004	3.8
20+	2,443	9.3
Mobile	104	0.4
Other	0	0
Total	26,296	100%

Source: U.S. Census Bureau, ACS 2023 DP04

Selected Housing or Housing-Related Value Characteristics				
	Median Value Housing	Median Contract Rent	Median Household Income	Rental Vacancy Rate (%)
Gloucester Township	$294,900	$1,328	$95,161	8.8%

Source: U.S. Census Bureau, ACS 2023

B. DEMOGRAPHIC CHARACTERISTICS

1. Historic Population Trends

Gloucester Township's population increased 120% between 1950 and 1960, and continued to grow consistently through 2000. The population started to level off between 2000 and 2010 but has since been rising steadily, with its current 2023 estimate of 66.245. The table below shows the population changes from 1940 through 2023.

Gloucester Township, Camden County Population									
1940	1950	1960	1970	1980	1990	2000	2010	2020	2023*
6,198	7,952	17,591	26,511	45,156	53,797	64,350	64,634	66,034	66,245

Table 6. New Jersey Resident Population by Municipality 1930-1990; * US Census, estimate

2. Recent Population Change

Between 2010 and 2023, the population in Gloucester Township increased from 64,634 to 66,245, an increase of 1,611 people or 2.5%.

3. Population Density

In 2023, the estimated population density in Gloucester Township was 2,848 people per square mile, which is more than Camden County's and State's population density overall.

Gloucester Township and Surrounding Municipalities Density Indicators			
	Square Miles	Population per sq mile	Housing units per sq mile
Gloucester Twp	23.26	2,848	1,158
Camden County	227.29	2,319	941
New Jersey	8,722.58	1,065	436

Source: Calculated from U.S. Census Bureau, 2023 ACS data

4. Age of Population

The table below provides a breakdown of Gloucester Township's population estimates by age cohorts and gender in 2023. The largest age cohort is 65+ years of age bracket, with 16.3% of the total population. The second largest age cohort is the 45-54, with 14.7% of the population.

Gloucester Township Summary Population Characteristics 2023		
	Number of People	% of Total
Male	31,876	48.1%
Female	34,369	51.9%
Total	66,245	100.0
Under 5	4,087	6.2%
5 – 14	7,823	11.8%
15 – 24	8,919	13.4%
25 – 34	9,091	13.7%
35 - 44	7,461	11.3%
45 - 54	9,781	14.7%
55 - 64	8,236	12.4%
65+	10,847	16.3%
Median Age	39.8	N/A

Source: U.S. Census Bureau, 2023 ACS

5. Household Characteristics

The next table includes family and household characteristics of the Township. In 2023, there were 25,226 households and 15,719 families in Gloucester Township with an average of 2.61 persons per household. The table below indicates that Gloucester Township is comprised of a majority of married/cohabitating couple households (57.3%) with the second largest household type being non-family householders at 42.7%.

	Number of Households	Percent
Married / Cohabiting Couple Family	14,455	57.3
with children	4,738	18.8
Male Householder, no spouse	4,479	17.8
with children	151	0.6
Female householder, no spouse	6,292	24.9
with children	1,113	4.4
Total Households	25,226	100

Source: 2023 ACS

6. Income Level & Poverty Status

Gloucester Township has higher percentages of households in higher income brackets than the County overall. The Township had a 2023 household median income of $95,161, compared with the Camden County household median income of $83,763. 7.7% percent of Gloucester Township's families had household incomes below the federal poverty level, compared with 12.5% in the County.

State affordable housing regulations define low income (those earning up to 50% of the median household income for the region) and moderate income households (those earning from more than 50% to 80% of the median household income for the region). The figures are adjusted for household size and the municipality's geographic location since cost of living differs among regions.

Gloucester Township is located within Region Five, which includes Camden, Gloucester and Burlington Counties. The 2025 income guidelines for Region Five (based on household size) range from $66,880 (one person household) to $95,520 (four person household) for the upper limits of what is considered moderate income; and $41,800 (one person household) to $59,700 (four person household) for the upper limit of what is considered low income. Median 2023 income for the region ranges from $83,600 to $119,400.

Gloucester Township 2023 Household Income						
	Gloucester Township		Camden County		New Jersey	
	Households	Gloucester Twp %	Households	Camden County %	Households	State %
Less than $10,000	832	3.3	10,890	5.4	152,154	4.3
10,000 - 14,999	605	2.4	6,655	3.3	99,077	2.8
15,000 - 24,999	1,186	4.7	11,697	5.8	180,461	5.1
25,000 - 34,999	1,514	6	14,117	7	184,000	5.2
35,000 - 49,999	1,160	4.6	19,360	9.6	279,538	7.9
50,000 - 74,999	3,960	15.7	27,427	13.6	467,076	13.2
75,000 - 99,999	4,364	17.3	26,620	13.2	410,461	11.6
100,000 - 149,999	5,802	23	37,511	18.6	640,461	18.1
150,000 - 199,999	3,506	13.9	21,175	10.5	403,384	11.4
200,000 +	2,270	9	26,217	13	721,845	20.4

Source: U.S. Census Bureau, 2023 American Community Survey 5-year Estimates

Gloucester Township 2023 Income Levels			
	Gloucester Township	Camden County	New Jersey
Median Household Income	$95,161	$83,763	$99,781
Median Family Income	$117,626	$105,859	$121,944
Poverty Status (Percent of people)	7.7%	12.5%	9.7
Poverty Status (Percent of families)	6.3%	9.4%	7.1

Source: U.S. Census Bureau, 2023 American Community Survey 5-year Estimates

7. Employment Status of Residents

Of the 53,812 estimated residents aged sixteen and over in 2023, 37,692 were in the labor force (70%). 3.9 percent of the labor force was listed as unemployed in the 2023 ACS. The mean travel time to work for Township residents is 30.3 minutes.

The employment data included in the US Census for the Gloucester Township residents provides a picture of what types of work Township residents are involved in, but does not indicate where those jobs are located. As indicated in the table below, the most significant employment activities of the employed residents are Educational, Health and Social Services with 30.4%, followed by retail trade with 14% and Professional, Scientific, Management, Administrative, and Waste Management Services with 9.3%.

	Gloucester Twp	
Industry Code	Jobs	%
1 Agriculture, Forestry, Fisheries & Mining	0	0
2 Construction	2764	8
3 Manufacturing	1427	4
4 Wholesale Trade	935	3
5 Retail Trade	4934	14
6 Transportation, Warehousing, Utilities	2953	8
7 Information	735	2.1
8 Finance, Insurance, Real Estate, Rental	1630	4.6
9 Prof., Sci., Mgmt., Admin Services	3316	9.3
10 Educ. Health, Social Services	10816	30.4
11 Arts, Entertainment, Recreation, Food	2719	7.6
12 Other Services	1811	5.1
13 Public Administration	1537	4.3

Source: U.S. Census Bureau, 2023 American Community Survey 5-year

Occupation of Gloucester Twp Residents			
	# Persons	% GT	% Camden County
Management, Professional. & Related	15316	43.1	42.4
Service	6111	17.2	17.2
Sales and Office	7890	22.2	20.8
Natural resources, Construction & Maintenance	2671	7.5	7.3
Production, Transp. & Material Moving	3589	10.1	12.4
Total	**35,577**	**100**	**100**

Source: U.S. Census Bureau, 2023 American Community Survey 5-year

C. EMPLOYMENT

1. Employment Trends and Outlook

The Delaware Valley Regional Planning Commission publishes employment projections. Employment in Gloucester Township is expected to rise through 2050, with a 5.6% increase.

Gloucester Township, DVRPC Projected Employment									
Year	2020	2025	2030	2035	2040	2045	2050	Change 2025-50	% change
Projected Employment	21,877	24,176	23,940	23,697	24,307	25,361	25,523	1,347	5.6%

Source: DVRPC 2050 Employment Forecasts, 2020-2050

D. PROJECTED HOUSING STOCK

Residential growth in Gloucester Township has increased since 2008. In 2016 to 2021, residential growth increased steeply.

Historic Trend of Certificates of Occupancy and Demolition Permits																
	'08	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18	'19	'20	'21	'22	'23
COs Issued	10	4	13	1	1	1	0	0	69	0	69	4	23	22	4	0
Demolitions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Net	10	4	13	1	1	1	0	0	69	0	69	4	23	22	3	0

Source: New Jersey Construction Reporter

E. FAIR SHARE CAPACITY

1. Availability of Land

All portions of Gloucester Township are located in State Planning Area 1, with the exception of the Lakeland Complex, on the border with Washington and Deptford Townships in Gloucester County. The Lakeland Complex is in Planning Area 2. There is sufficient vacant land and redevelopment areas to accommodate the Township's affordable housing obligations.

2. Availability of Existing and Planned Infrastructure

Water and sewer infrastructure as well as other utilities such as natural gas services are readily available in the Township.

III. Gloucester Township's Fair Share Plan

A. CONTENTS OF A FAIR SHARE PLAN

The Fair Share Plan contains the following information:

- Description of existing credits intended to satisfy the obligation;
- Description of mechanisms that will be used to meet any outstanding obligation; and
- An implementation schedule that sets forth a detailed timetable for units to be provided.

In adopting its housing element, a municipality may provide for its fair share of low and moderate income housing by means of any technique or combination of techniques that provide a realistic opportunity for the provision of the fair share. As per N.J.A.C. 5:93, these potential techniques include but are not limited to:

-
- Rehabilitation of existing substandard housing units;
- ECHO units (as a Rehabilitation credit);
- Municipally-sponsored and 100% affordable developments;
- Zoning for inclusionary development;
- Alternative living arrangements;
- Accessory apartment program;
- Purchase of existing homes;
- Write-down/buy-down programs; and
- Assisted living residences.

B. REGIONAL INCOME LIMITS

Dwelling units are affordable to low and moderate income households if the maximum sales price or rental cost is within their ability to pay such costs, based on a specific formula. The State provides income limits based upon the median gross household income of the affordable housing region in which the household is located. A moderate income household is one with a gross household income equal to or more than 50%, but less than 80%, of the median gross regional household income. A low income household is one with a gross household income equal to 50% or less of the median gross regional household income. Very-low income households are those with a gross household income equal to 30% or less of the median gross household income. Gloucester Township is located in Region 5, which contains Burlington, Camden and Gloucester Counties.

Using the 2025 regional income limits, a four-person household moderate income is capped at $95,520. Two-person households could make up to $76,480 and be considered a moderate income household or earn up to $47,800 and be considered a low income household. See the table on the following page for greater detail.

2025 REGIONAL INCOME LIMITS FOR REGION 5				
	1 Person	2 Person	3 Person	4 Person
Median	$83,600.00	$95,600.00	$107,500.00	$119,400.00
Moderate	$66,880.00	$76,480.00	$86,000.00	$95,520.00
Low	$41,800.00	$47,800.00	$53,750.00	$59,700.00
Very Low	$25,080.00	$28,680.00	$32,250.00	$35,820.00

Source: UHAC 2025 Affordable Housing Regional Income Limits by Household Size

C. REHABILITATION OBLIGATION COMPLIANCE

The Opinion issued by the Supreme Court of New Jersey on March 10, 2015 states that "the Appellate Division also approved a methodology for identifying substandard housing that used fewer surrogates [or indicators] to approximate the number of deficient or dilapidated housing units". The Order states that three indicators was not an abuse of discretion. The three indicators utilized are old and over-crowded units, homes with incomplete plumbing and housing units with incomplete kitchens.

Pursuant to the "NJDCA Affordable Housing Obligations for 2025-2035 (Fourth Round Methodology and Background)", the Township has a rehabilitation requirement of 221 which will addressed through funds in the Affordable Housing Trust Fund and through participation with the Township's rehabilitation program, which administers with the use of Township CDBG and HOME funds.

N.J.A.C. 5:93-5.2(g) and (h) requires $10,000 to be spent per unit and a six-year control on affordability for owner-occupied units Rental units are required to have ten-year controls on affordability. Additionally a major system must be repaired in order for a home to qualify as a credit. Section II of this report indicates the condition of houses from the most recently available census data.

1 The rules specifically require a minimum of $2,000 per unit to be spent on administration and $8,000 per unit to be spent on the rehabilitation activity, which totals at least $10,000.

2 A major system is defined by N.J.A.C. 5:93-5.2(b) as weatherization, a roof, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems) and/or a load bearing structural system.

D. SUMMARY OF PRIOR, THIRD, AND FOURTH ROUND OBLIGATIONS (1987 – 2035)

Gloucester Township Affordable Housing Obligations 1987-2035	
Rehabilitation (Present Need 2025)	221
Prior Round (1987 – 1999)	359
Third Round (Prospective Need 1999-2025)	1,014
Fourth Round (Prospective Need 2025-2035)	339

E. PRIOR ROUND OBLIGATION COMPLIANCE (1987 - 1999)

The Township had a Prior Round obligation of 359 units and satisfied this obligation per the following:

1. Quail Ridge, an affordable family rental development with 40 units and 40 bonus credits.
2. Revere Run (1 Harbor Lane, Block 14102, Lot 17), an affordable for-sale family development with 37 units.
3. Brittany Woods, an affordable family rental development with 29 units and 29 bonus credits.
4. Valley Stream, an affordable for-sale development with 8 units.
5. Revere Run III (Block 14102, Lot 17) a 100% municipally sponsored family rental affordable housing project. 79 townhouse units are located within this development which resulted in 79 credits and 20 bonus credits.
6. Gloucester Township Housing Authority Senior Campus I (Camden County Lakeland Campus Redevelopment) Block 12301, Lot 1) is an existing senior rental complex with 75 units.
7. 2 of the 24 units in the Multiple Sclerosis Association of America (MSAA) supportive housing facility. Surplus of 22 units carried to Third Round.

PRIOR ROUND OBLIGATION COMPLIANCE (1987- 1999) SUMMARY TABLE				
Name of Project	Type	Units	Bonus Credits	Total
Quail Ridge	Family Rental	40	40	80
Revere Run	Family For-sale	37		37
Brittany Woods	Family Rental	29	29	58
Valley Stream	Family For-sale	8		8
Revere Run III	Family Rental	79	20	99
Gloucester Township Housing Authority Senior Campus 1	Senior Rental	75		75
MSAA Supportive Housing	Supportive Housing	2		2
TOTAL		270	89	359

The above provides 270 units and 89 bonus credits for a total of 359 credits.

Testing Requirements (Per Round 3 Settlement Agreement):

Min rental obligation 0.25 x 359 = 90 Provided 223

Max senior 0.25 x 359 = 89 Provided 75

Max bonus 0.25 x 359 = 89 Provided 89

F. THIRD ROUND OBLIGATION COMPLIANCE (1999 - 2025)

The Township had a prior round obligation of 1,014 units and satisfies this obligation per the following:

1. Franklin Square Senior Village. 224 unit existing affordable senior rental development.

2. Scenic Falls existing affordable family rental development with 99 units and 99 bonus credits.

3. Blackwood West (Southwind) Redevelopment Area 100 family rental housing units (under construction). This approval is an inclusive 495 unit apartment/townhouse development. 100 affordable family units and 100 bonus credits.

4. Remaining 22 of the 24 units in the Multiple Sclerosis Association of America (MSAA) supportive housing facility. 22 supportive special needs units with 22 bonus credits.

5. 1495 Chews Landing Road (Block 8401 Lot 12.02) as an adopted Inclusionary Apartment overlay zone, allowing for a maximum of 72 units (14 du/acre) with a 15% required affordable housing set aside per adopted zoning overlay. 11 affordable family rental units with 11 bonus credits.

6. M & T Partners, LLC Development (Block 12302, Lot 1.06). 120 family rental residential development with 15% inclusion affordable set-aside (18 units) in accordance with Lakeland Aea Redevelopment Plan (Phase 3) adopted August 24, 2020. 18 affordable family rental units.

7. Volunteers of America - Regan Center Camden County Emergency Housing (508 A Lakeland Road, Blackwood, NJ). 23 units supportive housing units for homeless.

8. Camden County Supportive Housing (Collier Drive). 60 units supportive housing facility for the homeless under construction by Camden County.

9. Elmwood Hills Healthcare Center (425 Woodbury Turnersville Road). 300 bed rehabilitation and long term care facility with 10% Medicaid eligibility set aside. 30 supportive needs units.

10. Camden County Veterans Cottages at Lakeland. 5 veteran supportive housing units.

11. Camden County Lakeland Complex Redevelopment, Phase 2 (420 Turnersville Road, Block 12302, Lot 1). Zoning adopted by means of existing Redevelopment Plan to permit mix of hosing types single family (4 du/a) , townhomes (8 du/a), and apartments (25 du/a) with 20% set-aside for townhomes and apartments. Redevelopment Plan last amended per Township Ordinance O-20-05. 181 affordable family units. (77 for sale townhomes and 104 rental apartments). Credit taken for 77 for sale townhomes and 92 of the 104 family rental units. 21 bonus credits also taken for 21 of the 87 family rental units. Surplus of 12 units carried to Fourth Round.

THIRD ROUND OBLIGATION COMPLIANCE (1999 - 2025) SUMMARY TABLE				
Name of Project	Type	Units	Bonus Credits	Total
Franklin Square Senior Village	Senior Rental	224		224
Scenic Falls	Family Rental	99	99	198
Blackwood West	Family Rental	100	100	200
MSAA Supportive Housing	Supportive Housing	22	22	44
1495 Chews Landing Road	Family Rental	11	11	22
M & T Partners LLC Development	Family Rental	18		18
Volunteers of America	Supportive Housing	23		23
Camden County Supportive Housing (Collier Drive)	Supportive Housing	60		60
Elmwood Hills Healthcare Center	Supportive Housing	30		30
Camden County Veterans Cottages at Lakeland	Supportive Housing	5		5
Camden County Lakeland Complex Redevelopment, Phase 2 (420 Turnersville Road, Block 12302, Lot 1).	Family For-sale	77		77
Camden County Lakeland Complex Redevelopment, Phase 2 (420 Turnersville Road, Block 12302, Lot 1).	Family Rental	92	21	113
TOTAL		761	253	1,014

The above provides 761 units and 253 bonus credits for a total of 1,014 credits.

Round 3 Testing Requirements:

Min rental obligation 0.25 x 1,014 = 254 Provided 544

Max senior 0.25 x 1,014 = 253 Provided 224

Max bonus 0.25 x 1,014 = 253 Provided 253

G. FOURTH ROUND OBLIGATION COMPLIANCE (2025 - 2035)

The Township has a Fourth Round obligation of 339 units and satisfies this obligation per the following:

1. Brittany Woods, an affordable family rental development with 29 units. 2022 extension of affordability controls (30 years). 29 family rental units with 14 bonus credits.

2. Camden County Lakeland Complex Redevelopment, Phase 2 (420 Turnersville Road, Block 12302, Lot 1). Zoning adopted by means of existing Redevelopment Plan to permit mix of hosing types single family (4 du/a) , townhomes (8 du/a), and apartments (25 du/a) with 20% set-aside for townhomes and apartments. Redevelopment Plan last amended per Township Ordinance O-20-05. 181 affordable family units. (77 for sale townhomes and 104 rental apartments). Credit taken for remaining 12 of the 104 family rental units.

3. Camden County Lakeland Complex Redevelopment, Phase I (420 Turnersville Road, Block 12301, Lot 4). Zoning adopted by means of existing Redevelopment Plan to permit inclusionary family apartments 25 du/a, 20% set-aside. 10 acres = 250 units (Per Lakeland Complex Phase I (Block 12301) Redevelopment Plan last amended per Township Ordinance O-20-04. 50 affordable family units.

4. Camden County Lakeland Complex Redevelopment, Phase I (420 Turnersville Road, Block 12301, Lot 1). Zoning adopted by means of existing Redevelopment Plan to permit inclusionary family apartments 25 du/a, 20% set-aside. 15 acres = 370 units (Per Lakeland Complex Phase I (Block 12301) Redevelopment Plan last amended per Township Ordinance O-20-04. 74 affordable family units.

5. Vision Stream development which approval was memorialized by the Gloucester Township Zoning Board by Resolution ZB-25-026 on December 10, 2025. This development contains 177 assisted living units of which 18 (10% Medicaid) of the units will be set aside for affordable, 149 independent living units, 213 age restricted rental units of which 32 units will be affordable, and 284 family rental units of which 43 units will be affordable. Total of 93 affordable units.

6. Quail Ridge, an affordable family rental development with 40 units. Proposed 2030 extension of extension of affordability controls (30 years). 40 family units with 20 bonus credits.

FOURTH ROUND OBLIGATION COMPLIANCE (2025 - 2035) SUMMARY TABLE				
Name of Project	Type	Units	Bonus Credits	Total
Brittany Woods	Family Rental	29	14	43
Camden County Lakeland Complex Redevelopment, Phase 2 (420 Turnersville Road, Block 12302, Lot 1).	Family Rental	12		12
Camden County Lakeland Complex Redevelopment, Phase I (420 Turnersville Road, Block 12301, Lot 4)	Family Rental	50		50
Camden County Lakeland Complex Redevelopment, Phase 2 (420 Turnersville Road, Block 12302, Lot 1).	Family Rental	74		74
Vision Stream (2025)	Senior Rental	32		32
Vision Stream (2025)	Family Rental	43		43
Vision Stream (2025)	Supportive Housing	18	18	36
Quail Ridge	Family Rental	40	20	60
TOTAL		298	52	350

The above provides 298 units and 52 bonus credits for a total of 350 credits.

Round 4 Testing Requirements:

Maximum Bonus:

Allowed: 25% of 339 for 84 units
Taken: 52 credits

Maximum Senior:

Allowed: 30% (excluding bonus credits) of 339 for 101 units
Provided: 32 units

Minimum Family:

Required: 50% of 339 units for 170 units
Provided: 248 units

Minimum Rental:

Required: 25% of 339 for 85 units
Provided: 280 units

Minimum Family Rental:

Required: Half of minimum rental for 43 units
Provided 248 units

Minimum Very Low Income:

Required: 13% of 280 low and moderate for 38 units
Provided: 37

H. ADDITIONAL PROVISIONS

1. While the Township has satisfied their affordable housing obligations for the Prior Round, the Third Round and Fourth Round; the Township intends to amend Township ordinance ARTICLE 10. (X.) AFFORDABLE HOUSING PROCEDURAL AND ELIGIBILITY REQUIREMENTS to include the following section:

Section 1003.C. Mandatory Set-Aside

It is required that a 20% affordable housing set-aside where the affordable units are provided for sale and a 15% where the affordable units are provided for rental whenever any residential development, including the residential portion of a mixed use project, consists of five (5) or more new residential units at a density of greater than five (5) units per acres, which results, in whole or in part, from (i) existing municipal zoning, (ii) a municipal rezoning or zoning amendment, (iii) any variances pursuant to NJSA 40:55D-70(d), including but not limited to any use variance or a density variances increasing the permissible density, and/or (iv) the adoption of an new or amended redevelopment plan or rehabilitation plan unless 1) the affordable housing requirements of a residential development is otherwise prescribed by the most recent adopted Housing Element and Fair Share Plan.

2. Very Low Income Housing

In 2008, P.L. 2008, c. 46 was signed by the Governor, which made a number of changes to the affordable housing rules. In fact, it amended the Fair Housing Act (hereinafter “FHA”) to include a requirement that at least 13% of affordable housing units must be made available to very-low income households. Specifically, the FHA reads:

The council shall coordinate and review the housing elements as filed pursuant to section 11 of P.L.1985, c.222 (C.52:27D-311), and the housing activities under section 20 of P.L.1985, c.222 (C.52:27D-320), at least once every three years, to ensure that at least 13 percent of the housing

units made available for occupancy by low-income and moderate income households will be reserved for occupancy by very low income households, as that term is defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304).

"Very low income housing" means housing affordable according to 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% or less of the median gross household income for households of the same size within the housing region in which the housing is located.

Gloucester Township's very-low income obligation remains at 13% of the low to moderate affordable housing obligation not constructed.

3. Preservation of Multigenerational Family Continuity

Pursuant to the 2024 Fair Housing Act, an analysis was conducted to evaluate the extent to which municipal ordinances and local factors promote or impede the preservation of multigenerational family continuity, as recommended by the Multigenerational Family Housing Continuity Commission (established under P.L.2021, c. 273). The Commission's primary objective is to facilitate senior citizens' ability to reside with their extended families, in so doing strengthening multigenerational family ties.

A review of the Township's ordinances reveals no provisions that would diminish this objective.

4. State Development and Redevelopment Plan Consistency

This Housing Element and Fair Share Plan is consistent with the 2001 State Development and Redevelopment Plan (SDRP) and the draft proposed SDRP as the proposed projects and zoning mechanisms will provide a meaningful opportunity for the construction of affordable housing.

5. Conclusion

Gloucester Township is a large and diverse community that will continue to grow in a planned and careful manner. The Township has already provided a large amount of affordable homes to its residents, and will continue to plan for responsible development in the future. It has always been Gloucester Township's intent to be inclusionary in its housing policies. The Township has prepared a plan that provides opportunities for the provision of affordable housing, but its implementation will require cooperation among the Township, developers, Camden County and non-profit organizations.

APPENDIX 1

Case Details | Case Number: CAM-L-000279-25

Case Caption: CARLAMERE DAVID VS DEPARTMENT OF COMMUN ITY AFFA

Court: Civil Part

Venue: CAMDEN

Case Initiation: 01/28/2025

Case Track: 4

Case Status: Active

Jury Demand: NONE

Case Type: MT. LAUREL

Judge: SCHWEITZER, SHERRI, L

Team: 300

Law Firm Case ID: 271381972

Transaction Information

Transaction ID: LCV2025208595

Received by eCourts On: 01/28/2025

Total Payment Amount: $250.00

Documents Received:

COMPLAINT

Case Information Statement

CARLAMERE & ROWAN
David F. Carlamere Esq. - 271381972
P.O. Box 1397
1546 Blackwood Clementon Rd.
Blackwood, New Jersey 08012
(856)232-9200

Attorneys For Declaratory Plaintiff
Township of Gloucester

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF GLOUCESTER, COUNTY OF CAMDEN	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION CAMDEN COUNTY DOCKET NO.: *Civil Case Type 816 (Affordable Housing)* **COMPLAINT FOR FOURTH ROUND DECLARATORY RELIEF**

Declaratory Plaintiff, the Township of Gloucester, a municipal corporation of the State of New Jersey, located at 1261 Chews Landing Road, Blackwood, New Jersey 08012, in the County of Camden, by way of Complaint for Declaratory Judgment says:

FOURTH ROUND CERTIFICATE OF COMPLIANCE

1. On March 20, 2024, Governor Philip D. Murphy signed into law P. L. 2024, c.2, which substantially amended the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA").

2. The Amended FHA required the Department of Community Affairs ("DCA") to produce non-binding estimates of Fourth Round present and prospective need on or before October 20, 2024.

3. The DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA.

4. The DCA Report calculates the Township of Gloucester's Fourth Round (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 221 units and a Prospective Need or New Construction Obligation of 339 units.

5. The Amended FHA has established a January 31, 2025 deadline for municipalities to determine and accept its Fourth Round present and prospective affordable housing fair share obligations in order to maintain immunity from exclusionary zoning litigation by timely filing a resolution, attached hereto as Exhibit A, with the Affordable Housing Dispute Resolution Program ("Program").

6. The Township of Gloucester, by passing the Resolution attached hereto, commits to the Fourth Round Present Need and Prospective Need numbers produced by DCA and acknowledges that its fair share of affordable housing is cumulative, meaning it must also address the Prospective Need Obligations from the First, Second and Third Rounds, reflective of the prior Court-approved durational adjustments of some portion of its Prospective Need Obligations, as well as address the Fourth Round Present and Prospective Need.

7. In addition to the Resolution required by the Amended FHA, the Acting Administrative Director of the Courts issued Administrative Directive #14-24, dated December 13, 2024, and made available on December 18, 2024, mandating that a municipality seeking a certification of

compliance with the FHA shall file an action in the form of a declaratory judgment complaint in the county in which the municipality is located within 48 hours after adoption of the municipal resolution of fair share obligations (i.e. Exhibit A), or by February 3, 2025, whichever is sooner.

8. The Township of Gloucester reiterates its determination to voluntarily comply with the Amended FHA in order to maintain immunity from exclusionary zoning litigation and, thus, the Township of Gloucester files this Declaratory Relief action, in voluntary compliance with the requirement of the Administrative Directive #14-24, seeking a Fourth Round Compliance Certification.

9. Substantial activity has occurred, and still continues to occur, surrounding the Amended FHA since the legislation was signed into law that warrants the Township of Gloucester explicitly reserving certain rights to avoid any claim that it has waived them by filing this Declaratory Relief action.

10. The Amended FHA specifically provides that "[a] II parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311m) of which the municipality intends to utilize in the crafting of its Fourth Round Housing Element and Fair Share Plan.

11. The Township of Gloucester reserves all rights to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such relevant action that alters the deadlines and/or requirements of the Amended FHA.

12. In the event of a third-party challenge of the calculations provided for in this Resolution, the Township of Gloucester reserves the right to take such position as it deems appropriate.

TOWNSHIP OF GLOUCESTER'S PRIOR ROUND HISTORY

13. Township of Gloucester filed an action which action was entitled In the Matter of the Application of the Township of Gloucester, Docket No. CAM – 2610-15.

14. A Final Judgment of Compliance was entered approving Township of Gloucester's Prior Round and Third Round Obligation to 2025.

15. The Township has fully satisfied its obligations as set forth in the Prior Round Obligations and the Third Round Obligation.

WHEREFORE

Petitioner, Township of Gloucester, respectfully requests that the Court enter judgment as follows:

A. Recognizing the Township of Gloucester's Binding Fair Share Obligation Resolution, attached hereto, committing to address the Township of Gloucester's Fourth Round Present Need and Prospective Need numbers calculated in the DCA Report, which Township of Gloucester's Declaratory Judgment filing timely addressed the deadlines established by the Amended FHA and the Administrative Directive #14-24 and affords the Township of Gloucester immunity from exclusionary zoning litigation.

B. Establishing the Township of Gloucester's Fourth Round obligation as follows: 221-unit Present Need or Rehabilitation Obligation; and 339-unit Prospective Need or New Construction Obligation.

C. Declaring and granting the Township of Gloucester a Durational Adjustment of some or all of its Fourth Round obligation pending the Township of Gloucester's future preparation and submission of its Fourth Round housing element and fair share plan by the Program's June 30, 2025 deadline.

D. Declaring and granting the Township of Gloucester a Fourth Round Compliance Certification.

E. Awarding such other and further relief as the Court may deem equitable and just.

CARLAMERE & ROWAN
David F. Carlamere Esq.
Attorney for Petitioner

Dated: 1/28/25

David F. Carlamere, Esq.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of New Jersey Court Rule 4:25-4, David F. Carlamere, Esquire, is hereby designated as trial counsel for Petitioner, Township of Gloucester.

Carlamere & Rowan
David F. Carlamere Esq.
Attorney for Petitioner

Dated: 1/28/25

David F. Carlamere, Esq.

RULE 1:38-7 CERTIFICATION

I hereby certify that confidential personal identifiers have been redacted from the documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

CARLAMERE & ROWAN
David F. Carlamere Esq.
Attorney for Petitioner

Dated: 1/28/25

David F. Carlamere, Esq.

RULE 4:5-1 CERTIFICATION

Pursuant to New Jersey Court Rule 4:5-1, I hereby certify that to the best of my knowledge, information, and belief, the matter in controversy is not the subject of any other action currently pending or contemplated in any court or arbitration proceeding, and that I know of no other party or parties at this time who should be joined, pursuant to Rule 4:28, or who are subject to joinder pursuant to Rule 4:29-1(b), in this action.

CARLAMERE & ROWAN
David F. Carlamere Esq.
Attorney for Petitioner

Dated: 1/28/25

David F. Carlamere, Esq.

EX "A"

R-25:01-051

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF GLOUCESTER, CAMDEN COUNTY, NEW JERSEY ADOPTING FOURTH ROUND FAIR SHARE AFFORDABLE HOUSING OBLIGATION AND OTHER ACTIONS

WHEREAS, pursuant to the Fair Housing Act P.L. 2024, c.2, ("FHA") the State of New Jersey adopted legislation addressing the Fourth Round of affordable housing for the period 2025 to 2035; and

WHEREAS, pursuant to the FHA, the Department of Community Affairs ("DCA"), published Fourth Round preliminary obligations for each municipality in October of 2024; and

WHEREAS, the DCA calculated the Township of Gloucester as having a present need or rehabilitation share of 221 units and a prospective need share of 339 units for the Fourth Round; and

WHEREAS, pursuant to the FHA, every municipality in the State of New Jersey has an obligation to adopt a binding resolution establishing its fair share affordable housing obligation for the Fourth Round by January 31, 2025; and

WHEREAS, the Township's affordable housing professionals have reviewed the present need and prospective share published by the DCA and have recommended that the Township adopt these amounts as its Fourth Round Fair Share obligation; and

WHEREAS, the Township Council have reviewed this matter and agree to accept the recommendations of the Township's affordable housing professionals and take other necessary actions in connection with the FHA.

NOW, THEREFORE, BE IT RESOLVED, the Township Council of the Township of Gloucester, County of Camden and State of New Jersey hereby establishes its Fourth Round Affordable Housing Fair Share obligation as a present need or rehabilitation share of 221 units and a prospective need share of 339 units; and

BE IT FURTHER RESOLVED, that the Township of Gloucester's Fourth Round Affordable Housing Fair Share obligation is subject to vacant land adjustments and other amendments as may be provided for by law and the Township hereby reserves its right to adjust its Fourth Round Affordable Housing Fair Share obligation accordingly; and

BE IT FURTHER RESOLVED, that the Township's solicitor is hereby authorized to file an action in the form of a declaratory judgment complaint and civil case information statement within 48 hours after the adoption of this resolution.

BE IT FURTHER RESOLVED, that the Township's affordable housing professionals shall submit the Township into the DCA affordable housing dispute program and take any other action necessary to comply with the FHA and implement its Fourth Round Affordable Housing Fair Share obligation including, but not limited to defending any challenges to the Township's actions herein; and

BE IT FURTHER RESOLVED, the Township also authorizes its affordable housing professionals to prepare the appropriate Housing Element and Fair Share Plan as a component of the Township's Master Plan so that is filed with DCA on or before June 30, 2025; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be submitted to the DCA and posted on the Township website upon its adoption.

Adopted: January 27, 2025

President of Council
Orlando Mercado

ATTEST:

Township Clerk
Nancy Power, RMC

2

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF GLOUCESTER ADOPTING AN AMENDED FOURTH ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the New Jersey Fair Housing Act and established the Affordable Housing Dispute Resolution Program (the "Program"); and

WHEREAS, in accordance with the Amended Fair Housing Act, the Township timely submitted its Fourth Round Housing Element and Fair Share Plan ("HEFSP") to the Program for review in June of 2025; and

WHEREAS, the Township received a deficiency letter to its Fourth Round Plan from Fair Share Housing Center in August of 2025; and

WHEREAS, the Court entered a Case Management Order in October of 2025 requiring the Township to submit documentation in response to FSHC's deficiency letter and to enter into a Consent Order with FSHC; and

WHEREAS, the Township negotiated and entered into a Consent Order which was filed with the Court on February 10, 2026; and

WHEREAS, as per the FHA and the Consent Order with FSHC, the Township is required to amend its Fourth Round Plan to include the terms and conditions agreed upon in the Consent Order; and

WHEREAS, the Township has prepared an Amended Fourth Round Housing Element and Fair Share Plan ("Amended Fourth Round Plan"), which is attached hereto as Exhibit A; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Amended Fourth Round Plan on February 24, 2026; and

WHEREAS, the Planning Board determined that the attached Amended Fourth Round Plan is consistent with the goals and objectives of the Township's current Master Plan, and that adoption and implementation of the Amended Fourth Round Plan is in the public interest and protects public health and safety and promotes the general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Gloucester, County of Camden, State of New Jersey, that the Planning Board hereby adopts the Township's Amended Fourth Round Housing Element and Fair Share Plan attached hereto as Exhibit A.

Vice Chairman of the Planning Board

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Planning Board of the Township of Gloucester at a regular meeting held on the 3rd day of March 2026.

Planning Board Secretary

3

R-26:03-105

RESOLUTION OF THE GOVERNING BODY OF THE TOWNSHIP OF GLOUCESTER ENDORSING THE TOWNSHIP'S ROUND 4 HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 3, 2026, the Planning Board of the Township of Gloucester, County of Camden, State of New Jersey, adopted an amended Housing Element and Fair Share Plan ("Fair Share Plan") to implement the terms of the Consent Order entered into between the Township and Fair Share Housing Center ("FSHC") as part of the Township's participation in the Affordable Housing Dispute Resolution Program (the "Program"); and

WHEREAS, the Township of Gloucester remains committed to comply with its constitutional Mount Laurel obligations by voluntarily providing its "Fair Share" of affordable housing and pursuing approval of its Fourth Round Amended Fair Share Plan from the Program and the Court.

NOW,THEREFORE, BE IT RESOLVED that the Township Council of the Township of Gloucester, County of Camden, State of New Jersey, hereby endorses the Amended Fair Share Plan as adopted by the Gloucester Township Planning Board on March 3, 2026; and

BE IT FURTHER RESOLVED that the Township Council of the Township of Gloucester, pursuant to the provisions of N.J.S.A. 52:27D-301 et.seq. hereby authorizes and directs its professionals to immediately file the adopted and endorsed amended Fair Share Plan and all other relevant documents with the Program by March 16, 2026, the statutory deadline for submission of compliance documentation; and

BE IT FURTHER RESOLVED that the Township Council of the Township of Gloucester hereby authorizes and directs its professionals to take any and all actions reasonable and necessary to secure approval of the Township's Fair Share Plan, to maintain the Township's immunity from any Mount Laurel lawsuits, and to secure a Final Round 4 Compliance Certification.

Adopted: March 9, 2026

President of Council
Orlando Mercado

Township Clerk
Nancy Power, RMC

I hereby certify that this is a true copy of the resolution endorsing the Amended Housing Element and Fair Share Plan of the Council of the Township of Gloucester, County of Camden, on this 9th day of March, 2026.

Nancy Power
Township Clerk, RMC

4

O-26-06

ORDINANCE OF THE TOWNSHIP OF GLOUCESTER, CAMDEN COUNTY AND STATE OF NEW JERSEY REPEALING AND REPLACING CHAPTER 500, ARTICLE X, AFFORDABLE HOUSING PROCEDURAL AND ELIGIBILITY REQUIREMENTS

WHEREAS, Chapter 500, Article X (Affordable Housing Procedural and Eligibility Requirements) of the General Legislation of the Township of Gloucester has to be repealed and replaced in its entirety to comply with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. ("FHA"), as was amended in 2024, the newly adopted Uniform Housing Affordability Controls ("UHAC") regulations, N.J.A.C. 5:80-26.1 et seq., and newly adopted N.J.A.C. 5:99-1 et seq; and

WHEREAS, this Ordinance establishes Township wide regulations and standards to govern the development of very low, low and moderate-income affordable units for for-sale and rental residential developments that may be approved by the Township or the Township Planning Board, and is designed to regulate these very low, low- and moderate-income units in a manner consistent with the FHA, UHAC, N.J.A.C. 5:99-1 et seq., and applicable New Jersey Council on Affordable Housing (COAH) regulations.

I hereby certify that this ordinance was adopted by the Township Council of the Township of Gloucester on March 9, 2026.

Nancy J. Power

Township Clerk, RMC

O-26-06

ORDINANCE OF THE TOWNSHIP OF GLOUCESTER, CAMDEN COUNTY AND STATE OF NEW JERSEY REPEALING AND REPLACING CHAPTER 500, ARTICLE X, AFFORDABLE HOUSING PROCEDURAL AND ELIGIBILITY REQUIREMENTS

WHEREAS, Chapter 500, Article X (Affordable Housing Procedural and Eligibility Requirements) of the General Legislation of the Township of Gloucester has to be repealed and replaced in its entirety to comply with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. ("FHA"), as was amended in 2024, the newly adopted Uniform Housing Affordability Controls ("UHAC") regulations, N.J.A.C. 5:80-26.1 et seq., and newly adopted N.J.A.C. 5:99-1 et seq; and

WHEREAS, this Ordinance establishes Township wide regulations and standards to govern the development of very low, low and moderate-income affordable units for for-sale and rental residential developments that may be approved by the Township or the Township Planning Board, and is designed to regulate these very low, low- and moderate-income units in a manner consistent with the FHA, UHAC, N.J.A.C. 5:99-1 et seq., and applicable New Jersey Council on Affordable Housing (COAH) regulations; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Gloucester, Camden County, New Jersey, that Chapter 500, Article X (Affordable Housing Procedural and Eligibility Requirements) of the Code of the Township of Gloucester is hereby repealed and replaced as follows:

SECTION 1. Chapter 500, Article X, Affordable Housing Procedural and Eligibility Requirements, of the General Legislation of the Township of Gloucester, shall be repealed and replaced as follows:

§ 500-1001 Introduction & Applicability.

A. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in Township of Gloucester 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% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.

C. The Township of Gloucester Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.

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 currently exist and that are proposed to be created pursuant to the municipality's most recently adopted HEFSP, excluding those affordable housing units that were subject to a written agreement, rezoning or approval prior to the end of the Third Round on June 30, 2025.

(2) This Ordinance shall also apply to 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 are proposed for credit shall comply with the low/moderate split and bedroom distribution requirements, maximum initial rents and sales prices requirements, 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.

§ 500-1002 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Commissioner" means the Commissioner of the Department of Community Affairs.

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

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

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

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

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

"Department" means the New Jersey Department of Community Affairs.

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

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

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

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

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

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

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

"Equity share amount" means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt sale of a restricted ownership unit, divided by 100, except that the equity share may not be less than five percent and may not exceed 30 percent.

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

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

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

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

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

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

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

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

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

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

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

"Inclusionary development" means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of very low-, 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, electriTownship, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

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

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

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

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

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

"Municipal affordable housing trust fund" means a separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing previously approved prior to March 20, 2024 (per P.L. 2024, c.2), barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines,

unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

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

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

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

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

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

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

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

"Non-residential development" means:

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

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

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

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

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

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

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

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

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

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

"Prior round unit" means a housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that was adopted and/or having 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.

"Program" means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.2024, c. 2 (C.52:27D-313.2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Supportive housing unit" means a restricted rental unit, as defined by N.J.S.A. 34:1B-21.24, that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. Supportive housing units are also referred to as permanent supportive housing units.

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

"Treasurer" means the Treasurer of the State of New Jersey.

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

"UHORP" means the Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

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

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

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

"Very-low-income unit" means a restricted unit that is affordable to a very-low-income household.

"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.

§ 500-1003 Monitoring and Reporting Requirements.

A. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:

(1) The municipality shall provide electronic monitoring data with the Department pursuant to P.L 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department's website at https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml.

(2) On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.

(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.

§ 500-1004 Municipality-wide Mandatory Set-Aside

A. It is required that a 20% affordable housing set-aside where the affordable units are provided for sale and a 15% where the affordable units are provided for rental whenever any residential development, including the residential portion of a mixed use project, consists of five (5) or more new residential units at a density of greater than five (5) units per acres, which results, in whole or in part, from (i) existing municipal zoning, (ii) a municipal rezoning or zoning amendment, (iii) any variances pursuant to NJSA 40:55D-70(d), including but not limited to any use variance or a density variances increasing the permissible density, and/or (iv) the adoption of an new or amended redevelopment plan or rehabilitation plan unless 1) the affordable housing requirements of a residential development is otherwise prescribed by the most recent adopted Housing Element and Fair Share Plan.

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 municipality to grant such rezoning, variance or other relief.

F. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.

§ 500-1005 New Construction (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.).

Per the definition of "New Construction," this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

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
90	100

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.

(h) 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 b 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

(h) Restricted units must include adequate air conditioning and heating.

D. Utilities.

(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.AC 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% 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%, 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 up 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-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 5% 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 municipality has collected funds from the developer sufficient to make 10% 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% of the affordable units that have been constructed with adaptable entrances.

c. The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d. The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.

e. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.

(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.

§ 500-1006 Affordable Housing Programs/Compliance Techniques.

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 municipality 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.

(5) The municipality 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.

§ 500-1007 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.

§ 500-1008 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% 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, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should 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.

E. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.

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 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. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.

K. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, 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." Rent increases for units constructed pursuant to Low-Income Housing Tax Credit regulations shall be indexed pursuant to the regulations governing Low-Income Housing Tax Credits.

§ 500-1009 Affirmative Marketing.

A. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 5 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 municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-,low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.

(2) There shall be a regional preference for all households that live and/or work in Housing Region 5 comprised of Camden, Burlington, and Gloucester 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 municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.

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 shall 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 municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.

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. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph. The affirmative marketing plan shall include the community and regional organizations set forth in the Township's Certificate of Compliance.

H. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

I. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

J. 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.

§ 500-1010 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.

§ 500-1011 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

a. Avoid placing a one-person household into a unit with more than one bedroom.

§ 500-1012 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).

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 municipality 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 municipality 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 municipality 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.

§ 500-1013 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.

(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.

§ 500-1014 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 income less than or equal to 30% 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% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.

B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.

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% (40% 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% (40% 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

(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

§ 500-1015 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% 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).

§ 500-1016 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 amended December 20, 2004, 36 N.J.R. 5713 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% 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 municipality 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.

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.

§ 500-1017 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 5% 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.

§ 500-1018 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% 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% 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% 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% (40% 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% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

(2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

(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 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

§ 500-1019 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.

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.

§ 500-1020 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 municipality.

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. 5:99-7and 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 municipality 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 5 days of the determination thereof.

(d) Requiring that all certified applicants for restricted units execute a certificate substantially in the firm, 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 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 municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.

(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 municipality 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 municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

(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 municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

§ 500-1021 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 1 above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:

(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 that 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 1, 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) 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.

§ 500-1022 Enforcement of Affordable Housing Regulations.

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, 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 municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

(1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is 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 $1,000 per day from the date of the violation or imprisonment for a period not to exceed 10 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 municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be $5,000, the fine for the second offense of noncompliance shall be $10,000, and the fine for each subsequent offense of noncompliance shall be $15,000.

D. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.

(1) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay

off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality , including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

(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 municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

(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 municipality may acquire title to the affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.

(5) Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.

(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 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.

§ 500-1023 Appeals. 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.

Section 2. Invalidity. If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 3. Inconsistent Ordinances Repealed. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. Effective Date. This ordinance shall take effect immediately upon Final passage and publication according to law.

Introduction: February 25, 2026

Adopted: March 9, 2026

Mayor
David R. Mayer

President of Council
Orlando Mercado

ATTEST:

Township Clerk
Nancy Power, RMC

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF GLOUCESTER REVIEWING AFFORDABLE HOUSING PROCEDURAL AND ELIGIBILITY REQUIREMENTS ORDINANCE (O-26-06) FOR MASTER PLAN CONSISTENCY

WHEREAS, on February 25, 2026, pursuant to Resolution R-26:02-089, the Township Council referred certain amendments to the Township ordinances, specifically "Repealing and Replacing Chapter 500, Article X, Affordable Housing Procedural and Eligibility Requirements" as contained in Ordinance O-26-06 (the "Ordinance"), to the Planning Board for its recommendation concerning any inconsistency with the Master Plan and concerning any other matters the Planning Board deems appropriate in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64; and

WHEREAS, on March 3, 2026, the Planning Board heard the testimony of Candace Kanaplue, PP, AICP, who reviewed the details of Ordinance O-26-06, (a copy of which is attached hereto and made a part of this Resolution as Exhibit A), with the Planning Board; and

WHEREAS, the Gloucester Township Planning Board after careful review and discussion has determined at its meeting on March 3, 2026, that the adoption of the proposed Ordinance regarding the Affordable Housing Procedural and Eligibility Requirements, as contained in Ordinance O-26-06 (Exhibit A), which was referred to the Planning Board, conforms and is not inconsistent with the Master Plan and meets the goals of same. Ordinance O-26-06 conforms with sound planning principles, the passage of Ordinance O-26-06 would further assist in the orderly development of land and overall the adoption of Ordinance O-26-06, attached hereto as Exhibit A, is in the best interests of the Township of Gloucester.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Gloucester,

1. The Gloucester Township Planning Board endorses and recommends the adoption of Ordinance O-26-06, attached hereto as Exhibit A, "Repealing and Replacing Chapter 500, Article X, Affordable Housing Procedural and Eligibility Requirements" and same is referred to the Gloucester Township Mayor and Council for review and adoption; and

2. The Gloucester Township Planning Board determines that the Ordinance O-26-06, attached hereto as Exhibit A, conforms with and is not inconsistent with the Gloucester Township Planning Board Master Plan; and

3. Any recommendations, if any, of the Gloucester Township Planning Board are attached hereto as Exhibit B.

Vice Chairman of the Planning Board

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Planning Board of the Township of Gloucester at a regular meeting held on the 3rd day of March 2026.

Planning Board Secretary

5

O-26-05

AN ORDINANCE OF THE TOWNSHIP OF GLOUCESTER REPEALING AND REPLACING CHAPTER 500, ARTICLE IX, SECTION 902 AFFORDABLE HOUSING FEES AND PROCEDURES

WHEREAS, Chapter 500, Article IX, Section 902 (Affordable Housing Fees and Procedures) of the General Legislation of the Township of Gloucester has to be repealed and replaced in its entirety to comply with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. ("FHA"), as was amended in 2024, the newly adopted Uniform Housing Affordability Controls ("UHAC") regulations, N.J.A.C. 5:80-26.1 et seq., and newly adopted N.J.A.C. 5:99-1 et seq; and

WHEREAS, this chapter establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with regulations set forth in P.L. 2024, c. 2, N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:99-1 et seq. and as previously established in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this chapter shall be used for the sole purpose of providing very-low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

I hereby certify that this ordinance was adopted by the Township Council of the Township of Gloucester on March 9, 2026.

Nancy J. Power

Township Clerk, RMC

O-26-05

AN ORDINANCE OF THE TOWNSHIP OF GLOUCESTER REPEALING AND REPLACING CHAPTER 500, ARTICLE IX, SECTION 902 AFFORDABLE HOUSING FEES AND PROCEDURES

WHEREAS, Chapter 500, Article IX, Section 902 (Affordable Housing Fees and Procedures) of the General Legislation of the Township of Gloucester has to be repealed and replaced in its entirety to comply with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. ("FHA"), as was amended in 2024, the newly adopted Uniform Housing Affordability Controls ("UHAC") regulations, N.J.A.C. 5:80-26.1 et seq., and newly adopted N.J.A.C. 5:99-1 et seq; and

WHEREAS, this chapter establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with regulations set forth in P.L. 2024, c. 2, N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:99-1 et seq. and as previously established in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this chapter shall be used for the sole purpose of providing very-low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Gloucester, Camden County, New Jersey, that Chapter 500, Article IX, Section 902 (Affordable Housing Fees and Procedures) of the General Legislation of the Township of Gloucester is hereby repealed and replaced as follows:

SECTION 1. Chapter 500, Article IX, Section 902 Affordable Housing Fees and Procedures, of the General Legislation of the Township of Gloucester, shall be repealed and replaced as follows:

A. Purpose. 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 municipality previously adopted a Development Fee Ordinance, which established the Municipal Affordable Housing Trust Fund.

(2) The municipality shall not spend development fees until the court has approved a Spending Plan for spending such fees.

C. Definitions. As used herein the following terms shall have the following meanings:

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

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

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

"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.

"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 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.

"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.

"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.).

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

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

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

"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.

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

"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.

"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.

"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.

"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.

"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.

"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 are 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.

"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.

"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.

"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.

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

"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 unit" means a restricted unit that is affordable to a very-low-income household.

D. Residential Development Fees.

(1) Imposed fees

(a) Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% 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% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

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

(a) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.

(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 responsible for the payment of development fees under the prior ordinance, 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 building permit is issued.

(c) The expansion or improvement of an existing residential structure shall be exempt from any development fee requirement.

(d) Other development shall be exempt from any development fee required to the extent provided by the terms of any order entered by the Superior Court of New Jersey.

(e) No development fee shall be collected for the demolition and replacement of a residential building of the same number of units resulting from a fire, flood, or a natural disaster.

(f) Improvements not related to the expansion of the primary residential structure on the property are exempt from the residential development fee. This includes, but is not limited to,: pools, sheds, patios or decks, and fences.

E. Non-Residential Development Fees.

(1) Imposition of fee

(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% 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% 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% 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% development fee, unless otherwise exempted below.

(b) The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

(c) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.

(d) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

(e) If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

(f) Other development shall be exempt from any development fee required to the extent provided by the terms of any order entered by the Superior Court of New Jersey.

F. Collection Procedures.

(1) Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

(2) For 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 municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).

(8) Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

G. 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 municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

(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 municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

H. Affordable Housing Trust Fund.

(1) A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

(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 municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;

(b) Funds contributed by developers to make 10% 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.

(3) The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.

(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.

I. 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 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 municipality 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.

(4) 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.

(5) 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% or less of median income.

(6) No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

J. Monitoring. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

K. Ongoing Collection of Fees.

(1) The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification, or a Judgment of Compliance and Repose, or the good faith effort to obtain either one.