

# Housing Element and Fair Share Plan

Township of Upper Deerfield  
Cumberland County, New Jersey

Adopted June 9, 2025

Clarke Caton Hintz

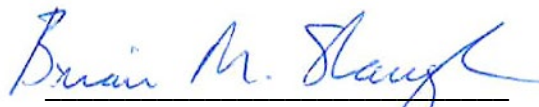


## Housing Element and Fair Share Plan

Planning Board  
Township of Upper Deerfield  
Cumberland County, New Jersey

Adopted June 9, 2025

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# Housing Element and Fair Share Plan

## EXECUTIVE SUMMARY

This Fourth Round Housing Element and Fair Share Plan (“HEFSP”) has been prepared for Upper Deerfield Township, of Cumberland County, in accordance with the New Jersey Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-310 as amended by P.L. 2024 c.2, the Administrative Directive #14-24, and the rules of the New Jersey Council on Affordable Housing (“COAH”) contained at N.J.A.C. 5:93 et seq.

There are four components to a municipality’s affordable housing obligation: the Fourth Round Present Need or Rehabilitation Share, the Prior Round Prospective Need obligation, the Third Round Prospective Need obligation, and the Fourth Round Prospective Need obligation. The Township’s affordable housing obligations are as follows:

▪ Fourth Round Present Need:	31 units
▪ Prior Round Prospective Need Obligation:	242 units
▪ Third Round Prospective Need Obligation:	280 units
▪ Fourth Round Prospective Need Obligation:	<u>95 units</u>
<b>Total Obligation</b>	<b>648 units</b>

Regarding the Fourth Round’s Present Need obligation, Upper Deerfield will continue to operate a municipal rehabilitation program funded by the Small Cities Community Home Rehabilitation Program (which is supplied by the U.S. Department of Housing and Urban Development) supplemented by funding from the municipality’s affordable housing trust fund.

The Township has fully satisfied the Prior Round obligation (1987-1999) of 242 units with 181 existing family affordable rental units and 61 Prior Round rental bonuses.

The Township is addressing its Third Round obligation (1999-2025) of 280 with 74 affordable rental units, 11 special needs bedrooms, 126 affordable for-sale units, and 67 rental bonuses. Each project used to satisfy Upper Deerfield’s Third Round obligation has been completed, approved, or currently has a redeveloper’s agreement.

The Fourth Round obligation (2025-2035) of 95 units will be satisfied with 71 credits from excess affordable family rental units in the Third Round, 23 bonuses from three-bedroom affordable rental units in excess of the Township’s required minimum number of such building types, and 12 surplus senior for-sale dwelling units from the Third Round, and 7 additional senior units from the Town Center zoning district, as well as 10 market-to-affordable units for neighborhood revitalization purposes. This provides a surplus of 27 units to the Fifth Round.



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**INTRODUCTION**

The Housing Element and Fair Share Plan for Upper Deerfield Township addresses its constitutional obligation to provide for affordable housing under the mandate of the *Mount Laurel Doctrine* established by the New Jersey Supreme Court beginning in 1975 and codified by the state legislature in the New Jersey Fair Housing Act of 1985. Together, the Housing Element and Fair Share Plan constitute the affordable housing plan for Upper Deerfield Township. The Housing Element is a component of the Township's Master Plan for development and redevelopment, and the Fair Share Plan constitutes the means and documents designed to implement the Housing Plan Element, also known in this document as the "housing plan."

The *Mount Laurel Doctrine* has a long and complicated history since it was first articulated by the New Jersey Supreme Court in 1975, as outlined beginning under the heading, Affordable Housing History in New Jersey: Judicial and Legislative Background.

This housing plan primarily addresses what is called the Fourth Round of affordable housing obligation. This time period, set by an amendment to the Fair Housing Act in March 2024<sup>1</sup>, runs from July 1, 2025 for ten years to June 30, 2035. Since municipal affordable housing obligations for one of the two main components are cumulative, the means to address the prior rounds of obligation are also included in this document. Consequently, this document incorporates information from the Township's 2019 Housing Element and Fair Share Plan that was adopted on July 17, 2019 by the Planning Board that addressed its Third Round obligations following the NJ Supreme Court's decision issued on March 15, 2015<sup>2</sup>.

The 2024 amendments to the Fair Housing Act set in motion a concentrated process that has involved both the Township Committee and the Planning Board, due to a strict schedule of actions. These actions are required for any municipality that wishes to comply with the *Mount Laurel Doctrine*, which mandates providing a fair share of affordable housing opportunities for both current and future residents of New Jersey.

In accordance with this process, the Township Committee and its Planning Board have prepared this Housing Element and Fair Share Plan and the accompanying Spending Plan.

<sup>1</sup> - P.L. 2024, c. 2, March 20, 2024

<sup>2</sup> - In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015)

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**UPPER DEERFIELD'S AFFORDABLE HOUSING HISTORY**

Beginning in 1998, Upper Deerfield was a defendant in a matter entitled Hollyview Development Corporation I v. Township of Upper Deerfield, under docket number L-1586-98 (hereinafter "Hollyview") which sought a judicial determination that Upper Deerfield Township had not met its Mount Laurel obligation. During the course of the Hollyview case, the trial court on March 2, 2002 entered a Case Management Order which, among other things, "barred and enjoined" any additional *Mount Laurel* litigation against the Township "until further Order of the Court".

On April 4, 2015, the trial court granted the Township's cross motion for summary judgement in the Hollyview case which dismissed the matter against the Township. The court held that Upper Deerfield had complied with the "Mount Laurel Doctrine" and met its obligation second and third round affordable housing obligations. The Hollyview plaintiff then filed an appeal with the Appellate Division of Superior Court.

On December 14, 2016, the Appellate Division rendered its decision on the appeal and held that the Township's construction of 285<sup>3</sup> income restricted units satisfied and exceeded its second-round obligation of 242 units, that Upper Deerfield had no unmet Prior Round obligation, and that the Township may be entitled to additional rental housing bonuses or credits. The Appellate Division found, however, that the trial court erred in granting third round certification to the Township. The matter was remanded to the trial court to determine if the Township complied with the third round obligation entitling it to the judgment of repose granted in April of 2014.

On December 19, 2016, the trial court entered a final order pursuant to the Appellate Division decision. That order entered the final dismissal of the exclusionary zoning and builder's remedy suit filed by Hollyview; confirmed Upper Deerfield's compliance with its second round affordable housing obligations by having provided 285 affordable housing units in satisfaction of 242 affordable housing unit obligation with the potential for additional carry forward credits for rental bonuses; and granted Upper Deerfield temporary immunity from *Mount Laurel* litigation for a 45-day period within which to file a Declaratory Judgement seeking a judgment of compliance and repose.

On January 2, 2017, in light of the Hollyview decision, and in accordance with *Mount Laurel IV*, Upper Deerfield petitioned to the Superior Court for declaratory Judgment of Compliance and Repose and temporary immunity from builder's remedy suits and that the Township is meeting its rehabilitation obligation, has fully satisfied its Prior Round obligation and will also meet its third round obligation, or same is determined by the Court.

Shortly after the decision, the Township began reviewing its previous housing activities, zoning, affordable housing trust fund and the means to address its third round obligations. Since the March 2015 NJ Supreme Court decision recognized Fair Share Housing Center

<sup>3</sup> - While the Appellate Division had approved the development of 285 affordable housing units on the Countryside Village site, only 283-units were actually built during the three phases of development (the last phase was modified to have two fewer units because of site conditions).

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(“FSHC”) as an interested party in every Mount Laurel proceeding before the courts, the organization has sought to reach settlement agreements with individual municipalities. The agreements, however, come with certain significant stipulations but over time they have been the defacto standard for meeting the affordable obligations of municipalities. After protracted negotiation, Upper Deerfield’s Township Committee came to terms with FSHC, signing a settlement agreement dated October 23, 2018.

As noted previously, on January 7, 2019, the Hon. Anne McDonnell, P.J.Ch., heard various witnesses and other testimony that conclusively demonstrated that the municipality’s affordable housing proposal was fair to the low and moderate-income citizens of the state. An order approving the settlement agreement was entered on January 22, 2019 and has led to the creation of 2019 Housing Element and Fair Share Plan to comply with the order.

On January 30<sup>th</sup> 2025, Upper Deerfield Township filed a motion for certification of compliance for its calculated Fair Share Obligation for the Fourth Round utilizing the alternative model and calculations prepared by Clarke Caton Hintz, P.C., for the municipality’s fair share obligations and committed to 19 units of Present Need and 75 units/credits of Prospective Need. How these calculations were derived is found in, *Determination of the Allocation of Fourth Round Affordable Housing Numbers to New Jersey Municipalities: Methodology and Rationale*, dated January 10, 2025, and was found to be an acceptable model by the Affordable Housing Dispute Resolution Program, albeit with regard to a challenge to another municipality’s affordable housing obligations.

The Township’s calculation of its present and prospective need was challenged by FSHC on February 28, 2025. On March 13, 2025, Upper Deerfield and FSHC entered into mediation with the Hon. Julio Mendez, J.S.C., but no agreement was reached. Subsequent to the mediation session the Township and FSHC came to an agreement and on March 20, 2025, Upper Deerfield and FSHC attended the Session pursuant to Section II.G of Court Directive #14-24 and confirmed on the record that a mediation agreement was reached between them subject to formal approval by the Upper Deerfield Township Committee. The Township Committee formally adopted a resolution approving the terms of the settlement the same day. The New Jersey Builders Association also challenged the original Township calculation but did not oppose the mediation agreement later reached by Upper Deerfield and FSHC. The obligations of 31 for the Present Need obligation and 95 for the Prospective Need obligation thus are settled for the Fourth Round through these actions.

**AFFORDABLE HOUSING HISTORY IN NEW JERSEY: JUDICIAL AND LEGISLATIVE BACKGROUND**

In the 1975 Mount Laurel<sup>4</sup> decision, the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide diversity and choice in the housing types permitted in the municipality, including housing for low- and moderate-income households. In its 1983 Mount Laurel II decision,<sup>5</sup> the NJ Supreme Court extended to all municipalities with any “growth area” as designated in the State Development Guide Plan (now superseded by the State Development and Redevelopment Plan, or SDRP) the obligation to

<sup>4</sup> - Southern Burlington County NAACP v. Township of Mount Laurel, 67 N.J. 151 (1975)

<sup>5</sup> - Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983)

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provide their “fair share” of a calculated regional need for affordable units. Mount Laurel II also introduced a “builder’s remedy” if a municipality was not providing its fair share of affordable housing. A builder’s remedy may permit a developer that is successful in litigation the right to develop what is typically a higher density multifamily project on land not zoned to permit such use, so long as a “substantial” percentage of the proposed units would be reserved for low- and moderate-income households.

In 1985, in response to Mount Laurel II, the New Jersey Legislature enacted the Fair Housing Act (“FHA”).<sup>6</sup> The FHA created the Council on Affordable Housing (“COAH”) as an administrative body responsible for oversight of municipalities’ affordable housing efforts, rather than having oversight go through the courts. The Legislature charged COAH with promulgating regulations (i) to establish housing regions; (ii) to estimate low- and moderate-income housing needs; (iii) to set criteria and guidelines for municipalities to use in determining and addressing their fair share obligations, and (iv) to create a process for the review and approval of municipal housing elements and fair share plans.

### **COAH’s First and Second Rounds, 1986 - 1999**

COAH created the criteria and regulations for municipalities to address their affordable housing obligations. COAH originally established a methodology for determining municipal affordable housing obligations for the six-year period between 1987 and 1993,<sup>7</sup> which period became known as the First Round. This methodology established an existing need to address substandard housing that was being occupied by low- and moderate-income households (variously known as “present need” or “rehabilitation share”), and calculated future demand, to be satisfied typically, but not exclusively, with new construction (“prospective need” or “fair share”).

The First Round methodology was superseded in 1994 by COAH’s Second Round regulations.<sup>8</sup> The 1994 regulations recalculated a portion of the 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 census data. These regulations identified a municipality’s cumulative obligations for the First and Second Rounds. Under regulations adopted for the Third Round, a municipality’s obligation to provide affordable housing for the First and Second Rounds is referred to cumulatively as the Prior Round obligation.

### **COAH’s Third Round and Related Judicial and Legislative Activity, 1999-2025**

The FHA had originally required housing rounds to be for a six-year period for the First and Second Rounds, then in 2001, the time period increased to a 10-year period consistent with the Municipal Land Use Law (“MLUL”). In order to utilize 2000 census data which had not yet been released, COAH delayed the start of the Third Round from 1999 to 2004, with the Third Round time period initially ending in 2014. In December 2004, COAH’s first version of

<sup>6</sup> - N.J.S.A. 52:27D-301 et seq.

<sup>7</sup> - N.J.A.C. 5:92-1 et seq.

<sup>8</sup> - N.J.A.C. 5:93-1.1 et seq.

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the Third Round rules<sup>9</sup> became effective, and the 15-year Third Round time period (1999 – 2014) was condensed into an affordable housing delivery period from January 1, 2004, through January 1, 2014.

The 2004 Third Round rules marked a significant departure from the methods utilized in COAH's Prior Round. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These Third Round rules implemented a "growth share" approach that linked the production of affordable housing to residential and non-residential development in a municipality.

On January 25, 2007, a New Jersey Appellate Court decision<sup>10</sup> invalidated key elements of the first version of the Third Round rules, including the growth share approach. The Court ordered COAH to propose and adopt amendments to its rules, with COAH issuing revised rules effective on June 2, 2008 (as well as a further rule revision effective on October 20, 2008) which largely retained the growth share approach.

Just as various parties had challenged COAH's initial Third Round regulations, parties challenged COAH's 2008 revised Third Round rules. On October 8, 2010, the Appellate Division issued its decision on the challenges.<sup>11</sup> The Appellate Division upheld the COAH Prior Round regulations that assigned rehabilitation and Prior Round numbers to each municipality, but invalidated the regulations by which the agency assigned housing obligations in the Third Round, again ruling that COAH could not allocate obligations through a growth share formula. Instead, the Appellate Division directed COAH to use methods similar to those used in the First and Second Rounds.

### **Third Round Judicial Activity**

After various challenges were filed, on September 26, 2013, the NJ Supreme Court upheld the Appellate Court decision<sup>12</sup> and ordered COAH to prepare the necessary rules. COAH failed to adopt new rules, and more challenges ensued.

On March 10, 2015, the New Jersey Supreme Court issued a ruling on FSHC's Motion in Aid of Litigant's Rights, which became known as *Mount Laurel IV*.<sup>13</sup> In this decision, the Court transferred responsibility for reviewing and approving housing elements and fair share plans from COAH to designated Mount Laurel trial judges, declaring COAH "moribund." Municipalities were now to apply to the Courts, instead of COAH, if they wished to be protected from exclusionary zoning lawsuits. The Mount Laurel trial judges, with the assistance of a Court-appointed Special Adjudicator, were tasked with reviewing municipal plans much in the same manner as COAH had done previously. Those towns whose plans were approved by the

<sup>9</sup> - N.J.A.C. 5:94-1 and 5:95-1

<sup>10</sup> - In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1 (2007)

<sup>11</sup> - In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462 (2010)

<sup>12</sup> - In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013)

<sup>13</sup> - ibid.

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Court received a Judgment of Compliance and Repose, the court equivalent of COAH's substantive certification.

While the NJ Supreme Court's decision set a process in motion for towns to address their Third Round obligation, the decision did not assign those obligations. Instead, that was to be done by the trial courts, although ultimately most towns entered into settlement agreements to set their fair share obligations. The Court stated that municipalities should rely on COAH's Second Round rules (N.J.A.C. 5:93) and those components of COAH's 2008 regulations that were specifically upheld, as well as the FHA, in their preparation of Third Round housing elements and fair share plans.

On January 17, 2017, the NJ Supreme Court rendered a decision<sup>14</sup> that found that the period between 1999 and 2015, now known as the "gap period," when no valid affordable housing regulations were in force, generated an affordable housing obligation. This obligation required an expanded definition of the municipal Present Need obligation to include the unaddressed housing needs of low- and moderate-income households that had formed during the gap period. This meant that the municipal affordable housing obligation would now comprise four components: Present Need (rehabilitation), Prior Round (1987-1999, new construction), Gap Need (1999-2015, new construction), and Prospective Need (Third Round, 2015 to 2025, new construction).

### **Third Round Legislative Activity**

In addition to the state agency negotiation and judicial decisions, the New Jersey Legislature has amended the FHA several times in recent years.

- A statewide 2.5% nonresidential development fee instead of requiring nonresidential developers to provide affordable housing was established in 2008;
- New regional contribution agreements ("RCAs") were eliminated in 2008;
- A very-low income requirement was added in 2008;
- In 2008, a requirement was added that municipalities had to commit to spend development fees within four years of the date of collection. This was later addressed in a Superior Court decision which found the four-year period begins at the time the Court approves the municipal spending plan.<sup>15</sup>
- In 2020, all affordable units have to be affirmatively marketed and also listed on the state's Affordable Housing Resource Center website.<sup>16</sup>

<sup>14</sup> - In Re Declaratory Judgment Actions Filed by Various Municipalities, 227 N.J. 508 (2017)

<sup>15</sup> - In the Matter of the Adoption of the Monroe Township Housing Element and Fair Share Plan, and Implementing Ordinances (112 A.3d 595 (App. Div. [2015])

<sup>16</sup> - <https://njhrc.gov>



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**The Fourth Round, 2025-2035**

As noted in the introduction, the rules upon which this document is based came about from the FHA amendments in P.L. 2024, c. 2, passed on March 20, 2024. The key parts of the law include:

- The abolition of the NJ Council on Affordable Housing;
- Designating the NJ Department of Community Affairs (“DCA”) to develop new municipal obligations using a methodology that is mainly spelled out in the law. These obligations are advisory, not binding;
- Establishing a timeline within which municipalities need to adopt and submit binding resolutions establishing their Fourth Round fair share obligations, in order for them to retain their immunity from exclusionary-zoning lawsuits;
- Requiring the NJ Housing and Mortgage Finance Agency (“HMFA”) and DCA to update rules and standards governing affordable housing production, trust funds and administration;
- Establishing a court-based Affordable Housing Dispute Resolution Program (“Program”) that hears challenges to municipalities’ affordable housing obligation determinations and housing plans;
- Establishing a longer period of deed restrictions for rental units to 40 years;
- Changing the criteria whereby municipalities may gain affordable housing bonuses;
- Establishing new reporting and monitoring procedures and deadlines for both affordable units and affordable housing trust funds, and assigns oversight for reporting and monitoring to DCA.

Furthermore, in December 2024, the Administrative Office of the Courts issued Administrative Directive #14-24, establishing procedures for implementation of the Program and for municipalities to file their Fourth Round Declaratory Judgment (“DJ”) filings, etc. This Administrative Directive also sets requirements for what must be included in a Fourth Round HEFSP.

This plan has been prepared to meet the requirements of the FHA as most recently amended, as well as the 2024 Administrative Directive, as necessary. Where such requirements contradict each other, this document adheres to the statute.

**HOUSING ELEMENT AND FAIR SHARE PLAN REQUIREMENTS**

In accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 *et seq.*), a municipal master plan must include a housing plan element as the foundation for the municipal zoning ordinance (see N.J.S.A. 40:55D-28b(3)). Pursuant to the FHA (N.J.S.A. 52:27D-301 *et seq.*), a municipality’s housing element must be designed to provide access to affordable housing to

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meet present and prospective housing needs, with particular attention to low- and moderate-income housing. Specifically, N.J.S.A. 52:27D-310 requires that the housing element contain at least the following:

- 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;
- 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\_of low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low- and moderate-income housing, as established pursuant to N.J.S.A. 52:27D-304.1;
- f. A consideration of the lands 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 N.J.S.A. 52:27D-329.20; and
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to N.J.S.A. 13:20-4, an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- 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.



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In addition to FHA requirements, this Fourth Round HEFSP has been prepared in compliance with the following requirements set forth by Administrative Directive #14-24:

1. One of the requirements for a final HEFSP is the inclusion of detailed site suitability analyses, based on the best available data, for each of the un-built inclusionary or 100 percent affordable housing sites in the plan as well as an identification of each of the sites that were proposed for such development and rejected, along with the reasons for such rejection.
2. The concept plan for the development of each of the selected sites should be overlaid on the most up to date environmental constraints map for that site as part of its analysis. When the detailed analyses are completed, the municipality can see what changes will be needed (either to the selected sites or to their zoning) to ensure that all of the units required by the settlement agreement will actually be produced. If it becomes apparent that one (or more) of the sites in the plan does not have the capacity to accommodate all of the development proposed for it, the burden will be on the municipality either to adjust its zoning regulations (height, setbacks, etc.) so that the site will be able to yield the number of units and affordable units anticipated by the settlement agreement or to find other mechanisms or other sites as needed to address the likelihood of a shortfall.
3. The final HEFSP must fully document the creditworthiness of all of the existing affordable housing units in its HEFSP and to demonstrate that it has followed all of the applicable requirements for extending expiring controls, including confirmation that all of the units on which the controls have been extended are code-compliant or have been rehabilitated to code-compliance, and that all extended controls cover a full 30-year period beginning with the end of the original control period. Documentation as to the start dates and lengths of affordability controls applicable to these units and applicable Affordable Housing Agreements and/or deed restrictions is also required. Additionally, the income and bedroom distributions and continued creditworthiness of all other existing affordable units in the HEFSP must be provided.
4. The HEFSP must include an analysis of how the HEFSP complies with or will comply with all of the terms of the executed settlement agreement. Once the HEFSP has been prepared, it must be reviewed by Fair Share Housing Center and the Program's Special Adjudicator for compliance with the terms of the executed settlement agreement, the FHA and Uniform Housing Affordability Controls ("UHAC") regulations. The HEFSP must be adopted by the Planning Board and the implementation components of the HEFSP must be adopted by the governing body.

The HEFSP must also include (in an Appendix) all adopted ordinances<sup>17</sup> and resolutions needed to implement the HEFSP, including:

1. All zoning amendments (or redevelopment plans, if applicable).

<sup>17</sup> - This is a contradiction of the amended FHA, however, which requires draft ordinances.

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2. An Affordable Housing Ordinance that includes, among other required regulations, its applicability to 100 percent affordable and tax credit projects, the monitoring and any reporting requirements set forth in the settlement agreement, requirements regarding very low income housing and very low income affordability consistent with the FHA and the settlement agreement, provisions for calculating annual increases in income levels and sales prices and rent levels, and a clarification regarding the minimum length of the affordability controls (at least 30 years, until the municipality takes action to release the controls).
3. The adoption of the mandatory set aside ordinance, if any, and the repeal of the existing growth share provisions of the code.
4. An executed and updated Development Fee Ordinance that reflects the court's jurisdiction.
5. An Affirmative Marketing Plan adopted by resolution that contains specific directive to be followed by the Administrative Agent in affirmatively marketing affordable housing units, with an updated COAH form appended to the Affirmative Marketing Plan, and with both documents specifically reflecting the direct notification requirements set forth in the settlement agreement.
6. An updated and adopted Spending Plan indicating how the municipality intends to allocate development fees and other funds, and detailing (in mini manuals) how the municipality proposes to expend funds for affordability assistance, especially those funds earmarked for very low income affordability assistance.
7. A resolution of intent to fund any shortfall in the costs of the municipality's municipally sponsored affordable housing developments as well as its rehabilitation program, including by bonding if necessary.
8. Copies of the resolution(s) and/or contract(s) appointing one or more Administrative Agent(s) and of the adopted ordinance creating the position of, and resolution appointing, the Municipal Affordable Housing Liaison.
9. A resolution from the Planning Board adopting the HEFSP, and, if a final Judgment is sought before all of the implementing ordinances and resolutions can be adopted, a resolution of the governing body endorsing the HEFSP.

Consistent with N.J.A.C. 5:93-5.5, any municipally sponsored 100 percent affordable housing development will be required to be shovel-ready within two (2) years of the deadlines set forth in the settlement agreement. Since the Township is not proposing such a project in this HEFSP, this item is not applicable.

The applicability of these requirements will be addressed within the body of this housing plan as warranted.

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**AFFORDABILITY REQUIREMENTS**

Affordable housing is defined under New Jersey’s Fair Housing Act as a dwelling, either for sale or rent that is within the financial means of households of low- or moderate-income, as is measured within each housing region. Upper Deerfield Township is in COAH’s Region 6, which includes Atlantic, Cape May, Cumberland, and Salem Counties. Moderate-income households are those earning more than 50% and up to 80% of the regional median income. Low-income households are those with annual incomes from no income and up to and including 50% of the regional median income with very low-income households, a subset of “low-income” households that earn 30% or less of the regional median income.

The Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.3(d) and -(e) requires that the maximum rent for a qualified unit be affordable to households that earn 60% or less of the median income for the region. The average rent for affordable units in a rental development must be affordable to households earning no more than 52% of the median income. The maximum sale prices for affordable units is required to be affordable to households that earn 70% or less of the median income. The average sale price for affordable units in a for-sale development is required to be affordable to a household that earns 55% or less of the median income.

The regional median income has historically been defined by COAH using the HUD income limits on an annual basis. In the spring of each year HUD releases updated regional income limits which COAH has historically reallocated to its regions. It is from these income limits that the rents and sale prices for affordable units are derived. COAH last published regional income limits in 2014.

Pursuant to P.L. 2024 c.2, the New Jersey Housing and Mortgage Finance Agency (“HMFA”) was assigned responsibility for calculating and publishing annual income limits. In May of 2025, HMFA enacted new income limits for 2025, which are shown for Housing Region 6 in Table 1. Below.

**Table 1. 2025 Income Limits for Region 6**

<b>Household Income Levels</b>	<b>1 Person Household</b>	<b>2 Person Household</b>	<b>3 Person Household</b>	<b>4 Person Household</b>	<b>5 Person Household</b>
<b>Moderate</b>	\$57,520	\$65,760	\$74,000	\$82,160	\$88,800
<b>Low</b>	\$35,950	\$41,100	\$46,250	\$51,350	\$55,500
<b>Very Low</b>	\$21,570	\$24,660	\$27,750	\$30,810	\$33,300

*Source: New Jersey Housing and Mortgage Finance Agency*

The sample rents and sale prices shown in Tables 2 and 3, below, are gross figures and do not account for the specified utility allowance.

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**Table 2. Illustrative 2024 Rent Prices for Region 6**

Household Income Levels (% of Median Income)	1 Bedroom Unit Rent	2 Bedroom Unit Rent	3 Bedroom Unit Rent
<b>Moderate (60%)</b>	\$1,107	\$1,328	\$1,534
<b>Low (50%)</b>	\$922	\$1,107	\$1,279
<b>Very Low (30%)</b>	\$553	\$664	\$767

*Source: Affordable Housing Professionals of NJ Affordable Housing Regional Income Limits and Rental Calculator*

**Table 3. Illustrative 2024 Affordable Sales Prices for Region 6**

Household Income Levels (% of Median Income)	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
<b>Moderate (70%)</b>	\$154,088	\$187,267	\$218,234
<b>Low (50%)</b>	\$106,689	\$130,389	\$152,508
<b>Very Low (30%)</b>	\$59,291	\$73,510	\$86,782

*Source: Affordable Housing Professionals of NJ Affordable Housing Regional Income Limits and Sales Calculator*

## **HOUSING, DEMOGRAPHIC, AND EMPLOYMENT ANALYSIS**

### **Housing Conditions**

Upper Deerfield's housing stock predominantly consists of single-family detached units (82.5%). Other consolidated categories include 5.9% of the housing stock that consists of townhouses or duplexes and 11.6% that are apartments. The Township's rental units comprise approximately 28.3% of all occupied units, a lower percentage than the State (36.3%) or County (34.4%).

**Table 4. Housing Units by Number of Units in Structure, 2023**

Number of Units	Owner Occupied	Percent of Total	Renter Occupied	Percent of Total	Vacant	Total
<b>1, Detached</b>	2,032	64.4%	384	12.2%	188	2,604
<b>1, Attached</b>	0	0.0%	187	5.9%	0	187
<b>2</b>	0	0.0%	84	2.7%	0	84
<b>3 or 4</b>	0	0.0%	37	1.2%	0	37
<b>5 to 9</b>	0	0.0%	35	1.1%	0	35
<b>10 or more</b>	51	1.6%	94	3.0%	0	145
<b>Other</b>	0	0.0%	0	0.0%	64	64
<b>Total</b>	<b>2,083</b>	<b>66.0%</b>	<b>821</b>	<b>26.0%</b>	<b>252</b>	<b>3,156</b>

*Source: Tables B25032, DP04, 2019-2023 American Community Survey Five-Year Estimate*

Upper Deerfield's housing stock is young in comparison to both the County and the State (not shown). Only 11.1% of Upper Deerfield's housing stock was built prior to 1949 and none of

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those units are vacant. By comparison, 21.1% of New Jersey's housing stock was built prior to 1949.

**Table 5. Housing Units by Year Built, 2023**

Year Built	Occupied Units	Percent	Owner	Renter	Vacant
2020 or later	26	0.8%	26	0	0
2010 to 2019	50	1.6%	38	12	0
2000 to 2009	548	17.4%	309	208	31
1990 to 1999	518	16.4%	460	58	0
1980 to 1989	363	11.5%	277	50	36
1970 to 1979	573	18.2%	255	177	141
1960 to 1969	305	9.7%	205	100	0
1950 to 1959	422	13.4%	309	69	44
1940 to 1949	152	4.8%	47	105	0
1939 or earlier	199	6.3%	157	42	0
<b>Total</b>	<b>3,156</b>	<b>100.0%</b>	<b>2,083</b>	<b>821</b>	<b>252</b>
Median Year Built	1978		1975	1982	

Sources: Tables B25036, B25037, DP04, 2019-2023 American Community Survey Five-Year Estimate

The plurality (59.2%) of housing in Upper Deerfield contains three bedrooms, and 74.9% of all units have three or more bedrooms, which is a greater percentage than Cumberland County (62.2%). Upper Deerfield also has a much smaller percentage of one-bedroom housing units (6.9%) than Cumberland County where one-bedrooms and studio units make up 13.1% of the housing stock.

**Table 6. Number of Bedrooms per Housing Unit, 2023**

Bedrooms	Number of Units	Percent of Total
Efficiency	0	0.0%
1	217	6.9%
2	574	18.2%
3	1,869	59.2%
4	487	15.4%
5+	9	0.3%
<b>Total</b>	<b>3,156</b>	<b>100%</b>

Source: Table DP04, 2019-2023 American Community Survey Five-Year Estimate

The median home value in Upper Deerfield increased much more (39.5%) between 2013 and 2023, compared with the County (21.7%). The Township had higher median home values than

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the County in both 2013 (\$179,600 vs. \$168,900) and 2023 (\$250,500 vs. \$205,600, respectively).

Based on the median income information provided in Table 16, below, and the estimated value of owner-occupied homes in 2023 as provided in Table 7, and using the guideline that monthly ownership costs should total no more than 28% of a household's gross income, approximately 37 (1.3%) of 2023 housing units in Upper Deerfield may be affordable to very low-income households, 188 (6.5%) of units, including those affordable to very low-income households, may be affordable to low-income households, and approximately 758 units (19.8%), including those noted above, may be affordable to moderate-income households.

**Table 7. Owner-Occupied Housing Values, 2013 and 2023**

Housing Unit Value	2013	Percent	2023	Percent
Less than \$50,000	22	1.0%	27	1.3%
\$50,000 to \$99,999	238	10.7%	18	0.9%
\$100,000 to \$149,999	465	20.9%	203	9.7%
\$150,000 to \$199,999	635	28.6%	412	19.8%
\$200,000 to \$299,999	557	25.1%	697	33.5%
\$300,000 to \$499,999	217	9.8%	552	26.5%
\$500,000 to \$999,999	56	2.5%	174	8.4%
\$1,000,000 or more	30	1.4%	0	0.0%
<b>Total Dwellings</b>	<b>2,890</b>		<b>2,904</b>	
Median (dollars)	\$179,600		\$250,500	

Sources: Table DP04, 2009-2013 and 2019-2023 American Community Survey Five-Year Estimates

The median rent in Upper Deerfield in 2023 was \$1,529, compared to \$1,254 across Cumberland County. Based on the median income information provided in Table 16, below, and the breakdown of estimated rents from Table 8, approximately 340 units, or 41.4% of rental units in the Township, may be affordable to moderate-income households. Of those, approximately 233 units, or 28.4% of rental units, may be affordable to low-income households, and 116 units, or 14.1% of all rental units, may be affordable to very low-income households.

**Table 8. Upper Deerfield Township and Cumberland County Gross Rent, 2023**

Gross Rent per Month	Units in Upper Deerfield	% of Total	Units in Cumberland County	% of Total
Less than \$500	95	11.6%	2060	11.2%
\$500 to \$999	153	18.6%	3,166	17.2%
\$1,000 to \$1,499	81	9.9%	7,115	38.7%
\$1,500 to \$1,999	267	32.5%	4,021	21.9%

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Gross Rent per Month	Units in Upper Deerfield	% of Total	Units in Cumberland County	% of Total
\$2,000 to \$2,499	67	8.2%	829	4.5%
\$2,500 to \$2,999	26	3.2%	312	1.7%
\$3,000 or more	0	0.0%	105	0.6%
No rent paid	132	16.1%	767	4.2%
<b>Total</b>	<b>821</b>	<b>100%</b>	<b>18,375</b>	<b>100%</b>
Median Rent	\$1,529	\$1,254		

Source: Table DPo4, 2019-2023 American Community Survey Five-Year Estimate

Housing is generally considered to be affordable if the costs of rents, mortgages, and other essential costs consume 28% or less of an owner-household's income or 30% or less of a renter-household's income. Homeowner rates are lower to account for the additional home maintenance costs associated with ownership. In Upper Deerfield, 38.3% of all households in occupied units are expending more than 30% of their incomes on housing. About 69.1% of renter-occupied households are paying more than 30%, compared to about 29.3% of owner-occupied households.

**Table 9: Housing Affordability, 2023**

Monthly Housing Costs as Percent of Income	Owner-Occupied	% of Total	Renter	% of Total	All Occupied	% of Total
Less than 20 Percent	772	37.1%	142	23.3%	914	34%
20 to 29 Percent	700	33.6%	46	7.6%	746	27.7%
30 Percent or More	611	29.3%	421	69.1%	1,032	38.3%
<b>Total</b>	<b>2,083*</b>	<b>100%</b>	<b>609**</b>	<b>28.3%</b>	<b>2,692</b>	<b>100%</b>

Source: Table DPo4, 2019-2023 American Community Survey Five-Year Estimate

\* Includes only households with a mortgage

\*\* Excludes 234 households labeled as "Not Computed"

The 2023 American Community Survey found that there were 11 units that had incomplete kitchen facilities and 1,164 units that were 50+ years old (36.9% of the Township's housing stock). Historically these conditions have been indicators of housing deficiency, which are used to determine the number of units requiring rehabilitation.

**Table 10: Indicators of Housing Deficiency, 2023**

Indicator	50+ Years Old	Incomplete Plumbing	Incomplete Kitchen	Crowded or Overcrowded, and Built pre-1950
Number of Units	1,164	0*	11*	0*

Source: Tables B25050, DPo4, 2019-2023 American Community Survey Five-Year Estimate

\* - The margin of error for this information exceeds the estimated counts. As such, the estimate may be unreliable.

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**POPULATION CHARACTERISTICS**

Between 1990 and 2010, the Township's population increased by 1.2%. While the County's growth outpaced that of Upper Deerfield (5.3%) during this period. Both the Upper Deerfield and Cumberland County grew slower than the State (9.4%).

**Table 11. Population Growth, 2000 to 2020**

Location	2000	2010	'00-'10 Change	2020	'10 - '20 Change	'00 - 20 Change
Upper Deerfield	7,556	7,660	1.4%	7,645	-0.2%	1.2%
Cumberland County	146,438	156,898	7.1%	154,152	-1.8%	5.3%
New Jersey	8,414,350	8,791,894	4.3%	9,288,994	5.4%	9.4%

Source: U.S. Census 2000, 2010, 2020

Since 2013, age cohorts in Upper Deerfield have had some significant fluctuations. While Upper Deerfield has seen a 31.1% reduction in the number of children ages 5 to 19, there has been a very significant increase (92%) in the number of adults ages 20 to 34 (greater than just the aging of one cohort into the next). The age bracket with the most growth was the 20-24-year-old age cohort, increasing by 418, or 110%, while the 15- to 19-year-old age cohort had the most substantial decline (278 people or -46.12%). Table 12 indicates that the median age of Township residents has declined rapidly from 41.6 years to 36.3 years between 2013 and 2023. The number of children under the age of 5 has risen 65.3% in the same period. This, along with the rapid growth of residents aged 20-34, could imply a surge of young families moving into the Township.



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**Table 12. Age Distribution, 2013 and 2023**

Age in Years	2013		2023		Percent Change 2013-2023
	Population	Percent	Population	Percent	
Under 5	403	5.3%	666	8.6%	65.3%
5 to 9	457	6.0%	336	4.3%	-26.5%
10 to 14	522	6.8%	432	5.6%	-17.2%
15 to 19	595	7.8%	317	4.1%	-46.7%
20 to 24	380	5.0%	798	10.3%	110.0%
25 to 34	710	9.3%	1,252	16.2%	76.3%
35 to 44	1,141	14.9%	843	10.9%	-26.1%
45 to 54	991	12.9%	556	7.2%	-43.9%
55 to 59	530	6.9%	428	5.5%	-19.3%
60 to 64	557	7.3%	697	9.0%	25.1%
65 to 74	751	9.8%	862	11.2%	14.8%
75 to 84	510	6.7%	370	4.8%	-27.5%
85+	113	1.5%	169	2.2%	49.6%
<b>Total</b>	<b>7,660</b>	<b>100%</b>	<b>7,726</b>	<b>100%</b>	<b>0.9%</b>
<b>Median Age</b>	<b>41.6 Years</b>		<b>36.3 Years</b>		

Source: Table DP05, 2009-2013 and 2019-2023 American Community Survey Five-Year Estimates

## HOUSEHOLD CHARACTERISTICS

The total number of households did not shift much from 2013 to 2023 in Upper Deerfield (2,890 to 2,904). The household size distribution changed slightly, with, single person households dropping from 24.5% of all households to 21.1%, while four or more person households rose from 20.5% to 24.3%. At the same time, the percentage of two and three person households did not shift much, rising 0.6% and lowering 1%, respectively.

**Table 13. Household Size of Occupied Units, 2013 and 2023**

Household Size	2013 Households	Percent	2023 Households	Percent
1 Person	708	24.5%	614	21.1%
2 People	1,090	37.7%	1,111	38.3%
3 People	500	17.3%	472	16.3%
4 or More People	592	20.5%	707	24.3%
<b>Total Households</b>	<b>2,890</b>	<b>100.0%</b>	<b>2,904</b>	<b>100.0%</b>

Sources: Table S2501, 2009-2013 and 2019-2023 American Community Survey Five-Year Estimates

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A household is defined by the U.S. Census Bureau as those individuals who occupy a single room or group of rooms constituting a housing unit; however, these individuals may or may not be related. By comparison, a family is identified as a group of individuals including a householder and one or more people related by blood, marriage or adoption, all living in the same household. In 2023, there were an estimated 2,904 households in Upper Deerfield with an average of 2.56 people per household. Of the total households, 75.9% were families (2,203 family units). While 60.3% of all families were married couples, 37.3% of family households were female-headed and 25.6% of family households were male headed. Additionally, 57.6% of the 701 non-family households consisted of people living alone.

**Table 14. Household Composition, 2023**

<b>Household Type</b>	<b>Households</b>	<b>Percent of Total</b>
<b><i>Family households</i></b>	<b>2,203</b>	<b>75.9%</b>
Married-couple household	1,329	45.8%
<i>With Children Under 18</i>	497	17.1%
Male householder, no spouse present	564	19.4%
<i>With Children Under 18</i>	50	1.7%
Female householder, no spouse present	822	28.3%
<i>With Children Under 18</i>	45	1.5%
<b><i>Nonfamily households</i></b>	<b>701</b>	<b>24.1%</b>
Householder living alone	404	13.9%
<b>Total Households</b>	<b>2,904</b>	<b>100%</b>

*Source: Table DP02, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates*

### **Household Size v. Unit Size**

When the number of bedrooms in a unit is considered vs. the size of households in Upper Deerfield, there appears to be a mismatch: There are many more small households (two people or fewer; 59.4% of all households) than there are smaller units (one or two bedrooms; 18.2% of all units). This comparative shortage of smaller homes may be forcing some empty nesters and young adults without children to consider other locations when seeking smaller-sized housing, or to occupy housing that is larger than their needs.

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**Table 15. Unit Size vs. Household Size, 2023**

Unit Size	Number of Units	Percent of Total Units	Household Size	Number of Households	Percent of Total Households
<b>0 or 1 bedroom</b>	217	6.9%	<b>1 Person</b>	614	21.1%
<b>2 bedrooms</b>	574	18.2%	<b>2 Persons</b>	1,111	38.3%
<b>3 bedrooms</b>	1,869	59.2%	<b>3 Persons</b>	472	16.3%
<b>4 or more bedrooms</b>	496	15.7%	<b>4+ Persons</b>	707	24.3%
<b>Total</b>	<b>3,156</b>	<b>100.0%</b>	<b>Total</b>	<b>2,904</b>	<b>100.0%</b>

Source: Tables DP04 and S2501, 2019-2023 American Community Survey Five-Year Estimate

### Income Characteristics

In 2023, the median household income in Upper Deerfield was \$76,040, approximately \$11,541 above the County median (\$64,499). In looking at the income distributions of the Township and County, 12.7% of Upper Deerfield households earn \$150,000 or more while the comparable percentage is 14.9% of County households. On the other side of the income spectrum, 35.4% of Upper Deerfield households earn less than \$50,000, while the same is true for 38.6% of County residents.

**Table 16. Household Income by Income Bracket 2023**

Household Income	Households	Percent
<b>Less than \$10,000</b>	151	5.2%
<b>\$10,000-\$14,999</b>	151	5.2%
<b>\$15,000-\$34,999</b>	261	9.0%
<b>\$35,000-\$49,999</b>	465	16.0%
<b>\$50,000-\$74,999</b>	380	13.1%
<b>\$75,000-\$99,999</b>	527	18.1%
<b>\$100,000-\$149,999</b>	600	20.7%
<b>\$150,000 or more</b>	369	12.7%
<b>Total</b>	<b>2,904</b>	<b>100.0%</b>
<b>Median Income</b>	<b>\$76,040</b>	

Source: Table S1901, 2019-2023 American Community Survey 5-Year Estimates

While the County has family and individual poverty rates of 13.7% and 16.3% respectively, Upper Deerfield has poverty rates of 15% and 19.7%.

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**Table 17. Individual and Family Poverty Rates, 2017**

<b>Governmental Level</b>	<b>Families</b>	<b>Individuals</b>
<b>Upper Deerfield</b>	15.0%	19.7%
<b>Cumberland County</b>	13.7%	16.3%

*Source: Table DP03 and Table S1702, 2010-2023 American Community Survey 5-Year Estimates*

**Employment Characteristics**

The largest employment by sector in the Township is “Wholesale Trade”, employing 31.0% of the labor force in 2022. The next largest sectors were “Manufacturing” (18.2%), “Retail Trade” (11.2%), and “Educational Services” (10.9%).

**Table 18. Covered Employment by Sector, 2022**

<b>Private Sector Category</b>	<b>Employees</b>	<b>Percent</b>
Agriculture	164	4.5%
Construction	59	1.6%
Manufacturing	669	18.2%
Wholesale Trade	1,130	30.8%
Retail Trade	411	11.2%
Transportation/Warehousing	46	1.3%
Finance/Insurance	57	1.6%
Real Estate	27	0.7%
Professional/Technical	37	1.0%
Admin/Waste Remediation	144	3.9%
Educational Services	400	10.9%
Health Care	327	8.9%
Arts and Recreation	9	0.2%
Accommodation and Food Services	109	3.0%
Other Services	85	2.3%
<b>Private Sector Total</b>	<b>3,674</b>	<b>100.0%</b>
Public Administration	0	0.0%
<b>Total Covered Employment</b>	<b>3,674</b>	<b>100.0%</b>

*Source: OnTheMap, Center for Economic Studies, U.S. Census Bureau, 2022.*

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## Jobs-Housing Ratio

A municipality's jobs-housing ratio is a rough indicator of the degree to which the municipality has been able to generate sufficient housing to accommodate its workers. A ratio of between 0.75 and 1.5 is generally considered to indicate a healthy balance between the number of jobs in a municipality and the municipality's ability to house all its workers who wish to live there.<sup>18</sup> The ability to house workers locally enables them to spend less time commuting, reduces traffic congestion, and reduces the greenhouse gas emissions associated with commuting by automobile.

Based on Tables 4 and 18 above, Upper Deerfield has a jobs-housing ratio of 1.16, within the range considered healthy. If additional jobs in the Township become available, the Township may need to examine whether it needs to take steps to encourage additional housing.

## POPULATION PROJECTIONS

The South Jersey Transportation Planning Organization (SJTPO), the Metropolitan Planning Organization (MPO) whose jurisdiction includes Upper Deerfield Township as well as the remainder of Cumberland County, published population and employment projections for the year 2050. SJTPO projects that the Township's population will decrease by -1.2% and employment will increase by 12.4%, respectively, from 2020 to 2050. As Table 19, Population and Employment Projections, 2020 to 2050, on the following page indicates, both employment and population growth are following the same trends as the County as a whole.

**Table 19. Population and Employment Projections, 2020-2050**

Governmental Level	Population			Employment		
	U.S. Census 2020	Projected 2050	Percent Change	Estimate 2020	Projected 2050	Percent Change
<b>Upper Deerfield</b>	7,645	7,554	-1.2%	3,918	4,403	+12.4%
<b>Cumberland County</b>	154,152	149,877	-2.8%	73,375	82,596	+12.6%

*Sources: South Jersey Transportation Planning Organization, Municipal and County-Level Population and Employment Forecasts, 2020-2050*

The Fair Housing Act requires that Housing Plans include a 10-year projection of new housing units based on the number of building permits, development applications approved, and probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). As seen in Table 20, during the early to mid-2010s, Upper Deerfield has had a high level of demolitions, which has been a function of sub-standard and abandoned housing being demolished, some of it farm worker housing. To gauge the effect of housing growth, Table 20 has an additional column of "net new dwellings." Projections are based on the balance of

<sup>18</sup> .

<https://enviroatlas.epa.gov/enviroatlas/datafactsheets/pdf/supplemental/employmenthousingratio.pdf>

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building permits issued for new housing units less demolitions between 2013 and 2023. According to the permit data, there is an annual average net increase of nine (9.0) dwelling units per year. If this rate were to remain relatively constant, Upper Deerfield could see an increase of approximately 90 units by 2033.

**Table 20. Housing Projections to 2033**

<b>Year</b>	<b>Building Permits</b>	<b>Demolitions</b>	<b>Net New Dwellings</b>
2014	1	4	-3
2015	1	5	-4
2016	5	2	3
2017	1	4	-3
2018	4	1	3
2019	2	1	1
2020	73	4	69
2021	14	2	12
2022	11	0	11
2023	15	14	1
<b>Total</b>	<b>127</b>	<b>37</b>	<b>90</b>
<b>10-Year Average</b>	<b>12.7</b>	<b>3.7</b>	<b>9.0</b>
<b>Subtraction of Mill Creek Build-Out</b>			<b>-67</b>
<b>Extrapolated 10-Year Background Growth</b>			<b>23</b>

*Source: NJ DCA Construction Reporter*

Table 20 includes the build out of Mill Creek with 67 total dwellings that will not be repeated in the Fourth Round. Removing these 67 units reveals background growth of 23 housing units, or 2.3 net new housing units per year. Since the Third Round affordable housing sites of Stone Bridge Run, Town Center and Bristol Ponds are anticipated to be constructed in the Fourth Round based on their approvals and continuing dialogue with the developers, their construction must also be accounted for in the projections. Stone Bridge Run is approved for 279 townhouses, Town Center is a zoned within a redevelopment area for up to 406 senior units (independent living units, assisted living, small lot single family detached) and Bristol Ponds is approved for a 240-unit multifamily development. In the Fourth Round, the senior development in the Town Center will be increased in density to permit 440 senior units. If realized, an additional 899 housing units would be added to the 23 units of background growth for a projected increase in housing units of 922 dwellings, a considerable increase over the last several decades.

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**CONSIDERATION OF LAND FOR AFFORDABLE HOUSING**

N.J.A.C. 5:93-5.1(b)6 requires the Housing Plan to include a discussion of the lands that the Township considered for creating affordable housing. Consistent with smart growth planning principles, the Township has chosen to intersperse affordable housing throughout the existing residential neighborhoods in the Township and in proximity to transportation corridors such as Route 77 in Planning Areas 1 and 2, the preferred growth area in the State Plan and in areas with existing utility infrastructure, as discussed in the following sections. See also, the section on the State Plan, below.

Since the municipality did not need to consider new lands to address its Fourth Round Prospective Need, since a small increase in density on a Third Round site was sufficient to supply all of the units needed and a surplus for the Fifth Round.

**Sewer Capacity**

Because of the density of development needed to provide affordable housing, the housing sites must be located within a sanitary sewer service area. Both inclusionary development and 100% affordable development require sewage treatment. The Township's sewer service area is limited to the Route 77 corridor from Northville Road, east until Carmel Road, south until Fern Road and the municipal boundary with Bridgeton, then west along the municipal boundary. A map depicting the sanitary sewer service and water service mains are shown on the Fourth Round Affordable Housing Sites map located at the end of this Housing Element. In order to provide sufficient sewer for the capacity of future developed sites, interceptors will need to be run for some distance to connect to existing sewage conveyance facilities, but this condition is not unusual in land development and does not constitute any extraordinary measure that developers face.

**Water Capacity**

In addition to being located within the sanitary sewer service area, all proposed affordable housing developments must fall in areas with sufficient current or attainable water capacity. Although existing water service lines are limited throughout the Township, there is ample capacity for the existing water lines to be expanded for the development of new housing units. At the time of the 1991 Water Master Plan, there were two potable water systems established in Upper Deerfield; Seabrook Water Corporation and the Upper Deerfield Township Water System. The Township had provided the Seabrook Water Corporation a 50-year franchise agreement for their private system providing water to Seabrook Villages, the Township schools and municipal complex, and industrial users. The Upper Deerfield Township Water System is located between Centerton Road and Centerton/Woodruff Road and was built to mitigate ground water contamination from the former sanitary landfill. The two systems worked adequately for a period of time following the water master plan, but in the 2000's, it became apparent that the Seabrook Water Company was failing to maintain its system and was not meeting water quality standards. As the only other purveyor of water in the Township, the NJ Department of Environmental Protection, required Upper Deerfield to purchase Seabrook Water Company in 2007. Through a combination of NJDCA Small Cities Facilities Grants and

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the Township's own bonding capacity, significant upgrades to the system were made, including water treatment for radionuclides in the Seabrook system as well as at the Love Lane water treatment plant in the original system of the Township. Water is drawn from two public wellheads located along Rt. 77, one in the central part of the Township near Seabrook Village and the other south of the aforementioned Love Lane, cater-corner from the high school. Two wells are operational at each wellhead and alternate pumping. With the upgrades, adequate capacity for the development envisioned in this document is available within the water service area.

**STATE DEVELOPMENT AND REDEVELOPMENT PLAN**

Upper Deerfield Township is located in several of the State Plan Policy Map Planning Areas, including PA-1, the Metropolitan Planning Area; PA-2, the Suburban Planning Area; PA-3, the Fringe Planning Area; PA-4, the Rural Planning Area; PA-4b, the Rural Environmentally Sensitive Planning Area; and PA-5, the Environmentally Sensitive Planning Area.

Town Center, the only Fourth Round mechanism that would result in new units, is located partially in (PA1) the Metropolitan Planning Area and partially in the (PA2) the Suburban Planning Area. According to the 2001 New Jersey State Development and Redevelopment Plan, the Metropolitan Planning Area includes communities that can be classified as cities, towns or villages while the Suburban Planning Area is generally located adjacent to more densely developed areas, but is more dispersed. The State Plan prioritizes both areas for infill redevelopment and the production of affordable housing.

**MULTIGENERATIONAL FAMILY HOUSING CONTINUITY**

The FHA requires an HEFSP to provide 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 N.J.S. 52:27D-329.20. As of May 2025, no recommendations have been issued by the Commission.



## **FAIR SHARE PLAN**

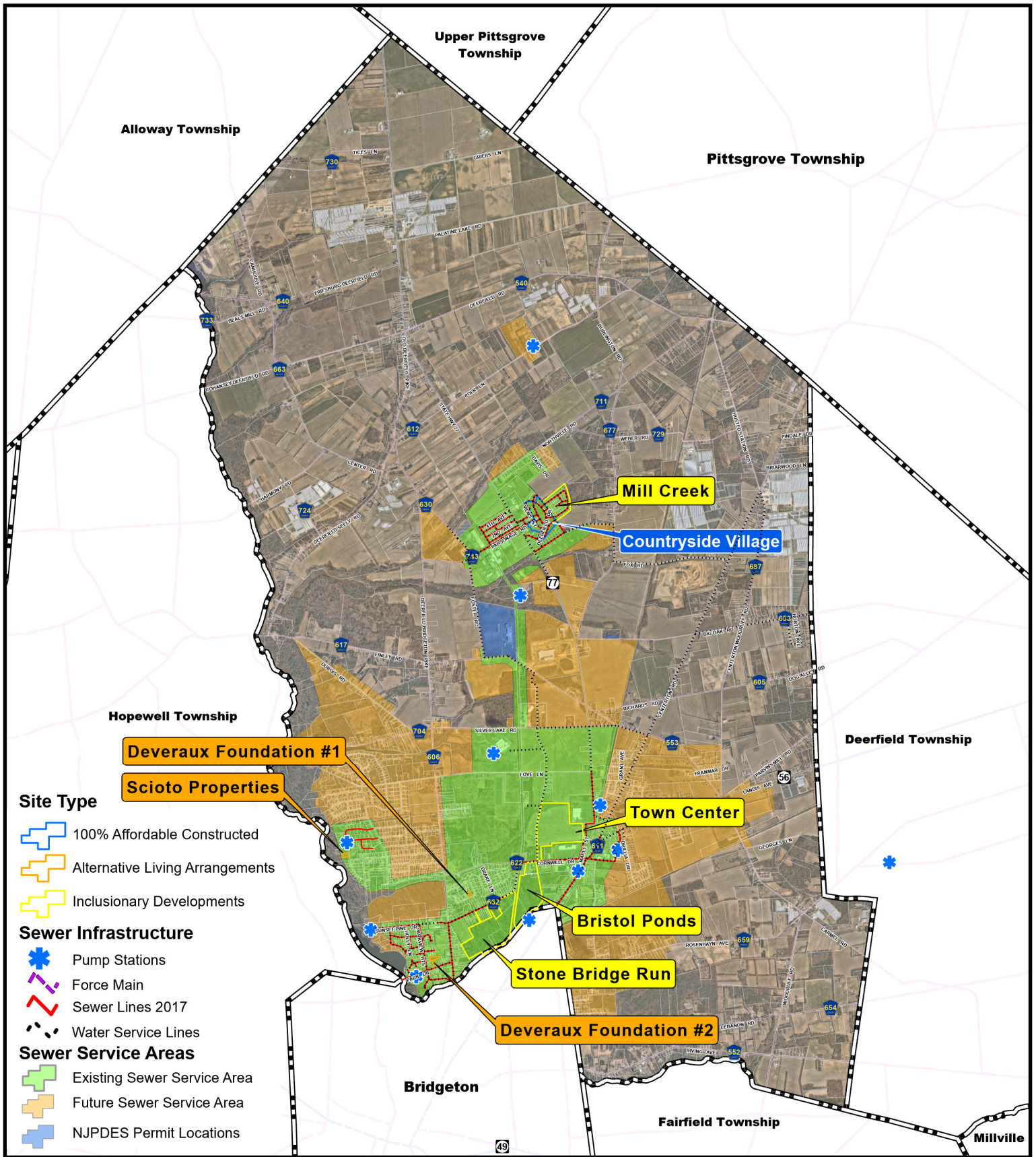
### **INTRODUCTION**

This part of the Housing Element and Fair Share Plan describes how Upper Deerfield intends to meet the affordable housing obligations that have been allocated to it in the Fourth Round. As noted previously, the obligations are two-fold: a Present Need obligation and a Prospective Need obligation. Historically, Present Need has also been called the “Rehabilitation Share” and Prospective Need has been called “Future Need” and in a portion of the Third Round even “Gap Present Need”. The Present Need obligation is reset with each round of affordable housing obligation based on census data. The number of deficient housing units is statistically determined based on certain parameters to estimate those that are occupied by low- and moderate-income households.

The Prospective Need obligation is cumulative in that it includes the obligations from all prior rounds (First, Second and Third) as well as the Fourth Round that this housing plan primarily addresses. The concept behind Prospective Need is that there is an anticipated growth in the population of New Jersey in 2025-2035 which will be composed of persons in households and each of those households will require housing. A certain percentage of those households have incomes that meet the definition of low or moderate incomes. Definitionally, it is 40% of households, though statistically it tends to be slightly higher and typically is found by demographers to be between 41% and 42% of all households. The amended Fair Housing Act set a formula as to the number of households which has been calculated by various of individuals and organizations who all agree it is 84,698 of which Region 6’s share is 1,889. This regional share of Prospective Need has been allocated to all of the municipalities in Salem, Cumberland, Atlantic and Cape May Counties, including Upper Deerfield.

The amended FHA directed the DCA to create a methodology for allocating the Present Need and Prospective Need obligations for the Fourth Round. Unlike COAH’s allocation of such numbers, the law made DCA’s acceptance of the obligations by a municipality voluntary. As previously noted, On January 30th 2025, Upper Deerfield Township filed a motion for certification of compliance for its calculated Fair Share Obligation for the Fourth Round utilizing the alternative model and calculations prepared by Clarke Caton Hintz, P.C., for the municipality’s fair share obligations and committed to 19 units of Present Need and 75 units/credits of Prospective Need. The Township’s calculation of its present and prospective need was challenged by FSHC on February 28, 2025. A mediation agreement was reached between the two parties and the Township Committee formally adopted a resolution approving the terms of the settlement the same day. A copy of the resolution and mediation settlement is attached as Appendix A.

The obligations of 31 for the Present Need obligation and 95 for the Prospective Need obligation thus are settled for the Fourth Round through these actions.



Sewer Service Source: Future Wastewater Service Area Cumberland County WMP SSA May 30, 2012  
 Amending The Lower Delaware Water Quality Management Area Approved by NJDEP January 15, 2016  
 Revised October 5, 2012 Revised January 20, 2016  
 Source: Cumberland County Planning/I.S. Cumberland County Utilities Authority City of Millville Department of Engineering  
 New Jersey Department of Environmental Protection

# Fourth Round Affordable Housing Sites

LOCATION:  
 Upper Deerfield Township, Cumberland County, NJ

DATE:  
 May 2025

Clarke Caton Hintz  
 Architecture  
 Planning  
 Landscape Architecture

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**AFFORDABLE HOUSING OBLIGATION**

There are four components to a municipality's affordable housing obligation: the Fourth Round Present Need obligation, also known as the "Rehabilitation Share," the Prior Round obligation, the Third Round obligation, and the Fourth Round Prospective Need obligation. The terms "Present Need" and "Rehabilitation Share" are used interchangeably. Present Need resets with each round of affordable housing based on census data as to the number of deficient housing units existing at the beginning of that round that potentially are occupied by low- and moderate-income households. The obligation in the Prior Round, Third Round, and Fourth Round is also known as "Prospective Need" which refers to the provisions of affordable housing including through new construction necessary to address the demand for housing based on regional population growth. Lastly, given the convoluted history of the Third Round from 1999-2025, the Third Round obligation includes both the 'Gap' Need obligation (1999-2015) and the Third Round Prospective Need obligation (2015-2025).

**Fourth Round Present Need**

Present Need is defined as "the number of substandard existing deficient housing units currently occupied by low- and moderate-income (LMI) households" and Deficient Housing Unit as "housing that (1) is over fifty years old and overcrowded, (2) lacks complete plumbing, or (3) lacks complete kitchen facilities." The Township's Fourth Round rehabilitation of 31 units was calculated by DCA according to the methodology described in the report titled *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background* and released in October 2024. As part of its Mediation Settlement, the Township adopted a resolution agreeing to use the DCA Present Need obligation of 31.

**Prior Round Obligation**

The Prior Round obligation is the cumulative prospective need obligation for new construction through the First and Second Rounds (1987 to 1999). Upper Deerfield's 242-unit Prior Round Need was calculated by COAH per N.J.A.C. 5:93-1 and is reflected in the Township's Court-approved 2018 settlement agreement with FSHC.

**Third Round Obligation**

The Third Round obligation includes the "gap" portion of the Third Round (1999-2015) when no valid affordable housing regulations were in force and the Third Round Prospective Need (2015-2025), which included a projection 10 years into the future starting in July 2015. As established by the Township's Court-approved 2018 FSHC Settlement Agreement, Upper Deerfield Township's Third Round obligation (1999-2025) was agreed upon at 280 units.

**Fourth Round Prospective Obligation**

The amended FHA defines *prospective need* as "a projection of housing needs based on development and growth which is reasonably likely to occur in a region or municipality....." The Township's Fourth Round Prospective Need (2025-2035) of 95 units was agreed to by Upper Deerfield Township and FSHC via a Mediation Agreement.



## **Settlement and Mediation Agreements**

In the 2018 FSHC agreement, the Township's Prior Round obligation and Third Round obligation was agreed to by the parties. The 2018 FSHC agreement as approved by the Court is attached as Appendix B. At a fairness hearing on the settlement agreements held on January 7, 2019, before the Hon. Anne McDonnell P.J.Ch., and reflected in the Court's Order on Fairness and Preliminary Compliance Hearing of January 22, 2019 (see Appendix C). In the 2025 Mediation Agreement, the Township's Present Need (Rehabilitation Share) and Fourth Round Obligation (Prospective Need) were also agreed to by both parties. The 2025 FSHC agreement as approved by the Court is attached as Appendix A. Upper Deerfield's obligations based on these agreements are described below.

### **SATISFACTION OF THE PRESENT NEED OBLIGATION**

N.J.A.C. 5:93-1.3, defines a dwelling needing rehabilitation as, "...a housing unit with health and safety code violations that require the repair or replacement of a major system." Per N.J.A.C. 5:97, "Major systems" include weatherization, exterior cladding, window and door replacement, roofing, plumbing (water supply and sanitary), heating, electricity, lead paint abatement and load bearing structural systems.

The Township has received over \$1.2 million in Small Cities Home Rehabilitation Program grants. The Township also has a Revolving Rehabilitation Fund from rehabilitation grants paid back to the Township when units are sold to new buyers. The Township will continue this program and will provide supplemental funding from its affordable housing trust fund as a backstop should this funding source dry up. Since April 1, 2020, the Township has rehabilitated 24 housing units of the 31 required for the Fourth Round. This is permissible given when the calculation of the Present Need was determined by DCA, which is a point in time, rather than utilizing the two points in time in the methodology of the Third Round. Consequently, their starting point is the decennial census of 2020. As long as funding from the federal government continues, the Township will continue with the program through the Fourth Round regardless of the number of units rehabilitated as the demand appears to be steady from the population.

### **SATISFACTION OF THE PRIOR ROUND OBLIGATION**

Upper Deerfield's Prior Round obligation was set by judicial decision on December 14, 2016, in the case Hollyview Development Corporation I v. Twp. Of Upper Deerfield, the Twp. Committee of the Twp. of Upper Deerfield and the Planning Board of the Twp. of Upper Deerfield (Docket A-4449-13T2). This decision forms the basis for the Prior Round obligation as agreed to by the municipality and FSHC, as well as calculations developed by COAH. The Appellate Court determined that the Prior Round obligation was 242 and that it had been fully satisfied by the development of Countryside Village, a Low-Income Housing Tax Credit program project built in three phases in 2007 and 2008. This affordable housing neighborhood is also eligible for rental bonus credits.

The 242-unit Prior Round obligation is addressed by 181 existing family affordable rental units and 61 prior round rental bonus credits. In addition to satisfying the overall Prior Round

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obligation, the Township must also adhere to a minimum rental obligation, a maximum number of age-restricted units, and a maximum number of bonuses in the Prior Round (based on Second Round rules).

**Table 21. Prior Round Formula Obligations**

**Minimum Rental = 61 units**

$$\begin{aligned} &.25 (\text{Prior Round obligation} - 20\% \text{ cap} - 1000 \text{ unit cap}) = \\ &.25 (242 - 0 - 0) = .25 (242) = 60.5 \text{ rounded up to 61 units.} \end{aligned}$$

**Maximum Rental Bonus = 61 units**

No more than the minimum rental obligation = 60.5 units, rounded up to 61 units

**Maximum Senior Units = 60 Units**

$$\begin{aligned} &.25 (\text{Prior Round obligation}) = \\ &.25 (242) = 60.5 \text{ units, rounded down to 60 units} \end{aligned}$$

Table 22 provides a summary of the developments included to address the entirety of the Township's Prior Round obligation.

**Table 22. Summary of Credits for the Prior Round.**

Prior Round – 242 Units/Credits	Units	Bonuses	Rental	Senior	Special Needs	Year Occupied
Municipally Sponsored 100% Affordable Housing						
Countryside Village (181 of 283)	181	61	181	0	0	2008
Subtotal	181	61	181	-	-	
<b>Total Units and Credits</b>	<b>242</b>					

**Countryside Village -- Completed**

The development of this new neighborhood (Block 804, lot 1; Block 806, lot 1.01; Block 809, lot 1; Block 810, lot 1; Block 812, lot 1) was mostly funded through the New Jersey Housing and Mortgage Finance Agency's Low Income Housing Tax credit (LIHTC) program. Under the LIHTC program, developers typically set rents at 60% or less of median income. While the developer may elect a lower threshold of 50%, Vesta Corporation, the owner of the project, elected the standard 60% limitation. Technically, this means that all of the rents could be set at a moderate-income level instead of ensuring that at least 50% of the units are occupied by low-income households (which also encompasses very low-income households). Thus, while the total 283 units were priced for moderate-income households, FSHC and the Township have agreed that these units satisfy the Prior Round obligation, based on the fact that, at the time of the Settlement Agreement, 100 of the 283 units were occupied by low- or very low-income households paying low- or very low-income rents with the assistance of various subsidy

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programs. The Township agreed to provide FSHC with an annual update on the rent levels and corresponding income levels throughout the Third Round. As of the October 2024 annual monitoring report, there were 103 tenants paying very low-income rents. The balance of 102 units not contributing to the Prior Round obligation will be utilized to address the Township's Third Round and future obligations and will be discussed in further detail in the relevant section.

Upper Deerfield agreed as part of its FSHC Settlement Agreement to provide an excess of very low- and low-income units through its prospective need compliance mechanisms to address the required 50/50 income split for low- and moderate-income units in a municipal plan over the course of the Third Round. The number of additional low-income units to achieve the required minimum 50% means the Township's affordable housing regulations stipulate a minimum of 53% low-income inclusionary units to counter the potential for Countryside Village to have more than 50% moderate-income units.

Vesta Corporation has contacted the Township to indicate that the owner will be applying in the Fourth Round for new Low Income Housing Tax Credit financing from HMFA for rehabilitation funds at the complex, which, if their application is successful and meets certain criteria, will also provide rental rehabilitation credits in this time period. The Township will continue engaging with the owner on this new funding opportunity.

**Table 23. Income and Bedroom Distribution, Family Units, Prior Round**

Income Distribution	Bedroom Distribution			
	One-Bedroom/ Efficiency	Two-Bedroom	Three-Bedroom	Total
Very Low-Income	-	-	-	-
Low-Income	18	54	19	91
Moderate-Income	18	54	18	90
<b>Total</b>	<b>36</b>	<b>108</b>	<b>37</b>	<b>181</b>

**SATISFACTION OF THE THIRD ROUND OBLIGATION**

As previously indicated, the Township's court-approved settlement agreement with FSHC established a Third Round obligation of 280.

As with its satisfaction of the Prior Round obligation, the Township must also adhere to a minimum rental obligation, a maximum number of age-restricted units, and a maximum number of bonuses in the Third Round (based on Second Round rules). In addition, the Township must adhere to a minimum number of very low-income units pursuant to the 2008 amended FHA as well as other requirements such as minimum number of family units, family rental units, and family very low-income units pursuant to the terms of the Settlement Agreement.

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The calculations of formula obligations below are based on the Third Round Prospective Need obligation of 280.

**Table 24. Third Round Formula Obligations**

Minimum Rental Obligation N.J.A.C. 5:93-5.15(a) = **70 units**

.25 (Third Round obligation) = units

.25 (280) = 70 units

Maximum Rental Bonuses = **70 units**

No more than the minimum rental obligation = 70 units

Minimum Family Rental Units = **35 units**

.50 (Third Round minimum rental obligation) =

.50 (70) = 35 units

Maximum Senior Units N.J.A.C. 5:93-5.14(a)1 = **70 units**

.25 (Third Round obligation) = units

.25 (280) = 70 units

Minimum Total Family Units = **105 units**

.50 (Third Round obligation – rental bonuses) =

.50 (280-70) = .50(210) = 105 units

The minimum rental obligation is satisfied with group home bedrooms and units from the Countryside Village, Bristol Ponds, and Mill Creek family affordable developments, for a total of 84 units. The 74 family affordable units from these developments also satisfy the Township's family rental obligation. The Township proposed no more than 70 senior units, the maximum permitted, toward Third Round compliance.

The Township has fully addressed its Third Round obligation of 280 with 11 alternative living and supportive housing bedrooms, 31 units from an existing 100% affordable housing site, 169 units from proposed inclusionary development, and 70 rental bonuses, providing a one-credit surplus that the Township will claim toward Fourth Round credit.

**Table 25. Summary of Credits for the Third Round.**

Third Round – 280 Units/Credits	Units	Bonuses	Rental	Senior	Alternate Living
<b>Special Needs Housing</b>					
Devereux Foundation Group Homes (2)	7	0	7		7
REM New Jersey	4	0	4		4
Subtotal	11	0	11		11

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<b>Third Round – 280 Units/Credits</b>	<b>Units</b>	<b>Bonuses</b>	<b>Rental</b>	<b>Senior</b>	<b>Alternate Living</b>
<b>100% Funded Affordable Housing (Existing)</b>					
Countryside Village	31	31	31		
Subtotal	31	31	31		
<b>Inclusionary Development (Completed, Approved, or Proposed)</b>					
Mill Creek (Formerly Seabrook East; completed)	7	3; cap	7		
Bristol Ponds (approved)	36	36	36		
Stone Bridge Run (approved)	56				
Town Center (proposed; 70 of 81, cap)	70			70	
Subtotal	169	39	43	70	11
Totals	211	70	74	70	
<b>Total of Totals; All Units and Credits</b>	<b>281</b>				
<b>Surplus to Fourth Round</b>	<b>1</b>				

Upper Deerfield has met the required minimum rental unit obligation of 70 units with 85 existing and proposed rental units. At least 35 are required to be family rental units, which is satisfied with 74 family rental units from Mill Creek, a portion of Countryside Village, and 36 family rental units in Bristol Ponds, as specified in the Bristol Ponds Redevelopment Plan and Redevelopment Agreement. For total family units, both rental and for-sale, the housing plan meets the 105-unit requirement with 130 family units. The Township proposes no more than 70 senior units, the permissible limit, from the Town Center inclusionary project.

Each Third Round compliance mechanism is described below.

### **Alternate Living Arrangements**

#### ***Devereux Foundation Group Homes (completed)***

The Devereux Foundation operates two group homes for the developmentally disabled, one on Block 1708, Lot 9.01 (four bedrooms) and the other on Block 1803, Lot 6 (three bedrooms). The Devereux Foundation takes in residents from the New Jersey Division of Developmentally Disabled waiting list.



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**Municipally Sponsored 100% Affordable Housing**

***Countryside Village (completed)***

Please see the description of this property under Prior Round compliance. The Township is claiming 71 of 283 units toward Third Round compliance.

**Inclusionary Developments**

***Mill Creek (Formerly Seabrook East; completed)***

Mill Creek is a 28-acre site located along MacArthur Drive, encompassing Block 818, lots 1, 2, 3, 5, and 6, and Block 820, Lots 12 and 13. It includes 67 lots for single-family detached dwellings. Pursuant to a negotiated developer's agreement, the site was developed with 60 family for-sale market units and seven family affordable rental units (approximately a 10% set-aside). The seven affordable dwellings on-site consist of three moderate-income, three low-income and one very low-income affordable dwellings, all with three bedrooms. Construction was completed in December 2021 and the affordable units are administered by Piazza and Associates.

***Bristol Ponds (approved Redevelopment Plan, Site Plan and Redevelopment Agreement)***

The Bristol Ponds site (Block 1901, Lots 8, 15, 15.02, 15.03, and 16) is located on Cornwell Drive and consists of approximately 52.83 acres. The site contains the former Bridgeton Welding and Spring Works facility near the road, successional fields and woodlands.

On October 11, 2005, the Planning Board approved an amended preliminary and final major site plan for a 180-unit multi-family apartment complex. In 2018, the owner of the property entered into discussions with the Township about increasing the number of units on the site and determining if the site could be designated as a redevelopment area. On December 14, 2015, the Township Committee formally designated the site as an area in need of redevelopment.

The redevelopment plan for the site, adopted in September 2018, increases the allowed density to a net density of approximately 11.44 units per acre. The increase in density allows for a total of 240 units, 36 of which will be affordable family rental units. Of that number, five units will be very low-income. The Township has designated the owner as the redeveloper. In April of 2021 the Township's Land Use Board granted final subdivision and site plan approval, and in February 2023 the Township executed a redevelopment agreement that sets forth, among other items, the required moderate-, low-, and very low-income units, development phasing, and adherence to the requirements of the Uniform Affordability Housing Controls (UHAC – N.J.A.C. 5:80-26 et seq.). The approvals were extended in May 2023. See Appendix D for the overall approved site plan.

***Stone Bridge Run (approved)***

The Stone Bridge Run property (Block 1808, Lots 2, 3, 4, and 17) is located along the Township's southern boundary with the City of Bridgeton. The original developer was granted

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preliminary approval in 2007 for 279 townhouses. Subsequently, the property was the subject of extensions under the Permit Extension Act of 2008 as well as extensions under the Municipal Land Use Law. Nonetheless, the property fell into foreclosure or TD Bank took back a deed in lieu of foreclosure and held the property for three or four years. Subsequent landowners acquired the property in 2017 and sought to extend the approval granted in 2007.

Under the original approval, the applicant was required to provide a 10% affordable housing set-aside, or 28 units. Pursuant to the Township's executed settlement agreement with Fair Share Housing Center, the Township had amended its set-aside ordinance to require a 20% set-aside for for-sale housing. The Planning Board granted the new owner's requested extension, but imposed a requirement for a 20% setaside for affordable units. Consequently, the site will produce 56 affordable townhouse units. In accordance with the settlement agreement, the Township has re-zoned this site to a density of six units per acre (the minimum presumed density for inclusionary development) in order to accommodate the proposed development. The housing plan assumes that the affordable units will be for-sale since that was the representation by the developer when the extension was granted. The developer currently has an extension of its preliminary major site plan approval until June 30, 2025, subject to compliance with the Township's Fair Share Plan and the 20% set-aside. Recent discussion with Township staff indicates that the present land owner intends to proceed with the approved development plans. See the overall site plan in Appendix E.

***Town Center***

Upper Deerfield established a redevelopment area and adopted a redevelopment plan in 2005 for this tract, encompassing 1,060 acres. The tract was earmarked for three primary types of development: a non-residential Town Center, Office Park, and Eco-Industrial/Agricultural zone. The Town Center portion of the redevelopment area is located west of Route 77 to the railroad line and in between Love Lane and Cornwell Drive. The Township has acquired land consisting of Block 1205, Lot 3.02; Block 1207, Lot 3.01 and Block 1208, Lot 1.04 that will serve as a future right-of-way paralleling both the railroad line and Route 77 as land develops in the redevelopment district and that serves as a useful demarcation line for designating an area for residential development.

The portion of Block 1208, part of Lot 1 that is between the future right-of-way, the rear property line of Walmart and Maple Avenue, north of Cornwell Drive and south of the southerly property line of Lot 1.05, was rezoned within the redevelopment plan for senior development. The land is vacant. The presently allowed assisted-living center use would continue as a component of the new district as a complementary use to age-restricted development.

The area of Lot 1 proposed for inclusionary development is about 67.8 acres. It was rezoned to allow up to six units per acre, for a total not to exceed 406 units and 81 affordable senior units. For the Third Round, the Township may claim a maximum of 70 allowed senior units. The Township will carry 11 surplus units into the Fourth Round.

As required in N.J.A.C. 5:93-5.3, affordable housing sites shall be available, approvable, developable, and suitable, as defined in N.J.A.C. 5:93-1.3, for the production of low- and moderate-income housing. As demonstrated below, this site meets these criteria.

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- Site Control (availability). The site has no known title defects or deed restrictions which preclude development of affordable housing.
- Suitability. The proposed area for development is situated nearby to shopping and services, such as banking, in the Township. It is located behind the Walmart and the Upper Deerfield Plaza shopping centers. The frontage of Cornwell Drive contains a variety of small lots providing services and retail sales. The land otherwise surrounding the property is vacant. It has frontage on Cornwell Drive, the future right-of-way and Maple Avenue and Northwest Street. These surrounding properties do not create land use incompatibilities with the use of typical site development techniques.
- Development of the site is consistent with the State Development and Redevelopment Plan (hereinafter the “State Plan”) and the rules and regulations of all agencies with jurisdiction over the site. The site is located in a “Smart Growth” Planning Area. The adopted 2001 State Plan designates the site as being located in the Suburban Planning Area, PA 2.
- Adequate sewer and water (developability). The site is located in the Township’s public water service area and within the approved sewer service area. Utilities are located in Route 77 and Cornwell Drive.
- Approvability. Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq. The development is not within jurisdiction of a Regional Planning Agency or CAFRA.
- The site will comply with all applicable environmental regulations. The site has environmentally sensitive lands associated with a wetlands finger at its north end, but are not extensive and do not preclude reasonable development of the site for senior housing.
- The development of the site will not affect any known historic or archaeological resources.

In addition to site suitability, the developer of the affordable housing project will be required to meet the applicable requirements of UHAC:

- Administrative Entity. The Township will require that the residential developer engage a qualified administrative agent who will administer and affirmatively market the units at the site, income qualify applicants, place minimum 30-year affordability controls on the units and provide long term administration of the units in accordance with COAH’s rules at N.J.A.C. 5:93-1 et seq. and UHAC per N.J.A.C. 5:80-26.1.
- Very Low, Low and Moderate Income Distribution. At least half of the affordable units developed will be affordable to low-income households, with at least 13% (eight) affordable to very low-income households.
- Affirmative Marketing. The affordable units will be affirmatively marketed in accordance with COAH’s rules at N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:80-26.1 et seq.
- Controls on Affordability. The affordable units will have minimum 30-year affordability controls.

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**Table 26. Income and Bedroom Distribution, Family Units, Third Round**

Income Distribution	Bedroom Distribution			
	One-Bedroom/ Efficiency	Two-Bedroom	Three-Bedroom	Total
Very Low-Income	2	8	4	14
Low-Income	8	32	15	55
Moderate-Income	10	35	16	61
<b>Total</b>	<b>20</b>	<b>75</b>	<b>35</b>	<b>130</b>

The above bedroom and income distribution includes 130 affordable family units from the following projects:

- Countryside Village (31 units, none very low-income)
- Mill Creek (7 units)
- Bristol Ponds (36 units)
- Stone Bridge Run (56 units)

**SATISFACTION OF THE FOURTH ROUND OBLIGATION**

Upper Deerfield is required to address 95 units of Prospective Need for the Fourth Round. As with its satisfaction of the Third Round obligation, the Township is required to adhere to a Fourth Round minimum rental obligation, a maximum number of age-restricted units, a maximum number of bonuses, a minimum number of family units, and a minimum number of family rental units. These obligations are established using the following formulas:

**Table 27. Fourth Round Formula Obligations**

Maximum Fourth Round Bonuses = **23 units**

$$0.25 \text{ (Fourth Round obligation)} = 0.25 (95) = 23.75, \text{ round down}$$

Minimum Fourth Round Total Rental Units = **24 units**

$$0.25 \text{ (Fourth Round obligation - bonuses)} = 0.25 (95 - 0) = 23.75, \text{ round up}$$

Minimum Fourth Round Total Family Units = **48 units**

$$0.50 \text{ (Fourth Round obligation - bonuses)} = 0.50 (95 - 0) = 47.5, \text{ round up}$$

Minimum Fourth Round Family Rental Units = **12 units**

$$0.50 \text{ (Min Fourth Round Total Rental Units)} = 0.50 (24) = 12$$

Maximum Fourth Round Age-Restricted Units = **28 units**

$$0.30 \text{ (Fourth Round obligation - bonuses)} = 0.30 (95 - 0) = 28.5, \text{ round down}$$

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**Table 28. Summary of Credits for the Fourth Round.**

<b>Fourth Round – 95 Units/Credits</b>	<b>Units</b>	<b>Bonuses</b>	<b>Rental</b>	<b>Senior</b>
100% Affordable Housing (Existing)				
Countryside Village (71 of 283)	71	23	71	
Inclusionary Development (Redevelopment Plan)				
Town Center*	18			18
Market-to-Affordable (Gut Rehab)	10			
<b>Total Units and Credits</b>	<b>122</b>			
<b>Surplus to Fifth Round</b>	<b>27</b>			

\* - 11 surplus units from the Third Round and 7 units from the Fourth Round.

**Countryside Village (Completed)**

Please see discussion of this project under Prior Round compliance. The Township will claim the remaining 71 units from this project toward Fourth Round compliance. In addition, Upper Deerfield seeks bonus credit for exceeding the minimum number of required three-bedroom units.

**Table 29. Income and Bedroom Distribution, Family Units, Fourth Round**

<b>Income Distribution</b>	<b>Bedroom Distribution</b>			
	<b>One-Bedroom/ Efficiency</b>	<b>Two-Bedroom</b>	<b>Three-Bedroom</b>	<b>Total</b>
Very Low-Income				
Low-Income	5	1	30	<b>36</b>
Moderate-Income	5	1	29	<b>35</b>
<b>Total</b>	<b>10</b>	<b>2</b>	<b>59</b>	<b>71</b>

**Town Center (Proposed)**

Please see the discussion of this inclusionary age-restricted development under Third Round compliance. The Township will claim 11 units from this development toward Fourth Round compliance, as well as slightly increasing the density from 6 units per acre to 6.5 units per acre. This would increase the total number of units from 406 to 440 dwellings and the number of affordable dwellings from 81 to 88.

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**Market-to-Affordable (Proposed)**

The Township has identified Seabrook Village, a neighborhood of Cape Cod houses associated with the Seabrook Farms frozen food processing plant, as an area necessitating revitalization. This has been an area where the Township has concentrated efforts on housing rehabilitation. In certain instances, the necessary rehabilitation may extend beyond the level of ordinary system replacement and may require gut rehabilitation. The Township will analyze this possibility and if warranted, establish a program of market acquisition, gut rehabilitation, and resale to a moderate income buyer with new construction credit put towards the Fifth Round.

***Market-to-Affordable Criteria***

The market-to-affordable rules are one of the few remaining compliance mechanisms from the second set of Third Round rules that were promulgated by COAH from the general invalidation of N.J.A.C. 5:97-1 et seq. by either the Appellate or Supreme Court. The following criteria are required to be met for a market-to-affordable program as found in N.J.A.C. 5:97-6.9(b)-(e):

1. Upper Deerfield's program is intended to be for units purchased on the real estate market and as a for-sale program to eligible moderate income buyers. As demonstrated through the rent roll census of units at Countryside Village, the potential ten units of moderate income for-sale houses in this program are balanced with an overabundance of low income units at this development. Upper Deerfield is limiting the program to moderate income buyers because mortgage financing and the ability to maintain home ownership will be more likely to be successful with the higher incomes available in the moderate range.
2. Prior to the imposition of affordability controls for a period of 30 years, each unit will be certified to be in a sound condition by the municipality's construction code official.
3. The municipality will expend up to an average of \$200,000 per housing unit funded from the Township's Affordable Housing Trust Fund. The revenues projected in the Spending Plan (see Appendix I) are from projects that have already been identified, so there is little likelihood that there will be any shortfall in funding should, once the Township undertakes its assessment of neighborhood conditions, determine to establish the program.
4. The program will be limited to ten units, which is 10.5% of the fair share obligation, thus necessitating a technical waiver of N.J.A.C. 5:97-6.9(b)(4) which limits the program to 10 units or 10%. The extra 0.5% is a rounding error and will have no material effect on the housing market in Upper Deerfield, which if Table 20 is correct, will see housing supply well in excess of historical trends as Third Round housing sites are built out.
5. The program will not be limited as to the number of bedrooms or its distribution in the purchase of homes for renovation and resale.
6. The maximum for-sale price for a moderate income unit shall be no more than 70 percent of the median household income.

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7. A draft Market-to-Affordable operating manual has been attached as Appendix L.
8. The affirmative marketing plan, which is part of the Township's Affordable Housing Ordinance was approved by the Court as part of the municipality's adopted 2019 HEFSP, dated July 17, 2019 (see Appendix H). New DCA and NJHMFA rules, which are not expected to be adopted prior to June 30, 2025, are likely to amend the regulations pertaining to affirmative marketing. Once the rules are finalized, Upper Deerfield will amend its Affordable Housing Ordinance to address such revisions as needed, within 90 days of enactment.
9. Should the Township embark on a market-to-affordable program, it will hire an experienced administrative agent to operate the program on its behalf, who will have the responsibilities as outlined in the program manual.

**Very Low-Income Units**

Pursuant to the amended FHA (P.L. 2008, c. 46), municipalities must ensure that at least 13% of affordable housing units approved and constructed after July 17, 2008, regardless of the round for which the units are being claimed for credit, are available to very low-income households. In addition, per the more recently amended FHA at N.J.S.A. 52:27D-329.1, at least half of very low-income units addressing a Fourth Round Prospective Need must be "available for families with children."

To address the 2008 statutory very low-income requirement, of the 184 total affordable units in Upper Deerfield that were approved and will be constructed after July 17, 2008, and that address the Township's fair share obligations, 39 units (33%) are affordable to very low-income households as shown in Table 30, below.

While the Countryside Village project had no statutory very low-income requirement, annual monitoring of the income levels of the tenants in these units as required by the FSHC settlement agreement in 2019 has shown that on average, 92 units, including 75 units with two or more bedrooms, have consistently housed very low-income tenants. Assuming these tenants are distributed proportionally across the bedroom distribution in the project, it is reasonable to project that at least 18 of the Countryside Village units being claimed toward Fourth Round compliance that house very low-income tenants will have at least two bedrooms, thus satisfying the new requirement set forth in P.L. 2024 c.2. A copy of the most recent unit census from Countryside Village, including the percentage of median income of the tenant in each unit, is attached as Appendix G.



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**Table 30. Very Low-Income Units Approved and Constructed since July 17, 2008**

Compliance Mechanism	Total Units	VLI Units	
		Required	Constructed/ Proposed
REM New Jersey	4	0.52	4
Bristol Ponds	36	4.68	5
Seabrook East	7	0.91	1
Stone Bridge Run	56	7.28	8
Town Center	81	10.53	11
<b>Total</b>	<b>184</b>	<b>23.92; round up to 24</b>	<b>29</b>
<b>Family Very Low-Income Units</b>		<b>12</b>	<b>14</b>
<b>Fourth Round Very Low-Income Units Available to Families With Children</b>		<b>3</b>	<b>18 average*</b>

\* - From Countryside Village

As can be seen from Table 30, the Township has or will meet its obligation by meeting the statutory formula for very low income units.

## **AFFORDABLE HOUSING ADMINISTRATION**

### **Affordable Housing Ordinance**

Upper Deerfield Township currently has a Court-approved Affordable Housing Ordinance (see Appendix[H]). Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated Affordable Housing Ordinance in accordance with COAH's rules, DCA's proposed new regulations at N.J.A.C. 5:99, and UHAC's new 2025 regulations that are anticipated to be finalized, perhaps in late summer, 2025. The Affordable Housing Ordinance will continue to govern the establishment of affordable units in the Township as well as regulating the occupancy of such units. The Township's Affordable Housing Ordinance covers the phasing of affordable units, the low/moderate income split, including that 13% of all units approved and constructed be affordable to very low-income households earning no more than 30% of median income, bedroom distribution, occupancy standards, affordability controls, establishing rents and sales prices, affirmative marketing, income qualification, and other aspects of affordable housing regulation.

### **Development Fee Ordinance**

Upper Deerfield established a development fee ordinance, codified as §405-10 of the Township Code and located in the Affordable Housing Ordinance, for the collection of development impact fees (adopted July 7, 2005, and amended September 5, 2019). All fees collected are deposited into an Affordable Housing Trust Fund, the balance of which may only be spent on eligible affordable housing related costs. The existing Development Fee Ordinance is



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included in Appendix H. The funds from the collection of fees will be utilized as provided for in the Spending Plan found in Appendix I.

**Affirmative Marketing**

Upper Deerfield Township currently has a Court-approved Affirmative Marketing Plan. Once DCA and HMFA finalize their rule proposals, the Township will prepare an updated Affirmative Marketing Plan, located in the Affordable Housing Ordinance, within 90 days of rule adoption. The update will ensure that all of the Township's procedures and rules for addressing and regulating affordable housing are in accordance with proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules. The Township's current Affirmative Marketing Plan, is found in Appendix H. The sections on affirmative marketing have already been 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 the affordable units located in the Township. Additionally, the Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Township's housing region, Region 6, consisting of the southern tier Counties.

As required by the court-approved Third Round FSHC agreement, the Affirmative Marketing Plan lists Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Mainland/Pleasantville, Mizpah, Greater Vineland, Atlantic City, and Cape May County Branches of the NAACP, and the Supportive Housing Association. The Township shall, as part of its regional affirmative marketing strategies during its implementation of this plan, require any administrative agent to provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or individual or companies retained to do affirmative marketing, to comply with this paragraph. Finally, in accordance with the July 2020 amendment to the FHA, The Township will include in its Affirmative Marketing Plan the requirement that all units subject to affirmative marketing requirements be listed on the state Housing Resource Center website (see footnote 16).

**Municipal Housing Liaison, Administrative Agent**

As approved by municipal resolution, the Township Administrator has held, and will continue to hold, the position of the Municipal Housing Liaison. Presently, there has not been the need to engage a municipal Administrative Agent, but the Township is committed to do so when any of the inclusionary housing developments begin construction of the Township decides to start its market-to-affordable program. The Township will require the developers of Stone Bridge Run, Bristol Ponds, and the units at Town Center to appoint a qualified Administrative Agent acceptable to the Township.

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**SPENDING PLAN**

As of December 31, 2024, Upper Deerfield's affordable housing trust fund held a balance of \$680,871.04. The Township's Spending Plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, has been prepared in accordance with N.J.A.C. 5:93-5.1(c) and is included as Appendix I. Upper Deerfield seeks approval from the Court for the Spending Plan. All collected revenues are placed in the Township's Affordable Housing Trust Fund and will be dispensed for the use of affordable housing activities as indicated in the Spending Plan.

The adoption of the Township's Spending Plan will constitute a "commitment" for expenditure per the FHA at N.J.S.A. 52:27D-329.2 and -329.3, with a four-year time period for expenditure that will start with the entry of the Superior Court's Judgment of Compliance and Repose.

**MONITORING AND MIDPOINT REVIEW**

In accordance with the requirements of N.J.S.A. 52:27D-329.2 and -329.4, by February 15 of each year of the Fourth Round, the Township will provide a detailed accounting through DCA's new Affordable Housing Monitoring System ("AHMS") of all affordable units constructed and construction starts during the prior calendar year, and of all residential and non-residential fees collected, interest earned, and other income collected and deposited into the Upper Deerfield's affordable housing trust fund during the prior calendar year. The Township will also provide a detailed accounting in AHMS of all expenditures of affordable housing trust funds during the prior calendar year, including purposes and amounts, and documentation of the balance remaining in the affordable housing trust fund as of December 31 of that year.

The Township or any other interested party may file an action through the Program seeking a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site in this Housing Element and Fair Share Plan that has not received preliminary site plan approval prior to the midpoint of the 10-year round. If such an action is initiated by the Township, the Township may propose one or more alternative sites with an accompanying development plan or plans that provide a realistic opportunity for the same number of affordable units and are otherwise in compliance with the FHA and the *Mount Laurel* doctrine.

**COST GENERATION**

Upper Deerfield Township's Land Development Ordinance has been reviewed to eliminate unnecessary cost generating standards, and provides for expediting the review of development applications containing affordable housing. Such expediting may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. All development applications containing affordable housing must be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards ("RSIS") (N.J.A.C. 5:21-1 et seq.) and the mandate of the FHA regarding unnecessary cost generating features. Upper Deerfield Township will comply with COAH's requirements for unnecessary cost generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing, N.J.A.C. 5:93-10.3. Once

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DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will revise its Land Development Ordinance, if needed, in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, and UHAC's new 2025 regulations, anticipated to be released shortly, in order to address new requirements to address cost-generative issues.

**SUMMARY**

Upper Deerfield Township has demonstrated a history of voluntary compliance with the constitutional obligations of the *Mt. Laurel Doctrine* and the Fair Housing Act. Upper Deerfield sought and was been granted a Judgment of Compliance and Repose for the Third Round at a time of significant confusion and difficulty for municipalities.

This document, the Township's 2025 Housing Element and Fair Share Plan, demonstrates that the municipality will address its rehabilitation and new construction obligations for the Fourth Round and seeks similar court-approval for its efforts.

## **APPENDIX A**

### **2025 Township Committee Resolution, Mediation Agreement with FSHC, Order Fixing Fourth Round Obligation**

**TOWNSHIP OF UPPER DEERFIELD****APPROVING SETTLEMENT OF FOURTH ROUND  
AFFORDABLE HOUSING PRESENT NEED AND  
PROSPECTIVE NEED NUMBERS****RESOLUTION 25-85**

**WHEREAS**, Pursuant to the New Jersey Fair Housing Act, P.L. 1985, c.222 (N.J.S.A. 52:27D-301, et. seq.) (the “FHA”), municipalities are required to determine the Present Need obligation and Prospective Need obligation of their fair share of the regional need for affordable housing (“Fair Share Obligation”) during the 10-year period beginning on July 1, 2025 (the “Fourth Round”) particularly in accordance with the provisions of N.J.S.A. 52:27D-304.1, and if determined by the adoption of a resolution within the times set forth in the FHA, the compliant municipality shall be immune from exclusionary zoning litigation, sometimes commonly referred to as “builders remedy”.; and

**WHEREAS**, On January 29, 2025, Upper Deerfield Township adopted Resolution 25-58 determining the Township’s Fair Share Obligation for the Fourth Round to be a Present Need obligation of nineteen (19) units and a Prospective Need obligation of Seventy-Five (75) based upon the findings and recommendations of its professionals, Clark, Caton and Hintz.; and

**WHEREAS**, Pursuant to the provisions of the FHA and the AOC Administrative Directive #14-24, on January 30, 2025, the Township caused to be timely filed a Declaratory Judgment Action seeking court approval of the Present Need and Prospective Need obligations as set forth in Resolution 25-58; and

**WHEREAS**, Pursuant to the FHA and Administrative Directive # 14-24 on February 26, 2025, New Jersey Builders Association (“NJBA”) filed a challenge to the Township’s determination of its Present Need and Prospective need obligations; and

**WHEREAS**, Pursuant to the FHA and Administrative Directive # 14-24, on February 28, 2025, Fair Share Housing Center (“FSHC”) filed a challenge to the Township’s determination of its Present Need and Prospective need obligations; and

**WHEREAS**, the challenges filed by NJBA and FSHC sought to compel the Township to accept the estimated Present Need obligation of 31 units and Prospective need obligations of 118 units as calculated by the New Jersey Department of Community Affairs (“DCA”) pursuant to the FHA; and

**WHEREAS**, Upon the filing of the challenges by NJBA and FSHC, the matter was referred to the Affordable Housing Dispute Resolution Program (“Program”) pursuant to the FHA and Directive #14-24; and

**WHEREAS**, Pursuant to the Program a Settlement Conference was held on March 13, 2025; and

**WHEREAS**, as a result of the Settlement Conference and subsequent discussions between the parties, it was proposed that the determination of the Township's Present and Prospective Needs be settled at a Present Need obligation of 31 units and a Prospective Need obligation of 95 units; and

**WHEREAS**, Township Committee is Township Committee approved the settlement by resolution 25-79 adopted March 20, 2025; and

**WHEREAS**, Resolution 25-79 was conditioned upon the execution of documentation memorializing the settlement in form and substance satisfactory to the Township Solicitor; and

**WHEREAS**, Township Solicitor has approved the form of Settlement Agreement appended hereto and requests Township Committee's authorization to execute the Settlement Agreement.

**NOW, THEREFORE, BE IT RESOLVED** on this 3rd day of April, 2025 by the Township Committee of the Township of Upper Deerfield as follows:

1. The form of Settlement Agreement appended hereto be and the same is hereby approved and Township Solicitor, Rocco J. Tedesco, be and the same is hereby authorized to sign the agreement on behalf of Upper Deerfield Township.

Moved By: James P. Crilley

Seconded By: William Whelan

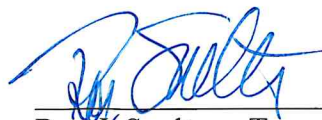
VOTING

James P. Crilley  
John L. Daddario  
Thomas Speranza  
Joseph Spoltore  
William Whelan

<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
X			
X			
			X
X			
X			

CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution adopted by the Township Committee of the Township of Upper Deerfield, in the County of Cumberland, at a meeting thereof held April 3, 2025.



Roy J. Spoltore, Township Clerk



MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE  
RESOLUTION PROGRAM

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF UPPER DEERFIELD,  
DOCKET NO. CUM-L-75-25

**WHEREAS**, on March 20, 2024, Governor Murphy signed P.L. 2024, c.2., into law, which established a new framework for determining and enforcing municipalities' affordable housing obligations under the Mount Laurel doctrine and the Fair Housing Act (the "Amended Act");

**WHEREAS**, the Amended Act required the Department of Community Affairs (the "DCA") to prepare a report with the calculation of the regional and municipal Prospective Need and the municipal Present Need for the Fourth Round in accordance with the formula required by the Amended Act;

**WHEREAS**, the DCA released this report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round)" on October 18, 2024;

**WHEREAS**, the DCA report concluded that the Township of Upper Deerfield's ("Upper Deerfield" or the "Township") fair share obligations for the Fourth Round included a Present Need of 31 units and a Prospective Need of 118 units;

**WHEREAS**, the Township having filed its resolution of participation before the Affordable Housing Dispute Resolution Program (the "Program") on January 28, 2025, in accordance with the requirements of N.J.S.A. 52:27D-301, et seq, and the timeframes set forth in Directive #14-24;

**WHEREAS**, the Township's resolution proposed to set Upper Deerfield's affordable housing obligations for the Fourth Round to include a Present Need of 19 units and a Prospective Need of 75 units;

**WHEREAS**, in accordance with the timeframes set forth in the Amended Act and the Directive, FSHC filed a timely objection to Upper Deerfield's resolution on February 28, 2025;

**WHEREAS**, FSHC's objection contended that Upper Deerfield had improperly calculated its Present Need and Prospective Need obligations and should be required to utilize the calculation prepared by the DCA in its October 18, 2024 report;

**WHEREAS**, on January 26, 2025 New Jersey Builders Association ("NJBA") also filed a challenge to the Township's determination of its Present Need and Prospective need obligations; and

**WHEREAS**, Upper Deerfield disputes the contentions raised in FSHC's and NJBA's objections;

**WHEREAS**, within the Affordable Housing Dispute Resolution Program ("Program") established pursuant to N.J.S.A. 52:27D-313.2, and pursuant to Section II F of Directive #14-24 on March 13, 2025, Upper Deerfield, FSHC and NJBA attended a mediation session with Hon. Julio Mendez. No settlement agreement was reached at the mediation session, however, Upper Deerfield and FSHC agreed to continue negotiations. NJBA represented to the Program Mediator that it would not oppose any settlement reached;

**WHEREAS**, subsequent to the mediation session, Upper Deerfield and FSHC continued negotiations and on March 17, 2025, reached a settlement agreement on the terms set forth herein and advised the Program Mediator of the terms of the settlement on Upper Deerfield's Fourth Round Present Need and Prospective Need obligations, without either party admitting the validity of the others' claims;

**WHEREAS**, on March 20, 2025, Upper Deerfield and FSHC attended the Session pursuant to Section II G of Directive #14-24 and confirmed on the record that a settlement was



reached between them subject to formal approval by Upper Deerfield Township Committee; NJBA did not attend the Session;

**WHEREAS**, on March 20, 2025, after the Session was concluded, NJBA filed its correspondence via ecourts pursuant to which NJBA formally declined to participate in Directive #14-24 mediation sessions; would neither object to nor appeal any settlement reached between Upper Deerfield and FSHC, and that it would not require nor participate in any Directive #14-24 Session to adjudicate its challenge. A copy of the NJBA March 20, 2025 correspondence is attached hereto and made a part hereof;

**WHEREAS**, on March 20, 2025, Upper Deerfield Township Committee adopted Resolution 25-79 approving the terms of the settlement. A copy of Resolution 25-79 was circulated to all parties and the Program mediator;

**WHEREAS**, recognizing that this agreement is reached prior to the adjudication of any challenges by the Program or any potential subsequent review in the judicial system, the parties agree that DCA's calculation of 31 units for Upper Deerfield's Fourth Round Present Need is appropriate;

**WHEREAS**, recognizing that this agreement is reached prior to the adjudication of any challenges by the Program or any potential subsequent review in the judicial system, the parties agree that 95 units is within the range of possibilities of outcomes for Upper Deerfield's Fourth Round Prospective Need;

**WHEREAS**, resolving the Fourth Round Present Need and Prospective Need at this juncture and allowing Upper Deerfield to move forward with preparing its Fourth Round HEFSP is important to the interests of lower-income households; and

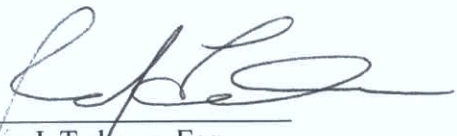
**WHEREAS**, the Township and FSHC thus agree to present this mediation agreement to the Program and consent to the Mediation Agreement, subject to the approval of the Upper Deerfield Governing Body at a public meeting, upon the approval by the Program, setting forth Upper Deerfield's Fourth Round obligations and binding the Township to utilize these obligations and foreclosing FSHC from further challenge to said obligations.

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

1. Upper Deerfield's Fourth Round fair share obligations shall be set forth as follows:
  - Present Need – 31 units
  - Prospective Need – 95 units
2. A Fourth Round Fair Share Obligation of 95 units is within the range of possible outcomes were the court to fully-adjudicate the Township's Prospective Need.
3. A Fourth Round Fair Share Obligation of 95 units is fair to the interests of lower-income households.
4. The Township and FSHC will jointly present this mediation agreement to the Program and request approval of this Agreement from the Program and if approved by the Program from the vicinage Mount Laurel judge. If the Program, trial court, or any appellate court reject approval of this Agreement, the Parties reserve their right to return to the *status quo ante*.
5. If an appeal is filed by any third-party, the Parties agree to jointly defend this Agreement against any appeal.
6. The Township shall prepare a Fourth Round Housing Element and Fair Share Plan ("HEFSP") utilizing these present and prospective need obligations and submit the

HEFSP to the Program by the deadline in the Amended Act of June 30, 2025. FSHC reserves all rights as to its review of the HEFSP pursuant to the Amended Act.

7. The undersigned, on behalf of their respective clients have consented to this Mediation Agreement and represent that they are authorized to execute it on their behalf. This Mediation Agreement shall not be further modified, amended or altered in any way except by a writing signed by both the Township and FSHC.

By:   
Rocco J. Tedesco, Esq.  
Counsel for the Township of Upper Deerfield

Dated: 4-7-25

By: \_\_\_\_\_  
Adam M. Gordon, Esq.  
Counsel for Fair Share Housing Center

Dated:

**FILED**

**May 5, 2025**

**Hon. Robert Malestein, P.J.Ch.**

**The Hon. Robert Malestein, P.J.Ch.**

Superior Court of New Jersey

Law Division – Civil Part

Vicinage XV

Gloucester County Courthouse

1 N. Broad Street, Courtroom 203

Woodbury, New Jersey 08096

**PREPARED □□ THE COURT:**

**IN THE MATTER OF THE  
DECLARATORY JUDGMENT  
ACTION OF UPPER  
DEERFIELD TOWNSHIP IN  
THE COUNTY OF  
CUMBERLAND, PURSUANT  
TO P.L. 2024, CHAPTER 2**

Petitioner.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – CIVIL PART  
CUMBERLAND COUNTY  
DOCKET NO.CUM-L-75-25

Civil Action

Mt. Laurel Program

**ORDER □□ING MUNICIPAL  
OBLIGATIONS FOR “PRESENT NEED”  
AND “PROSPECTIVE NEED” FOR THE  
FOURTH ROUND HOUSING CYCLE**

**THIS MATTER**, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 30, 2025, (“DJ Complaint”) by the Petitioner, Upper Deerfield Township, County of Cumberland (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative

Directive □14-24 (“Directive □14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

**AND IT APPEARING**, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled “*Affordable Housing Obligations for 2025-2035 (Fourth Round)*”,<sup>1</sup> therein setting forth the “present need” and prospective need” obligations of all New Jersey municipalities for the Fourth Round housing cycle (the “DCA’s Fourth Round Report”); **AND IT**

**APPEARING** that, pursuant to the DCA’s Fourth Round Report, the “**present need**” obligation of the Petitioner has been calculated and reported as 31 affordable units, and its “**prospective need**” obligation of the Petitioner has been calculated and reported as 118 affordable units, and which calculations have been deemed “presumptively valid” for purposes of the FHA;

**AND IT APPEARING** that the Municipality adopted Resolution 25-58 on January 21, 2025 seeking deviation from the “present need” and “prospective need” calculations allocated to it by the New Jersey Department of Community Affairs (“DCA”) in its report dated October 18, 2024 entitled Affordable Housing

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<sup>1</sup> See <https://nj.gov/dca/dlps/pdf/FourthRoundCalculation□Methodology.pdf>

Obligations for 2025-2035 (Fourth Round) (the “DCA’s Fourth Round Report”), and based on the Municipality planners’ recommendation for 19 affordable housing units for “present need” and 75 units for a “prospective need” affordable housing obligation for the Fourth Round housing cycle;

**AND IT APPEARING** that a challenge to the Municipality’s calculations was timely filed by Fair Share Housing Center (“FSHC,” “Fair Share”) by and through counsel, wherein Fair Share disputed the Municipality’s proposed obligation for prospective need;

**AND IT APPEARING** that a challenge to the Municipality’s calculations was timely filed by the New Jersey Builders Association (“NJBA” or “Challenger”) by and through its counsel, wherein NJBA disputed the Municipality’s proposed obligation for prospective need, and supported DCA’s present and prospective need obligations;

**AND IT APPEARING** that pursuant to the Program, the Administrative Office of the Courts (“AOC”) appointed and assigned the case to Program member, the Hon. Julio Mendez, A.J.S.C. (ret.) (“Program Member”), to manage the proceedings, host settlement conferences, and make recommendations to the Court in accordance with the FHA and the AOC’s Directive #14-24 (“Directive 14-24”), and that the Program Member appointed Jennifer C. Beahm, PP, an independent

affordable housing expert, as special adjudicator (“Special Adjudicator”) in this case to work with, make recommendations to, and assist the Program;

**AND IT APPEARING** that the Program Member considered all submissions of counsel for the parties, the various planners’ reports, the DCA report, as well as the expert report of the Special Adjudicator, and conducted two settlement conferences on March 13, 2025, and March 20, 2025, and the Municipality and FSHC having engaged in extensive settlement conferences before, during and after the settlement conferences;

**AND IT APPEARING** that, the New Jersey Builders Association having notified the Program in writing by their counsel that they will not participate in the settlement negotiations, and that they will not object to any settlement reached between the municipality and Fair Share Housing Center;

**AND IT APPEARING** that, the March 13, 2025 settlement conference was conducted on notice to all parties and the participation including local officials, attorneys, and planners for Fair Share Housing Center and the Municipality, everyone with the goal of reaching a resolution;

**AND IT APPEARING** that, the parties have engaged in extensive settlement negotiations before, during and after the settlement conferences, with the guidance and assistance of the program member assigned to the case and the special adjudicator;

**AND IT APPEARING** that, the Municipality and Fair Share Housing Center have reached a resolution, the settlement was place on the record, the parties circulated a settlement agreement that will be uploaded to e-courts and that the municipal governing body adopted resolution 25-79 on March 20, 2025 to accept the settlement;

**AND IT APPEARING** that, the special adjudicator recommends accepting the settlement to the program, and that the terms of the settlement are as follows: 31 units of affordable housing for a present need obligation (subject to conducting a windshield survey) and 95 units of affordable housing for a prospective need obligation, and that parties will now move on to the compliance phase to address the remaining issues pursuant to FHA and the AOC Directive;

**AND IT FURTHER APPEARING** that the special adjudicator recommends accepting the settlement to the program, and that the terms of the settlement are as follows: 31 units of affordable housing for a present need obligation (subject to conducting a windshield survey) and 95 units of affordable housing for a prospective need;

**AND IT FURTHER APPEARING** that the program member hereby recommends for consideration and review that an ORDER be entered by the County Mount Laurel Judge as follows: Accepting the proposed settlement and establishing that the “present need” obligation of the Municipality, be, and hereby is fixed as 31



affordable units (subject to conducting a windshield survey) for the Fourth Round housing cycle, and that the “prospective need” obligation of the Municipality, be, and hereby is fixed as 95 affordable units for the Fourth Round Housing cycle.

**AND IT APPEARING** the Program also is recommending an order be entered that the Municipality is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the “present need” and “prospective need” allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive □14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive □14-24, and without further delay. And the Program also is recommending an order that any and all “challenges” to the Petitioner’s housing element and fair share plan as adopted pursuant to Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the eCourts and as provided for and in accordance with Section III.B of Directive □14-24.

**IT IS, THERE□ORE**, on this **5th day of MA□ 2025 ORDERED AND ADJUDGED** as follows:

1. That the “present need” obligation of the Municipality, be, and hereby is fixed as 31 affordable units for the Fourth Round housing cycle.

2. That the “prospective need” obligation of the Municipality, be, and hereby is fixed as 95 affordable units for the Fourth Round Housing cycle; and

3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the “present need” and “prospective need” allocations aforesaid (and which plan shall include the elements set forth in the “Addendum” attached to Directive ¶14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive ¶14-24, and without further delay..

**IT IS ¶URTHER ORDERED**, that any and all “challenges” to the Petitioner’s housing element and fair share plan as adopted pursuant to Paragraph 3 above must be filed by August 31, 2025, by way of Answer/Objection filed in the eCourts case jacket for this Docket No. ¶CUM-L-75-25, and as provided for and in accordance with Section III.B of Directive ¶14-24; and

**IT IS ¶URTHER ORDERED**, that a copy of this Order shall be deemed served on the Petitioner, Petitioner’s counsel and the Program Chair upon its posting by the Court to the eCourts case jacket for this matter pursuant to R. 1:5-1(a) and R. 1:32-2A.

SO ORDERED:

*Robert J. Malestein, P.J.Ch.*

**HON. RO¶ERT MALESTEIN, P.J.Ch.**

*Designated Mt. Laurel Judge – Vicinage XV*

(X) Uncontested.

## **APPENDIX B**

### **2018 FSHC Settlement Agreement**



Peter J. O'Connor, Esq.  
 Kevin D. Walsh, Esq.  
 Adam M. Gordon, Esq.  
 Laura Smith-Denker, Esq.  
 David T. Rammner, Esq.  
 Joshua D. Bauers, Esq.

October 23, 2018

Dante J. Romanini, Esq.  
 Tedesco & Gruccio  
 727 Landis Avenue  
 PO Box 1327  
 Vineland, NJ 08362-1327

**Re: In the Matter of the Township of Upper Deerfield, County of  
 Cumberland, Docket No. CUM-L-17-17**

Dear Mr. Romanini:

This letter memorializes the terms of an agreement reached between the Township of Upper Deerfield (the Township or "Upper Deerfield"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

#### **Background**

Upper Deerfield filed the above-captioned matter on January 2, 2017 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Initially, the Township had been a defendant in a builder's remedy case "Hollyview" since 1998. Subsequently, in 2015 the trial court dismissed the Hollyview matter. On Dec. 14, 2016, the Appellate Division held that the Township's construction of 285 [now determined to be 283 units] income restricted units at Countryside Village satisfied and exceeded its second round obligation and that the Township may be entitled to additional rental bonuses. The matter was remanded to the trial court to determine if the Township complies with its Third Round fair share. On Dec. 19, 2016, the Honorable Anne McDonnell, P.J.Ch. entered a final order pursuant to the Dec. 14, 2016 Appellate Division decision. Judge McDonnell's order entered the final dismissal of the exclusionary zoning and builder's remedy suit filed by Hollyview; confirmed the Township's compliance with its prior round obligation; and granted Upper Deerfield temporary immunity from Mt. Laurel litigation for a period of 45 days within which to file an action seeking a judgment of compliance. The Township filed its declaratory judgment complaint on January 2, 2017. Through the declaratory judgment process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

#### **Settlement terms**

The Township and FSHC hereby agree to the following terms:

1. FSHC agrees that the Township, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and

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through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).

2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.
3. FSHC and Upper Deerfield hereby agree that Upper Deerfield's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report <sup>1</sup> )	31
Prior Round Obligation (pursuant to <u>N.J.A.C. 5:93</u> )	242
Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through this Agreement)	280

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
5. The Township's efforts to meet its present need include the following: The Township has an ongoing local rehabilitation program that has rehabilitated over 45 housing units in the Township at an average cost of over \$13,000 since April 1, 2010. The Township has received over \$1.2 million in Small Cities Home Rehabilitation Program grants since 2003 and has a Revolving Rehabilitation Fund from rehabilitation grants paid back to the Township when units are sold. To the extent that Small Cities funding continues to be available in the Third Round, the Township will continue to operate its local housing rehabilitation program. This is sufficient to fully satisfy the Township's present need obligation of 31 units.
6. As noted above, the Township has a Prior Round prospective need of 242 units, which is met through the following compliance mechanisms: Countryside Village – 181 built family affordable rentals (91 low or very-low and 90 moderate) with 61 prior round rental bonus credits. Countryside Village has a total of 283 existing family affordable rental units constructed in 2007/2008 and funded through the HMFA Low Income Housing Tax Credit (LIHTC) program. Although HMFA permitted all 283 affordable family rental units to be priced at moderate-income rent levels for moderate-income households, the parties agree that these units satisfy the Township's full Prior Round obligation and a portion of the Township's Third Round obligation based upon the following facts and conditions. First, at the time of this settlement agreement, 100 of the 283 units are occupied by low- or very-low income households paying low or very-low income rents through various subsidy programs. The Township will provide FSHC with an annual update on rent levels and corresponding income levels through the end of the Third Round or July 1, 2025. The balance of 102 family affordable rental units at Countryside

<sup>1</sup> David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, July 2016 and April 2017.

Village (283 total – 181 towards the Prior Round = 102) will be utilized to address a portion of the Township's Third Round and future fair share obligations. Second, in a situation unique to Cumberland County, the housing regions used in the LIHTC program unlike the COAH housing regions treat Cumberland County as its own housing region. The annual income limits used in the LIHTC program for moderate-income households (at 60 percent of median income) in Cumberland County are more than \$5,000 less than any other county in New Jersey, including the other counties in Cumberland County's housing region, thus placing the rents charged in Countryside Village significantly closer to the maximum low-income rent in Region 6 than would be the case for a similarly situated project in another county in the region. Third, the Township agrees to produce an excess of very-low-income and low-income units outside of Countryside Village described in paragraph 7 below.

7. The Township has implemented or will implement the following mechanisms to address its Third Round prospective need of 280 units as set forth below. In addition, to offset the 13 additional Third Round moderate-income units at Countryside Village, the Township has five (5) extra very-low or low-income group home bedroom credits and will require the inclusionary developments listed below to produce 53 percent low income units to achieve the balance of at least eight (8) additional low or very-low income units (5 + 8 = 13).

<b>Upper Deerfield Township Third Round Compliance Mechanisms: 280</b>	<b>Credits</b>	<b>Bonuses</b>	<b>Total</b>
<b>100% Affordable - constructed</b>			
Countryside Village – 31 affordable family rentals (9 low/22 mod)	31	31	62
<b>Alternative Living Arrangements</b>			
Group Homes (Devereux Foundation – two (2) group homes with 5 bedrooms each, 10 total bedrooms): Block 1708/Lot 9.01 and Block 1803/Lot 6	10	0	10
<b>Inclusionary Developments – proposed, developer's agreement, redevelopment plan or rezoning</b>			
Bristol Ponds – 36 affordable family rentals	36	36	72
Seabrook East – 7 on-site family rentals.	7	3, cap	10
Stone Bridge Run – 56 family affordable units	56	--	56
Town Center – 81 senior affordable units, 70 senior cap	70	--	70
<b>Total</b>	<b>210</b>	<b>70</b>	<b>280</b>

8. The Township will provide a realistic opportunity for the development of affordable housing through the adoption of inclusionary zoning on the following sites:

<b>Third Round Proposed Sites</b>						
Site	Block	Lot	Acres	Sale or Rent	Credits	Set Aside

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Town Center Senior (age-restricted) (6 units per acre)	12.08	Pt. 1	67.6	Sale	70, senior cap	20%
Stone Bridge Run (family) 279 total units	1808	2,3,16,17	71	Sale	56	20%
Bristol Ponds* (family) (6 units per acre)	1901	15,15.03,16	41.7	Rent	36	15%
Seabrook East Note: Current negotiations with developer may result in construction of affordable units off-site. If that occurs a minimum 8 will be affordable family rental units including one (1) very-low income affordable family rental	818 819 820 821	1-6 1-7 1-31 1-5, 7-17, 19-25	24.5	Rent	7	10% Note: approval granted under ordinance requiring 10% set aside

9. The Township will provide a realistic opportunity for the development of affordable housing that will be developed or created through Redevelopment per NJAC 5:97-6.6 such that the following actions have been completed or shall be completed for the redevelopment of the Bristol Ponds site:

- Area in need designation – anticipated adoption by 1/31/19
- Adopted redevelopment plan – anticipated adoption by 1/31/19
- Redeveloper currently has full site control
- Redevelopment agreement - anticipated completion and execution by 4/1/19

10. The Township agrees to require 13% of all units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements by requiring 13% of affordable units developed at each of the proposed sites in paragraph 8 to be affordable to very-low-income households.

11. The Township shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 6 above:

- Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
- At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
- At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.



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- d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
  - e. The Township agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.
12. The Township shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP, the Latino Action Network (P.O. Box 943, Freehold, NJ 07728), the Mainland/Pleasantville, Mizpah, Greater Vineland, Atlantic City, and Cape May County Branches of the NAACP, and the Supportive Housing Association and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
13. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Township as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:
- a. Regional income limits shall be established for the region that the Township is located within (i.e. Region 6) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household

- size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
- b. The income limits attached hereto as Exhibit A are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2018, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
  - c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
  - d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.
14. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
15. As an essential term of this Agreement, within one hundred and twenty (120) days of Court's approval of this Agreement, the Township shall introduce and adopt an ordinance or ordinances providing for the amendment of the Township's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.
16. The parties agree that if a decision of a trial court in Cumberland County or of the Appellate Division or Supreme Court of New Jersey, 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 ten (10%) 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.
17. The Township shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek

approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and - 329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the execution of this Agreement, which shall be established by the date on which it is executed by a representative of the Township, and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, the Township agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

18. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.
19. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in this Agreement. The Township agrees to comply with those provisions as follows:
  - a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.
  - b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of this Agreement, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.

20. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
21. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Township shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
22. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
23. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Cumberland County.
24. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
25. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
26. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
27. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
28. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
29. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and,

therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.

30. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
31. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
32. No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
33. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
34. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

**TO FSHC:**

Adam M. Gordon, Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
Phone: (856) 665-5444  
Telecopier: (856) 663-8182  
E-mail: adamgordon@fairsharehousing.org

**TO THE TOWNSHIP:**

Rocco J. Tedesco, Esq.  
Tedesco & Gruccio  
727 Landis Avenue  
PO Box 1327  
Vineland, NJ 08362-1327  
  
Telecopier: (856) 692-7714  
Email: rtedesco@tgrlaw.com

**WITH A COPY TO THE  
MUNICIPAL CLERK:**

Roy J. Spoltore  
Municipal Building

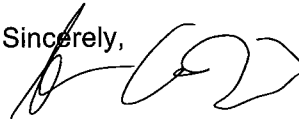
October 23 2018  
Page 10

1325 Highway 77  
Seabrook, NJ 08302

Telecopier: (856) 451-1379  
Email: [rspoltore@upperdeerfield.com](mailto:rspoltore@upperdeerfield.com)

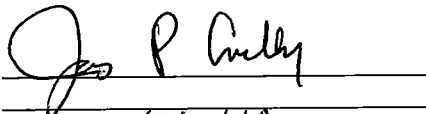
Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.  
Counsel for Intervenor/Interested Party  
Fair Share Housing Center

On behalf of the Township of Upper Deerfield, with the authorization  
of the governing body:



Dated: 11/1/18



# **EXHIBIT A: 2018 INCOME LIMITS**

October 23 2018  
Page 11

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - April 2018

## **2018 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE**

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rents** Soles***	Regional Asset Limit****
<b>Region 1</b>	Median	\$63,597	\$88,140	\$72,682	\$81,767	\$90,853	\$94,487	\$98,121	\$105,389	\$112,657	\$119,926		
	Moderate	\$50,878	\$54,512	\$58,146	\$65,414	\$72,682	\$75,589	\$78,497	\$84,311	\$90,126	\$95,940	2.2%	\$175,679
	Low	\$31,798	\$34,070	\$36,341	\$40,884	\$45,426	\$47,243	\$49,060	\$52,695	\$56,329	\$59,963	5.52%	
	Very Low	\$19,079	\$20,442	\$21,805	\$24,530	\$27,256	\$28,346	\$29,436	\$31,617	\$33,797	\$35,978		
<b>Region 2</b>	Median	\$66,755	\$71,523	\$76,291	\$85,828	\$95,364	\$99,179	\$102,993	\$110,622	\$118,252	\$125,881		
	Moderate	\$53,404	\$57,218	\$61,033	\$68,662	\$76,291	\$79,343	\$82,395	\$88,498	\$94,601	\$100,705	2.2%	\$182,955
	Low	\$33,377	\$35,762	\$38,146	\$42,914	\$47,682	\$49,589	\$51,497	\$55,311	\$59,126	\$62,940	1.22%	
	Very Low	\$20,026	\$21,457	\$22,887	\$25,748	\$28,609	\$29,754	\$30,898	\$33,187	\$35,475	\$37,764		
<b>Region 3</b>	Median	\$75,530	\$80,925	\$86,320	\$97,110	\$107,900	\$112,216	\$116,532	\$125,164	\$133,796	\$142,428		
	Moderate	\$60,424	\$64,740	\$69,056	\$77,688	\$86,320	\$89,773	\$93,226	\$100,131	\$107,037	\$113,942	2.2%	\$205,458
	Low	\$37,765	\$40,463	\$43,160	\$48,555	\$53,950	\$56,108	\$58,266	\$62,582	\$66,898	\$71,214		
	Very Low	\$22,659	\$24,278	\$25,896	\$29,133	\$32,370	\$33,665	\$34,960	\$37,549	\$40,139	\$42,728		
<b>Region 4</b>	Median	\$69,447	\$74,407	\$79,368	\$89,289	\$99,209	\$103,178	\$107,146	\$115,083	\$123,020	\$130,956		
	Moderate	\$55,557	\$59,526	\$63,494	\$71,431	\$79,368	\$82,542	\$85,717	\$92,066	\$98,416	\$104,765	2.2%	\$186,616
	Low	\$34,723	\$37,204	\$39,684	\$44,644	\$49,605	\$51,589	\$53,573	\$57,541	\$61,510	\$65,478	5.19%	
	Very Low	\$20,834	\$22,322	\$23,810	\$26,787	\$29,763	\$30,953	\$32,144	\$34,525	\$36,906	\$39,287		
<b>Region 5</b>	Median	\$61,180	\$65,550	\$69,920	\$78,660	\$87,400	\$90,896	\$94,392	\$101,384	\$108,376	\$115,368		
	Moderate	\$48,944	\$52,440	\$55,936	\$62,928	\$69,920	\$72,717	\$75,514	\$81,107	\$86,701	\$92,294	2.2%	\$161,977
	Low	\$30,590	\$32,775	\$34,960	\$39,330	\$43,700	\$45,448	\$47,196	\$50,692	\$54,188	\$57,684	5.05%	
	Very Low	\$18,354	\$19,665	\$20,976	\$23,598	\$26,220	\$27,269	\$28,318	\$30,415	\$32,513	\$34,610		
<b>Region 6</b>	Median	\$51,085	\$54,734	\$58,383	\$65,681	\$72,979	\$75,898	\$78,817	\$84,655	\$90,494	\$96,332		
	Moderate	\$40,868	\$43,787	\$46,706	\$52,545	\$58,383	\$60,718	\$63,054	\$67,724	\$72,395	\$77,066	2.2%	\$136,680
	Low	\$25,543	\$27,367	\$29,192	\$32,840	\$36,489	\$37,949	\$39,409	\$42,328	\$45,247	\$48,166	0.00%	
	Very Low	\$15,326	\$16,420	\$17,515	\$19,704	\$21,894	\$22,769	\$23,645	\$25,397	\$27,148	\$28,900		

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

\* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

\*\* This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The increase for 2015 was 2.3%, the increase for 2016 was 1.1%, the increase for 2017 was 1.7%, and the increase for 2018 is 2.2% (Consumer price index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, or 2017 may increase rent by up to the applicable combined percentage from their last rental increase for that unit. In no case can rent for any particular apartment be increased more than one time per year.

\*\*\* This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

\*\*\*\* The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3).

Note: Since the Regional Income Limits for Region 6 in 2017 were higher than the 2018 calculations, the 2017 income limits will remain in force for 2018 (as previously required by N.J.A.C. 5:97-9.2(c)).



**APPENDIX C**  
**2019 Judgment of Compliance and Repose**  
**– Third Round**

**TEDESCO & GRUCCIO**

Rocco J. Tedesco, Esquire  
 NJ ATTY ID # 017311977  
 727 Landis Avenue, PO Box 1327  
 Vineland, New Jersey 08362-1327  
 Phone: 856-696-1500 / Fax: 856-692-7714  
 Attorney for Plaintiff, Upper Deerfield Township

**IN THE MATTER OF THE  
 APPLICATION OF THE TOWNSHIP OF  
 UPPER DEERFIELD, COUNTY OF  
 CUMBERLAND**

SUPERIOR COURT OF NEW JERSEY  
 LAW DIVISION  
 CUMBERLAND COUNTY

DOCKET NO.: CUM-L-0017-17

CIVIL ACTION – *MOUNT LAUREL*

**STIPULATION AND ORDER**

THIS MATTER having been brought before the Court by Upper Deerfield Township (Rocco J. Tedesco, Esq., on behalf of Upper Deerfield Township) for the Court to consider the compliance of the Fair Share Plan, Housing Element and implementing Affordable Housing and Zoning Ordinances, as adopted by the Township of Upper Deerfield with the Settlement Agreement with Fair Share Housing Center approved by the Court by Order dated February 13, 2019, and in compliance with the principles set forth in In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) and the requirements of the Fair Housing Act of 1985; and the Fair Share Plan, Housing Element and implementing ordinances having been reviewed by the Fair Share Housing Center (Adam Gordon, Esq. on behalf of Fair Share Housing Center), it is stipulated between Upper Deerfield Township and the Fair Share Housing Center as follows:

1. The Housing Element and Fair Share Plan, filed with the Court, have been adopted by the Upper Deerfield Township Planning Board on June 17, 2019 as memorialized in Resolution 10-2019.
2. The Housing Element and Fair Share Plan, filed with the Court, were endorsed by Upper Deerfield Township by Resolution 19-156 on June 17, 2019.
3. Ordinance 807, Establishing Chapter 108 entitled “Affordable Housing and Eligibility Requirements to Implement the Third Round of Affordable Housing in Accordance with the Fair Housing Act of 1985”, was adopted by Upper Deerfield Township on August 1, 2019.

4. The Housing Element, Fair Share Plan and Ordinance 807 were filed with the Court on August 9, 2019.

5. Notice of "Compliance Hearing" was published in the Daily Journal on August 8, 2019 and filed with the Court and served on parties of interest on August 9, 2019.

6. Pursuant to the Notice of Compliance Hearing, the time for parties to file objections ended on August 29, 2019.

7. No objections have been filed by any party.

8. On September 5, 2019, Upper Deerfield Township adopted Ordinances 809, 810 and 811 (copies attached) further implementing the Housing Element and Fair Share Plan.

9. The Housing Element, Fair Share Plan and Ordinances 807, 809, 810 and 811 are in compliance with the Settlement Agreement dated February 13, 2019, the requirements of the Fair Housing Act of 1985 and the principles set forth in In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Housing, 221 N.J. 1 (2015).

10. Upper Deerfield Township and the Fair Share Housing Center have agreed that Upper Deerfield Township will adopt a resolution appointing Roy Spoltore as Municipal Housing Liaison and Administrative Agent pursuant to the terms of N.J.A.C. 5:96-17 and -18, as applicable, as a condition of Upper Deerfield's compliance with its affordable housing obligations.

11. Upper Deerfield Township is entitled to an Order of Compliance and Repose subject to the condition of appointing Roy Spoltore as Municipal Housing Liaison and Administrative Agent within 60 days of the date of this Order.

The Court having been presented with, and having accepted the forgoing stipulations,

**IT IS ON THIS** 13th day of September, 2019, Ordered, as follows:

1. Upper Deerfield Township's Fair Share Plan, Housing Element and implementing Ordinances are hereby approved and the Township is granted a Judgment of Compliance and Repose as to its Third Round Obligations, including its Gap Obligation (1999-2015), and its Prospective Need Obligation (2015-2025) pursuant to the Court approved Settlement Agreement entered into between the Township and FSHC dated February 13, 2019, the Fair Housing Act of 1985 ("FHA"), applicable Council on Affordable Housing (hereinafter "COAH") procedural and substantive regulations, and Mount Laurel case law, including the New Jersey Supreme Court's decision in In re N.J.A.C. 5:96 & N.J.A.C. 5:97, 221, N.J. 1 (2015) ("Mount Laurel IV").

2. The Upper Deerfield Township's Judgment of Compliance and Repose shall remain in effect for ten (10) years beginning on July 2, 2015 and ending on July 2, 2025, and during this

10 year period, the Township will have immunity from all Mount Laurel lawsuits, including, but not limited to, Builders Remedy lawsuits, except for actions brought to enforce the terms of the Settlement Agreement and the Court's Orders.

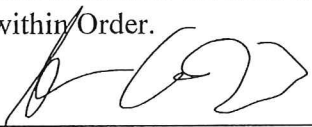
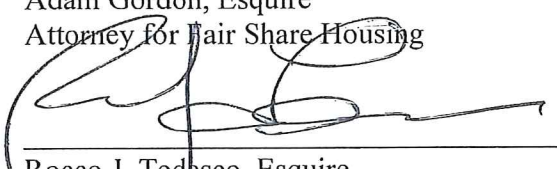
3. Upper Deerfield Township shall adopt a resolution appointing Roy Spoltore as Municipal Housing Liaison and Administrative Agent pursuant to N.J.A.C. 5:96-17 and -18, as applicable, shall file a copy of the Resolution and serve it on the Fair Share Housing Center via eCourts promptly upon adoption, no later than sixty (60) days from the date of this Order.

4. Upper Deerfield Township shall comply with all ongoing monitoring and reporting requirements referenced in the Settlement Agreement.

/s/ Anne McDonnell

ANNE McDONNELL, P.J.CH.

We hereby stipulate the matters set forth herein and consent to the form and entry of the within Order.

  
\_\_\_\_\_  
Adam Gordon, Esquire  
Attorney for Fair Share Housing  
\_\_\_\_\_  
Rocco J. Tedesco, Esquire  
Attorney for Plaintiff, Township of Upper Deerfield



**TOWNSHIP OF UPPER DEERFIELD**

**ORDINANCE 809**

**AMENDING CHAPTER 108, ENTITLED, "AFFORDABLE HOUSING  
PROCEDURAL AND ELIGIBILITY REQUIREMENTS", TO  
ADD A DEVELOPMENT FEE SECTION**

**WHEREAS**, the New Jersey Supreme Court and New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) ("Mount Laurel II") and the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA") that every municipality in New Jersey has an affirmative obligation to facilitate the provision of low and moderate income housing; and

**WHEREAS**, the Township Committee of the Township of Upper Deerfield are desirous of ensuring the proper implementation of the Fair Housing Act and associated rules through the adoption of land use regulations by the governing body; and

**WHEREAS**, the Township of Upper Deerfield desires to implement policies established by the New Jersey Supreme Court in In re N.J.A.C. 5:96 and 5:108, 221 N.J. 1, 30 (2015) (Mount Laurel IV) to foster affordable housing opportunities for the production of dwellings and their occupancy by low and moderate income households.

**WHEREAS**, the Township Committee of the Township of Upper Deerfield recognize the need to adopt Affordable Housing Procedural and Eligibility Requirements to implement the Housing Element and Fair Share Plan; and

**WHEREAS**, the Planning Board of the Township of Upper Deerfield has reviewed and recommended the adoption of this ordinance.

**NOW THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Upper Deerfield, Cumberland County, New Jersey, as follows:

**Section 1.** Chapter 108, Affordable Housing Controls and Procedures, shall be modified by adding the following section relocated from Chapter 405 and revised to comport with present court decisions:

**§108-21      Development Fees.**

**A.      Purpose.**

1. In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to COAH's adoption of rules.
2. COAH was authorized by P.L. 2008, c. 46, Section 8 (N.J.S.A. 52:27D-329.2), and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7) to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of

municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of COAH or a court of competent jurisdiction and have a COAH- or court-approved spending plan may retain fees collected from nonresidential development.

3. In Re: Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as the Mount Laurel IV decision, the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 7, 2025 are under the Court's jurisdiction and are subject to approval by the Court.
4. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and -32 through -38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This chapter shall be interpreted within the framework of COAH's rules on development fees, codified at *N.J.A.C. 5:93-8*.

#### B. Residential Development Fees

1. Imposed fees.
  - a. Within all Zoning Districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one-and-one-half-percent (1.5%) of the equalized assessed value for residential development, provided no increased density is permitted.
  - b. When an increase in residential density pursuant to *N.J.S.A. 40:55D-70d(5)* has been permitted, developers may be required to pay a development fee of up to 6% of the equalized assessed value for each additional unit that may be realized. However, 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 fee would equal one-and-one-half-percent (1.5%) of the equalized assessed value on the first two units; and the specified higher percentage of up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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