

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY**RESOLUTION NO. 224-07-2025****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE MAY
APPROVING A FOURTH ROUND AFFORDABLE HOUSING TRUST FUND
SPENDING PLAN AND REQUESTING PROGRAM AND COURT APPROVAL
OF THE SPENDING PLAN**

WHEREAS, the City of Cape May (hereinafter “City” or “Cape May”) has an approved Development Fee Ordinance that was adopted on September 4, 2018, which established standards for the collection, maintenance, and expenditure of development fees; and

WHEREAS, the City’s previous Affordable Housing Trust Fund Spending Plan was approved by the Court on December 17, 2018; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the 1985 New Jersey Fair Housing Act (hereinafter the “Amended FHA”) which governs how municipalities will comply with their affordable housing obligations for the Fourth Round (2025-2035); and

WHEREAS, the Administrative Office of the Courts issued Directive #14-24 (“AOC Directive #14-24”), governing how municipalities file their compliance documents with the Affordable Housing Dispute Resolution Program (“the Program”); and

WHEREAS, the City has prepared a Fourth Round Spending Plan consistent with the Amended FHA, AOC Directive #14-24, and applicable regulations, which projects anticipated revenues to the City’s Affordable Housing Trust Fund and describes the anticipated expenditures of funds.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cape May, County of Cape May, State of New Jersey, as follows:

1. The City Council of the City of Cape May hereby approves the Fourth Round Spending Plan that is attached hereto as Exhibit A, and requests that the Program and the Court review and approve the City’s Fourth Round Spending Plan.
2. This Resolution shall take effect immediately upon adoption, according to law.

I, Erin C. Burke, City Clerk of the City of Cape May, County of Cape May, State of New Jersey, do hereby certify the foregoing is a correct and true original Resolution adopted by the City Council of the City of Cape May at a meeting held on July 1, 2025.



Erin C. Burke, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain	Motion	Second
Meier			X			
McDade	X				X	
Bodnar	X					
Baldwin	X					X
Mullock	X					

City of Cape May
Cape May County, New Jersey



**2025 AFFORDABLE HOUSING
SPENDING PLAN**

June 18, 2025

Prepared by:

HURLESS PLANNING & ENGINEERING, LLC

Craig R. Hurless, PE, PP, CME
Hurless Planning & Engineering, LLC
507 Heritage Court
Galloway, NJ 08205
609.204.0798
c.hurless@comcast.net

Endorsed by Resolution by the Council of the City of Cape May on (July 1, 2025)



2025 AFFORDABLE HOUSING SPENDING PLAN

MAYOR

Mayor Zachary Mullock

PLANNING BOARD

Zachary Mullock, Mayor

COUNCIL MEMBERS

Councilmember Shaine P. Meier
Councilmember Lorraine Baldwin
Councilmember Steve Bodnar
Deputy Mayor Maureen K. McDade

Christopher Gillin-Schwartz, City
Attorney
Erik C. Nolan, Affordable Housing
Attorney

Maureen McDade, Deputy Mayor
Justin Riggs, Deputy City Manager
William Bezaire, Chairperson
Dennis Crowley
Robert Gorgone
Richard Lundholm
Marilyn Reed
Michael Jones, Vice Chairperson
Gary Padussis
Dennis Crippen
Karen Keenan, Board Assistant

Planning Board Staff:

Karen Keenan Board Assistant

Planning Board Professionals:

Mr. Craig R. Hurless, PE, PP Board Engineer & Planner
Mr. Richard King, Attorney Board Attorney

Prepared By:

HURLESS PLANNING & ENGINEERING, LLC

Craig R. Hurless

Craig R. Hurless, PP
New Jersey Professional Planner License No. 005646

The original of this document was signed and sealed in accordance with NJAC 13:41-1.

HURLESS PLANNING & ENGINEERING, LLC

INTRODUCTION

The City of Cape May (hereinafter the “City”), Cape May County, NJ has prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Amended Fair Housing Act (FHA-2) (N.J.S.A. 52:27D-301) and the proposed new Fair Housing Act Rules promulgated by the New Jersey Department of Community Affairs (DCA) (N.J.A.C. 5:99).

As of April 30, 2025 the City of Cape May has a balance of \$2,735,304¹ in its Affordable Housing Trust fund. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund account for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:99 as described in the sections that follow.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of Fourth round substantive certification, Cape May City considered the following:

(a) Development fees:

1. Projects which have had development fees imposed upon them at the time of development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development and/or projected development in accordance with COAH projections.
4. Revenues from the 2.5 non-residential, for all commercial development

(b) Other funding sources:

1. Funds from other sources, including, but not limited to, the sale of units with extinguished controls.

(c) Projected interest: Interest on the projected revenue in the municipal affordable housing trust fund based upon the average amount earned on prior years.

¹ All figures rounded to the nearest dollar.

City of Cape May
2025 Affordable Housing Spending Plan

It is anticipated that during the period of January 1, 2025 through June 30, 2035, which encompasses the period that the City will have a Fourth Round Judgment of Compliance and Repose (hereinafter "Fourth Round JOR"), the City will add an additional \$1,981,640 to its Affordable Housing Trust Fund. This is detailed below.

- (a) Development fees: Based on development fee collection trends in the City of Cape May since 2018, the City anticipates that approximately \$1,969,820 in development fees will be generated between January 1, 2025 through June 30, 2035. This figure assumes that, on average, the City will collect approximately \$196,982 in development fees per year throughout the Fourth Round.
- (b) Payment in lieu (PIL): While the City of Cape May does not currently anticipate the contribution of any payments in lieu toward the municipal Affordable Housing Trust Fund during the Fourth Round, if any such payments should be made to the City during the Fourth Round, such payments will be deposited into the City's Affordable Housing Trust Fund.
- (c) Other Funds: The City of Cape May does not currently anticipate the contribution of any other funds toward the municipal Affordable Housing Trust Fund during the Fourth Round. That said, if any such funds are collected during the Fourth Round, said funds will be deposited in the City's Affordable Housing Trust Fund.
- (d) Projected interest: It is estimated that the City of Cape May will collect approximately \$11,820 in interest between January 1, 2025 through June 30, 2035. This figure assumes that, on average, the City will collect approximately \$1,182 in interest per year throughout the Fourth Round.

SOURCE OF FUNDS	PROJECTED REVENUES – AFFORDABLE HOUSING TRUST FUND JANUARY 1, 2025 THROUGH JUNE 30, 2035											
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
PROJECTED DEVELOPMENT FEES	\$196,982	\$196,982	\$196,982	\$196,982	\$196,982	\$196,982	\$196,982	\$196,982	\$196,982	\$196,982	\$196,982	\$1,969,820
PAYMENTS IN LIEU OF CONSTRUCTION	0	0	0	0	0	0	0	0	0	0	0	0
OTHER FUNDS	0	0	0	0	0	0	0	0	0	0	0	0
INTEREST (0.6%)	\$1182	\$1182	\$1182	\$1182	\$1182	\$1182	\$1182	\$1182	\$1182	\$1182	\$1182	\$11,820
	\$198,164	\$198,164	\$198,164	\$198,164	\$198,164	\$198,164	\$198,164	\$198,164	\$198,164	\$198,164	\$198,164	\$1,981,640
Total												

All figures rounded to the nearest dollar.

In summary, the City of Cape May projects a total of \$1,981,640 in revenue and interest to be collected between January 1, 2025 and June 30, 2035. This projected amount, when added to the City's current trust fund balance of \$2,735,304, results in a total anticipated trust fund balance of \$4,716,944 available to fund and administer the City's affordable housing plan. All interest earned on the account shall be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the City:

- (a) Collection of development fee revenues: Collection of development fee revenues shall be consistent with Cape May's Development Fee Ordinance (DFO) for both residential and non-residential developments in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Amended Fair Housing Act (FHA-2) (N.J.S.A. 52:27D-301) and the proposed new Fair Housing Act Rules promulgated by the New Jersey Department of Community Affairs (DCA) (N.J.A.C. 5:99).
- (b) Distribution of development fee revenues: Affordable housing trust funds will be distributed according to the adopted Spending Plan. Requests for distribution of funds for eligible activities will be submitted to the City Manager. Each request must include the amount sought, the intended beneficiary, the purpose of the funds, and the proposed timing of distribution. The City Manager may be assisted in evaluating the request and determining eligibility by the Chief Financial Officer (CFO), Municipal Housing Liaison, Administrative Agent, and the City Solicitor. After completing its review, the City Manager will forward the request, along with any recommendations, to the City Council for consideration. No funds shall be transmitted or encumbered prior to review and approval by City Council. The request for distribution may be authorized through inclusion on a bill list or by separate resolution of City Council. Only after approval by City Council will the CFO distribute funds from the affordable housing trust fund.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

- (a) Accessory Apartment Program. The City intends to continue implementing its existing Accessory Apartment Program and make it available to new participants. The City anticipates that it will produce at least 6 accessory apartment units prior to the end of the Fourth Round. The City will continue to commit \$25,000 per moderate income unit, \$40,000 per low-income unit and \$70,000 for very-low-income units, to subsidize the creation of new accessory apartment units. Two (2) moderate income units, three (3) low-income units and one (1) very low-income units will be subsidized. Therefore, the City anticipates a total contribution of \$240,000 towards the Accessory Apartment Program by the end of the Fourth Round.

- (b) Affordability Assistance. Pursuant to N.J.A.C. 5:99-2.5, the City is required to set aside a portion of all development fees collected and interest earned for the purpose of providing affordability assistance to very low-, low- and moderate-income households in affordable units included in the City's Fourth Round Housing Element and Fair Share Plan. Affordability assistance means the use of funds to render housing units more affordable to very low-, 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. This may also include offering a subsidy to developers of inclusionary or one hundred percent (100%) affordable housing developments or buying down the cost of low- or moderate-income units in the City's fair share plan to make them affordable to very low-income households, including special needs and supportive housing opportunities.

Actual development fees + interest through 12/31/24		\$2,735,304
Payments in lieu of construction & other deposits through 12/31/24	+	\$0
Projected development fees + interest 1/1/25 through 6/30/35	+	\$1,981,640
Total	=	\$4,716,944
PROJECTED MINIMUM Affordability Assistance 2025 through 2035 (10%)		\$471,690

As per the requirements regarding the use of funds for affordability assistance laid out in N.J.A.C. 5:99-2.5, the City is required to dedicate a portion of all development fees collected and interest earned to provide affordability assistance to low- and moderate-income households. The City, therefore, will dedicate at least \$471,690 from the Affordable Housing Trust Fund to render units more affordable.

- (c) Administrative Expenses. Per N.J.A.C. 5:99-2.4(a), no more than twenty percent (20%) of all affordable housing trust funds, exclusive of those collected prior to July 17, 2008 to fund an RCA, shall be expended on administration. The City projects that a maximum of \$751,384 will be available from the affordable housing trust fund to be used for administrative purposes through June 30, 2035. Projected administrative expenditures, subject to the twenty percent (20%) cap, include payment for the salaries and benefits for municipal employees and consultant fees related to costs as set forth at N.J.A.C. 5:99-2.4(b), (c) and (d).

Actual development fees + interest through 12/31/24		\$2,735,304
Payments in lieu of construction & other deposits through 12/31/24	+	\$0
Projected development fees + interest 1/1/25 through 6/30/35	+	\$1,981,640
Total	=	\$4,716,944
20 percent requirement (max.)	x 0.20 =	\$943,389
Less administrative expenditures through 12/31/24		\$192,005
PROJECTED MAXIMUM Available for Administrative Expenses 1/1/25 through 6/30/35	=	\$751,384

- (d) Other Emergent Housing Opportunities. The City will reserve the remaining trust fund balance, projected at \$3,813,249, for other emergent opportunities to create affordable housing that may arise during the Fourth Round. For example, monies will also be used if the City agrees to move forward with gut rehabilitating and deed restricting existing units owned by the Cape

May Housing Authority as affordable housing units, or agrees to create new affordable housing units with the Cape May Housing Authority or a selected developer. The City shall seek approval for any emergent affordable housing opportunities not included in the City's fair share plan in accordance with N.J.A.C. 5:99-4.1.

4. EXPENDITURE SCHEDULE

The City of Cape May intends to use affordable housing trust fund revenues for accessory apartments, affordability assistance, administration, and any emergent affordable housing opportunities that may arise during the Fourth Round. Where applicable, the funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

PROJECTS/ PROGRAMS	PROJECTED EXPENDITURES – AFFORDABLE HOUSING TRUST FUND JANUARY 1, 2025 THROUGH JUNE 30, 2035											
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	1/1/35 to 6/30-25	Total
Accessory Apartment Program	\$12,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$12,000	\$240,000
Affordability Assistance	\$23,585	\$47,169	\$47,169	\$47,169	\$47,169	\$47,169	\$47,169	\$47,169	\$47,169	\$47,169	\$23,585	\$471,690
Administration	\$9,600	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$9,605	\$192,005
Other Emergent Opportunities	\$190,662	\$381,325	\$381,325	\$381,325	\$381,325	\$381,325	\$381,325	\$381,325	\$381,325	\$381,325	\$190,662	\$3,813,249
Total	\$235,852	\$471,694	\$471,694	\$471,694	\$471,694	\$471,694	\$471,694	\$471,694	\$471,694	\$471,694	\$235,852	\$4,716,944

5. EXCESS OR SHORTFALL OF FUNDS

In the event of any expected or unexpected shortfall of funds necessary to implement the Fair Share Plan, the City of Cape May will handle the shortfall of funds through an alternative funding source to be identified by the City and/or by adopting a resolution with an intent to bond. In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be dedicated toward the City's accessory apartment program, additional affordability assistance and/or any other emergent affordable housing opportunities that may arise during the Fourth Round.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the City's Affordable Housing Ordinance and in accordance with applicable regulations. A process describing the collection and distribution procedures for barrier free escrow is detailed within the City's Affordable Housing Ordinance.

SUMMARY

The City of Cape May intends to spend Affordable Housing Trust Fund revenues pursuant to N.J.A.C. 5:99 and consistent with the housing programs outlined in the City's Housing Element and Fair Share Plan.

The City has a balance of \$2,735,304 as of April 31, 2025 and anticipates an additional \$1,981,640 in revenues and interest through June 30, 2035 for a total of \$4,716,944. During the period of the City's Fourth Round JOR through June 30, 2035, the City agrees to fund \$240,000 towards its accessory apartment program, \$471,690 towards affordability assistance, \$192,005 towards administrative expenses, and \$3,813,249 towards other emergent affordable housing opportunities that may arise during the Fourth Round, totaling \$4,716,944 in anticipated expenditures.

Any shortfall of funds will be offset by an alternative funding source to be identified by the City and/or, the City of Cape May will bond to provide the necessary funding. The City will dedicate any excess funds or balance toward the City's accessory apartment program, additional affordability assistance, and/or any other emergent affordable housing opportunities that may arise during the Fourth Round..

SPENDING PLAN SUMMARY		
Balance as of April 31, 2025		\$2,735,304
PROJECTED REVENUE THROUGH 6/30/35		
Development fees	+	\$1,969,820
Payments in lieu of construction	+	\$0
Other funds	+	\$0
Interest	+	\$11,820
SUBTOTAL REVENUE	=	\$1,981,640
TOTAL REVENUE	=	\$4,716,944
EXPENDITURES		
Accessory Apartment Program	-	\$240,000
Affordability Assistance	-	\$471,690
Administration	-	\$192,005
Other Emergent Opportunities	-	\$3,813,249
TOTAL PROJECTED EXPENDITURES	=	\$4,716,944
REMAINING BALANCE	=	\$0

