

**BOROUGH OF PAULSBORO JOINT LAND USE BOARD
RESOLUTION NO. PB.20.2025**

Amendment to the Housing Element and ADOPTED
Fair Share Plan of the Master Plan of the Hearing Date: June 3, 2025
Borough of Paulsboro and Review of the
Spending Plan

WHEREAS, the New Jersey Legislature amended the State's Fair Housing Act ("Amended FHA" or "Law") pursuant to P.L. 2024, c.2 which was signed into law by the Governor on March 20, 2024; and

WHEREAS, among other amendments, the Amended FHA requires the New Jersey Department of Community Affairs ("DCA") to perform a calculation of regional need and municipal present and prospective obligations for affordable housing in accordance with the formulas established in the Law; and

WHEREAS, pursuant to the requirements of the Amended FHA, DCA issued a report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background ("DCA Report"); and

WHEREAS, in the DCA Report, DCA has calculated the Borough's present need of affordable housing obligations for Round 4 in the year 2025 to be 130 units (the "Present Need"); and

WHEREAS, the Borough's total prospective affordable housing obligation for Round 4, according to the DCA calculations for the years 2025 to 2035, is 16 units (the "Prospective Need"); and

WHEREAS, on January 30, 2025, by way of Resolution #25.45, the Borough accepted the DCA-calculated Present Need and Prospective Need;

WHEREAS, on January 31, 2025, in accordance with the Amended FHA and the Administrative Office of the Court's Directive #14-24, the Borough filed a timely Fourth Round Declaratory Judgment Complaint (the DJ Complaint") with the Affordable Housing Dispute Resolution Program (the "Program"); and

WHEREAS, the filing of the DJ Complaint gave the Borough automatic immunity from all exclusionary zoning lawsuits, including builder's remedy lawsuits, which continues in full force and effect; and

WHEREAS, the Borough did not receive any objections to its Present Need and Prospective Need calculations by February 28, 2025, resulting in the statutory automatic acceptance of the Borough's Fourth Round obligations on March 1, 2025; and

WHEREAS, on April 28, 2025, the Court entered an Order establishing the Borough's Fourth Round Present Need of 130 and Prospective Need of 16; and

WHEREAS, N.J.S.A. 52:27D-306 requires the Borough to adopt and endorse a Fourth Round Housing Element and Fair Share Plan by June 30, 2025; and

WHEREAS, N.J.S.A. 40:55D-25(b)(3) authorizes the planning board to perform such advisory duties as assigned to it by resolution of the governing body; and

WHEREAS, by way of Resolution #25.122, the Governing Body of the Borough of Paulsboro requested that the Joint Land Use Board prepare a new Housing Element and Fair Share Plan and Spending Plan; and

WHEREAS, N.J.S.A. 40:55D-28 authorizes the planning board to prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare; and

WHEREAS, the Housing Element and Fair Share Plan was prepared in accordance with N.J.S.A. 40:55D-28(b)(3) of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et. seq., and the mandatory requirements of a Housing Element under the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to -329.20, and the Administrative Office of the Courts Directive #14-24; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Joint Land Use Board held a public hearing on the Housing Element and Fair Share Plan and Spending Plan on June 3, 2025, at which time the Joint Land Use Board reviewed the Housing Element and Fair Share Plan and Spending Plan; and

WHEREAS, the Joint Land Use Board has determined that the Housing Element and Fair Share Plan is consistent with the goals and objectives of the Borough of Paulsboro's Master Plan and that adoption and implementation of the Housing Element and Fair Share Plan is in the public interest and protect public health and safety and promote the general welfare; and

WHEREAS, the Joint Land Use Board has also determined that the Spending Plan is designed to implement the provisions of the Housing Element and Fair Share Plan, and it is in the best interest of the Borough to adopt the same.

NOW THEREFORE BE IT RESOLVED by the Joint Land Use Board of the Brough of Paulsboro, County of Gloucester, State of New Jersey, that the Joint Land Use Board hereby adopts the Housing Element and Fair Share Plan.

NOW THEREFORE BE IT FURTHER RESOLVED by the Joint Land Use Board hereby recommends the adoption of the Spending Plan, as drafted.


Robert DeAngelo, Chairman

I hereby certify that this is a true copy of the resolution adopting the 2025 Amendment to the Housing Element and Fair Share Plan of the Borough of Paulsboro on June 3, 2025.


Elsie Tedeski, Board Secretary

DRAFT
RESOLUTION #25.____

**RESOLUTION ENDORSING THE 2025 AMENDMENT TO THE BOROUGH OF
PAULSBORO'S HOUSING ELEMENT AND FAIR SHARE PLAN AND ADOPTING
THE SPENDING PLAN COMPONENT**

WHEREAS, the New Jersey Legislature amended the State's Fair Housing Act ("Amended FHA" or "Law") pursuant to P.L. 2024, c.2 which was signed into law by the Governor on March 20, 2024; and

WHEREAS, among other amendments, the Amended FHA requires the New Jersey Department of Community Affairs ("DCA") to perform a calculation of regional need and municipal present and prospective obligations for affordable housing in accordance with the formulas established in the Law; and

WHEREAS, pursuant to the requirements of the Amended FHA, DCA issued a report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background ("DCA Report"); and

WHEREAS, in the DCA Report, DCA has calculated the Borough's present need of affordable housing obligations for Round 4 in the year 2025 to be 130 units (the "Present Need"); and

WHEREAS, the Borough's total prospective affordable housing obligation for Round 4, according to the DCA calculations for the years 2025 to 2035, is 16 units (the "Prospective Need"); and

WHEREAS, on January 30, 2025, by way of Resolution #25.45, the Borough accepted the DCA-calculated Present Need and Prospective Need;

WHEREAS, on January 31, 2025, in accordance with the Amended FHA and the Administrative Office of the Court's Directive #14-24, the Borough filed a timely Fourth Round Declaratory Judgment Complaint (the DJ Complaint") with the Affordable Housing Dispute Resolution Program (the "Program"); and

WHEREAS, the filing of the DJ Complaint gave the Borough automatic immunity from all exclusionary zoning lawsuits, including builder's remedy lawsuits, which continues in full force and effect; and

WHEREAS, the Borough did not receive any objections to its Present Need and Prospective Need calculations by February 28, 2025, resulting in the statutory automatic acceptance of the Borough's Fourth Round obligations on March 1, 2025; and

WHEREAS, on April 28, 2025, the Court entered an Order establishing the Borough's Fourth Round Present Need of 130 and Prospective Need of 16; and

WHEREAS, N.J.S.A. 52:27D-306 requires the Borough to adopt and endorse a Fourth Round Housing Element and Fair Share Plan by June 30, 2025; and

WHEREAS, N.J.S.A. 40:55D-25(b)(3) authorizes the planning board to perform such advisory duties as assigned to it by resolution of the governing body; and

WHEREAS, by way of Resolution #25.122, the Governing Body of the Borough of Paulsboro requested that the Joint Land Use Board prepare a new Housing Element and Fair Share Plan and Spending Plan; and

WHEREAS, N.J.S.A. 40:55D-28 authorizes the planning board to prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare; and

WHEREAS, the Housing Element and Fair Share Plan was prepared in accordance with N.J.S.A. 40:55D-28(b)(3) of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et. seq., and the mandatory requirements of a Housing Element under the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to -329.20, and the Administrative Office of the Courts Directive #14-24; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Joint Land Use Board held a public hearing on the Housing Element and Fair Share Plan and Spending Plan on June 3, 2025, at which time the Joint Land Use Board reviewed the Housing Element and Fair Share Plan and Spending Plan; and

WHEREAS, the Joint Land Use Board determined that the Housing Element and Fair Share Plan is consistent with the goals and objectives of the Borough of Paulsboro's Master Plan and that adoption and implementation of the Housing Element and Fair Share Plan is in the public interest and protect public health and safety and promote the general welfare; and

WHEREAS, the Joint Land Use Board also determined that the Spending Plan is designed to implement the provisions of the Housing Element and Fair Share Plan, and it is in the best interest of the Borough to adopt the same; and

WHEREAS, on June 3, 2025, the Joint Land Use Board, via Resolution No. PB.20.2025, adopted the Fourth Round Housing Element and Fair Share Plan and recommended to the Mayor and Council to adopt the Spending Plan.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Paulsboro, County of Gloucester, that the Borough Council does hereby endorse the 2025 Amendment to the Housing Element and Fair Share Plan adopted by the Planning Board on June 3, 2025.

BE IT FURTHER RESOLVED, that the Borough Council does hereby adopt the Spending Plan component of the 2025 Amendment to the Housing Element and Fair Share Plan.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

BOROUGH OF PAULSBORO

John A. Giovannitti, Mayor

Elsie Tedeski, Borough Clerk

DRAFT**ORDINANCE NO. 25.____**

ORDINANCE CREATING CHAPTER 12 “AFFORDABLE HOUSING” TO ESTABLISH REGULATIONS REGARDING ADMINISTRATION OF AFFORDABLE HOUSING PROGRAMS, INCLUDING REGULATION OF VERY-LOW, LOW- AND MODERATE-INCOME HOUSING UNITS CONSISTENT WITH THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC), AND REGULATIONS REGARDING COLLECTION AND ADMINISTRATION OF DEVELOPMENT FEES AND THE ESTABLISHMENT OF AN AFFORDABLE HOUSING TRUST FUND.

WHEREAS, the Borough Council of the Borough of Paulsboro (“Borough Council”) is authorized pursuant to N.J.S.A. 40:48-2 to enact and amend ordinances, and to amend the Code of the Borough of Paulsboro, as deemed necessary for the preservation of the public health, safety and welfare of the Borough and its residents; and

WHEREAS, from time to time, the Borough of Paulsboro (“Borough”) may find it necessary to amend the Borough Code (“Code”) for the purpose of regulating and maintaining the general welfare of the residents of the Borough; and

WHEREAS, the State’s Fair Housing Act, N.J.S.A. 52:27D-301 et al. (the “Act”) was adopted to implement the New Jersey Supreme Court ruling in Southern Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975) and Southern Burlington County NAACP v. Mount Laurel, 92 N.J. 158 (1983), that every municipality in a growth area has a constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region’s present and prospective needs for housing for low- and moderate-income families; and

WHEREAS, on March 20, 2024, the New Jersey Legislature amended the Act, pursuant to P.L. 2024, c.2, modifying certain affordable housing methodologies, obligations, and fair share plans (the “Amended Act”); and

WHEREAS, the Borough desires to amend its Code to provide consistency with the requirements of the Amended Act and the Uniform Housing Affordability Controls (“UHAC”) and to establish a trust fund in support of very-low, low-, and moderating income housing.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Paulsboro, County of Gloucester, State of New Jersey as follows:

Section 1. Chapter 12 of the Code of the Borough is hereby created and entitled “Affordable Housing” as set forth below:

Chapter 12 - Affordable Housing

Section I. Purpose

§ 12-1. Title.

This chapter shall be known as the “Affordable Housing Procedures of the Borough of Paulsboro.”

§ 12-2. Purpose.

- A. The purpose of this Chapter is to establish regulations regarding the Borough of Paulsboro’s constitutional obligation to provide for its fair share of very-low, low-, and moderate-income housing, as directed by the New Jersey Fair Housing Act of 1985, as amended. This Chapter is intended to provide assurances that very-low, low-, and moderate-income units are created with controls on affordability over time and that very-low, low-, and moderate-income households shall occupy those units. This Chapter shall apply except where inconsistent with applicable law.
- B. The Paulsboro Borough Joint Land Use Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Housing Element and Fair Share Plan has been endorsed by the governing body. This chapter implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., as amended and supplemented and N.J.A.C.5:80-26.1 et seq. as amended and supplemented.
- C. The Borough of Paulsboro shall file such annual monitoring reports as required by the Act regarding the status of the implementation of its housing element and fair share plan. The report shall be filed with the Department and posted on the Borough website.

§ 12-3. Definitions.

All definitions found in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et al., as amended and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26, shall be incorporated by reference herein. Many of the definitions are reproduced below for ease of reference. In the event of a conflict between the terms of this Ordinance, the Act, and/or the UHAC, the UHAC shall control this Ordinance and the Act shall control both.

The following terms when used in this Ordinance shall have the meanings given in this Section:

ACT

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), as amended.

ADAPTABLE

Constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the State Uniform Construction Code Act, N.J.S.A 52:27D-119 et seq., and in accordance with the provisions of N.J.S.A. 52:27D-123.15.

ADMINISTRATIVE AGENT

The entity designated by the Borough to administer the Affordability Controls with respect to one or more Restricted Unit within the Borough of Paulsboro in accordance with this Ordinance, the FHA, and the Affordability Controls.

AFFIRMATIVE MARKETING

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

AFFORDABILITY AVERAGE

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

AFFORDABILITY CONTROLS

The requirements set forth in UHAC any other regulation promulgated pursuant to the FHA to ensure that a restricted unit remains affordable as very low-income housing, low-income housing, moderate-income housing as those terms are defined in the FHA.

AFFORDABLE

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

AFFORDABLE HOUSING DEVELOPMENT

A housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act and approved for crediting by the Program and/or funded through an affordable housing trust fund.

AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the head of the household is a minimum age of either 62 years, or 55 years and meets the provisions of 42 U.S.C. §§ 3601 et seq., except that due to death, a remaining spouse of less than 55 years of age shall be permitted to continue to reside in the unit.

AGENCY

The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.) and in, but not of, the Department.

ALTERNATIVE LIVING ARRANGEMENT

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE

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

CERTIFIED HOUSEHOLD

A household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

DEPARTMENT or DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

Housing that: (1) is over fifty years old and overcrowded; (2) lacks complete plumbing; or (3) lacks complete kitchen facilities.

DEVELOPER

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

Any development for which permission may be required pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.

FAIR HOUSING ACT or FHA

The Fair Housing Act, N.J.S.A. 52:27D-301, et seq., as may be amended and supplemented.

FAIR SHARE PLAN

The plan or proposal that is in a form which may readily be adopted, with accompanying ordinances and resolutions, pursuant to N.J.S.A. [52:27D-304.1](#)(f)(2)(a), by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the

affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

HOUSING REGION

A geographic area established pursuant to N.J.S.A. 52:27D-304.2.

INCLUSIONARY DEVELOPMENT

A residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low- and moderate-income households.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50 percent or less of the median household income for households of the same size within the housing region in which the housing is located.

LOW-INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

MARKET-RATE UNITS

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME

The median income by household size for the applicable housing region, as determined by and adjusted after each federal decennial census.

MODERATE-INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income for households of the same size within the housing region in which the housing is located.

MODERATE-INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

MONI

The Agency's Market Oriented Neighborhood Investment (MONI) Program, as it may be authorized from time to time by the Agency.

MUNICIPAL HOUSING LIAISON

The employee appointed by the governing body and charged with the responsibility of coordinating and oversight of all affordable housing activities of the Borough of Paulsboro, coordinating and oversight of all Administrative Agents administering any Restricted Unit within the Borough of Paulsboro, ensuring compliance with the Borough's affordable housing obligations, submission of reports required under the FHA and any implementing regulations and such other obligations as are set forth in this Chapter.

NON-EXEMPT SALE

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

PROGRAM

The Affordable Housing Dispute Resolution Program, established pursuant to N.J.S.A 52:27D-313.2.

RANDOM SELECTION PROCESS

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REHABILITATION

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

RENT

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

RESTRICTED UNIT

A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of UHAC, but does not include a market-rate unit financed under UHOP or MONI.

SPENDING PLAN

A method of allocating funds collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to N.J.S.A. 52:27D-329.1 et al. for the purpose of meeting the housing needs of low- and moderate-income individuals.

TRANSITIONAL HOUSING

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

UHAC

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq., as amended and supplemented.

UHORP

The Agency's Urban Homeownership Recovery Program, as it may be authorized from time to time by the Agency Board.

VERY LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30 percent or less of the median household income for households of the same size within the housing region in which the housing is located.

VERY LOW-INCOME UNIT

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

WEATHERIZATION

Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

§ 12-4. Applicability.

- A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Paulsboro pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
- B. The following sections shall apply to all developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

Section II. Development Fees.

§ 12-5. Residential Development Fees.

A. Imposed fees.

- (1) Residential developers, unless otherwise exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent (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.

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

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

§ 12-6. Non-residential Development fees

A. Within all zoning districts, a fee is imposed on all non-residential developers, unless otherwise exempted below, as follows:

- (1) A fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) A fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) When an existing structure is demolished and replaced, unless the structure is demolished and replaced as a result of a fire, flood, or natural disaster:
 - (a) A fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time a final certificate of occupancy is issued.

- (b) If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- B. Eligible exactions, ineligible exactions and exemptions for non-residential development.
 - (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.
 - (2) The 2.5% development fee shall not apply to an increase in equalized assessed value resulting from alterations, changes in use within existing footprint, reconstruction, renovations, or repairs.
 - (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to N.J.S.A. 40:55D-8.4, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 - (4) A developer of a non-residential development exempted from the non-residential development fee as set forth above shall be subject to it at such time the basis for the exemption no longer applies, and, in that event, shall make the payment of the non-residential development fee within three (3) years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - (5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough as a lien against the real property of the owner.

§ 12-7. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit that the development is subject to a development fee.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of that notice, the tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

- F. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Borough fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in N.J.S.A. 40:55D-8.6(b).
- H. The developer shall pay 100 percent of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.
- I. Appeal of development fees.
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

Section III. Affordable Housing Trust Fund.

§ 12-8. Purpose.

- A. In 1990, the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the adoption of rules by the Council on Affordable Housing (COAH).
- B. Pursuant to N.J.S.A. 52:27D-329.2 and the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 through 40:55D-8.7, COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans.
- C. In 2015, 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 1, 2025, were under the Court's jurisdiction and subject to approval by the Court.
- D. In 2024, the New Jersey Legislature abolished COAH and created a new Affordable Housing Dispute Resolution Program (the "Program"). The Program, which established

new standards for the collection, maintenance, and expenditure of development fees, is consistent with COAH's regulations developed in response to N.J.S.A. 52:27D-329.2, and the Statewide Non-Residential Development Fee Act. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing.

§ 12-9. Affordable Housing Trust Fund.

There is established within the Borough a separate, interest-bearing affordable housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls to be used and applied solely for the purposes set forth herein.

- A. All funds collected from developers or other persons pursuant to developer's agreements, settlement of litigation, by donation, or from sale of Borough property intended for or designated as funds to be used in connection with the satisfaction of the Borough's obligation under the Fair Housing Act or similar statute shall be deposited into the affordable housing trust fund in accordance with this Chapter.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) payments in lieu of on-site construction of affordable units;
 - (2) developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) rental income from municipally operated units;
 - (4) repayments from affordable housing program loans;
 - (5) recapture funds;
 - (6) proceeds from the sale of affordable units; and
 - (7) any other funds collected in connection with the Borough's affordable housing program.
- C. Within seven days from the opening of the trust fund account, the Borough shall provide the Department with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and the Department to permit the Department to direct the disbursement of the funds as required by law.
- D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Department.
- E. It is permissible for the Chief Financial Officer to deposit such funds into the general depository interest-bearing account of the Borough provided a separate accounting for such money is maintained.
- F. In the event the Borough receives funds from any governmental sources or from a private organization authorized by the county, state or federal government to engage in funding for affordable housing projects which are required to be held in a separate account, the Chief Financial Officer shall be authorized to establish such separate account and to provide for the keeping of appropriate records thereon but such funds shall be otherwise considered as part of the affordable housing trust fund.
- G. Disbursements from the affordable housing trust fund shall be made by the Chief Financial Officer upon authorization of the Mayor and Council by resolution carried by the affirmative votes of the majority of the full membership of the Borough Council.

Expenditures may be authorized from the affordable housing trust fund for any of the purposes set forth in the Spending Plan.

§ 12-10. Basic Requirements

- A. The Borough's Housing Element and Fair Share Plan shall include a Spending Plan for current funds in the municipal affordable housing trust fund and projected funds through the current round.
- B. The Borough shall annually, on or before February 15, provide the Department with a detailed accounting of all development fees from developers of residential property, or payments in lieu of constructing affordable housing, that have been collected and expended the previous year.
- C. No affordable housing development fees, including Statewide non-residential fees collected and deposited into the municipal affordable housing trust fund, may be spent or committed without first obtaining the approval of the expenditure as part of its compliance certification or by direct approval from the Department.
- D. Municipal development fee trust funds shall not be expended:
 - (1) To reimburse for activities which occurred prior to the adoption of this Ordinance; or
 - (2) On administrative costs, attorney fees or court costs to obtain a judgment of repose; (ii) to contest a determination of the Borough's fair share obligation; or (iii) on costs of any challenger in connection to a challenge to the Borough's obligation, housing element, or fair share plan.
- E. All fees shall be committed for expenditure within four (4) years from the date of collection unless otherwise directed by the Department. Fees not committed by the time set forth in this section shall be transferred to the New Jersey Affordable Housing Trust Fund for use in Housing Region 5.
- F. The Borough shall set aside a portion of its development fee trust fund for the purpose of providing affordability assistance to low- and moderate-income households in affordable units included in its housing element and fair share plan.
 - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, common maintenance expenses for units located in condominiums, rental assistance, and any other program authorized by the Department.
 - (2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low-income units in a municipal housing element and fair share plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall not entitle a municipality to bonus credits except as may otherwise be allowed by applicable precedent.
- G. The Borough may contract with a private or public entity to administer any part of its housing element and fair share plan, including the requirement for affordability assistance, or any program or activity for which the municipality expends development fee proceeds, in accordance with rules of the Department.

- H. Not more than twenty percent (20%) of the revenues collected from development fees shall be expended on administration, in accordance with rules of the Department. Such administration may include expending a portion of its affordable housing trust fund on actions and efforts reasonably related to the determination of its fair share obligation and the development of its housing element and fair share plan pursuant to N.J.S.A. 52:27D-304.1(f) and for expenses that are reasonably necessary for compliance with the processes of the program, including, but not limited to, the costs to the Borough of resolving a challenge under the program.

§ 12-11. Use of Funds

- A. The expenditure of all funds shall conform to a spending plan approved by the Department. Funds deposited in the affordable housing trust fund may be used for any activity approved by the Department to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.S.A. 52:27D-329.2 and specified in the approved spending plan.
- B. Funds shall not be expended to reimburse the Borough for past housing activities.
- C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - (2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, or any program or activity for which the municipality expends development fee proceeds, in accordance with rules of the Department.

- E. Not more than 20% of the revenues collected from development fees shall be expended on administration, in accordance with rules of the Department. Such administration may include expending a portion of its affordable housing trust fund on actions and efforts reasonably related to the determination of its fair share obligation and the development of its housing element and fair share plan pursuant to N.J.S.A. 52:27D-304.1(f)(1) and (2) and for expenses that are reasonably necessary for compliance with the processes of the program, including, but not limited to, the costs to the municipality of resolving a challenge under the program.

§ 12-12. Monitoring

The Borough shall complete and return to the Department all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough's housing program, as well as to the expenditure of revenues and implementation of the plan certified by the Department. All monitoring reports shall be completed on forms designed by the Department.

§ 12-13. Ongoing collection of fees

- A. The ability for the Borough to impose, collect and expend development fees shall expire with its judgment of compliance unless the Borough has filed an adopted Housing Element and Fair Share Plan with the Department and has received the Department's approval of its development fee ordinance.
- B. If the Borough fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to N.J.S.A. 52:27D-320, et. seq.
- C. The Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance, nor shall the Borough retroactively impose a development fee on such a development.
- D. The Borough shall not expend development fees after the expiration of its judgment of compliance.

Section IV. Affordable Housing Regulations

§ 12-14. Municipality-wide Mandatory Set-Aside

- A. A multi-family development providing a minimum of five (5) new housing units at a density of six (6) or more units per acre, created through a municipal rezoning permitting multi-family residential housing where not previously permitted; a use variance; a density variance increasing the permissible density at the site; or a new or amended redevelopment plan or rehabilitation plan, is required to include in the development a minimum affordable housing set-aside of 20%.
- B. In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater and rounded down if

the fractional amount is less than 0.5. The developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. If the number of market-rate units permitted includes a fraction, the number shall be rounded down.

- C. At least 50% of the affordable units in each development shall be affordable to low-income housing. At least 13% of all affordable units in rental developments shall be affordable to very low-income households.
- D. All affordable units, including bedroom distribution thereof, shall be governed by the controls on affordability and affirmatively marketed in conformance with the UHAC, or any successor regulation, and all other applicable law.
- E. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. A developer may not, for example, subdivide a project into two lots and then plan each of them to produce a number of units just below the threshold.
- F. This requirement shall not give any developer the right to any such rezoning, variance, redevelopment designation, or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the Borough to grant such rezoning, variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.
- G. No developer may make a payment in lieu of constructing affordable units on site, except for fractional units as noted in §12-14(B), above.

§ 12-15. Alternative Living Arrangements.

- A. The administration of an alternative living arrangement shall be in compliance with the UHAC, with the following exceptions:
 - (1) Affirmative marketing (N.J.A.C. 5:80-26.16), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Program;
 - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Program
- C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 12-16. Phasing Schedule for Inclusionary Zoning.

- A. Phasing. In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
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25	0
25+1	10
50	50
75	75
90	100

- B. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- C. Payments-in-lieu and off-site construction. The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units offsite, shall be in accordance with the Fair Housing Act and any Declaratory Judgment and/or Settlement Agreement.
- D. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

§ 12-17. New Construction.

A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

- (1) The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of median income. The very low-income units shall be counted as part of the required number of low-income units within the development. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families. A maximum of 30 percent may be age restricted. At least half of the units in total shall be available to families.
- (2) In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
- (3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - (b) At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
 - (c) At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
 - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer in accordance with the Borough's housing element and fair share plan.
- (4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-

income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

B. Accessibility Requirements:

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor; and
 - (b) An adaptable kitchen on the first floor; and
 - (c) An interior accessible route of travel on the first floor; and
 - (d) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (e) If not all of the foregoing requirements in Subsection B(2)(a) through (d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of B(2)(a) through (d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Paulsboro has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - (i) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (ii) To this end, the builder of restricted units shall deposit funds within the Borough of Paulsboro's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (iii) The funds deposited under Subsection B(2)(f)(ii) above shall be used by the Borough of Paulsboro for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (iv) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Paulsboro for the conversion of adaptable to accessible entrances.

- (v) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- (vi) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

C. Design:

- (1) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (2) In inclusionary developments, low- and moderate-income units shall have access to the same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices:

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits approved by the Court.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age- restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;

- (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household;
and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age- restricted developments, the following standards shall be used:
- (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed-Rate Mortgage rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.5, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.5, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (10) The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." This increase shall not exceed 5% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

E. Multi-Family Zones/Overlay Zones:

- (1) The general requirements for developments of eight dwelling units per acre set forth in this Subsection E shall apply to the following:
 - (a) Planning Board action on subdivision or site plan applications;
 - (b) Zoning Board adjustment actions and variances;
 - (c) Redevelopment plans adopted by the governing body; and
 - (d) Rehabilitation plans adopted by the governing body.
- (2) Any property in the Borough of Paulsboro that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside as set forth in (3) below.
- (3) Any rental or for sale multi-family development of five or more units and a density of eight dwelling units per acre or greater in the Borough shall be required to set aside a minimum of 10 percent of the total number of units as Affordable Housing Units. Where this requirement results in a fraction of a unit, the fraction shall be rounded to the nearest whole unit. Fractions of less than 0.5 shall be rounded off to the lower unit and fractions of greater than 0.5 shall be rounded off to the higher whole unit.
- (4) In inclusionary developments, low- and moderate-income units shall be integrated with the market units. However, for developments of up to 20 units, not specifically identified in the Borough's Fair Share Plan, the Borough may, in its sole discretion, permit payments-in-lieu of constructing affordable units or the construction of affordable units off-site, in accordance with [proposed N.J.A.C. 5:99-2.7]. For development of 21 to 30 units, not specifically identified in the Borough's Fair Share Plan, the Borough may, in its sole discretion, permit up to 50 percent of the required set aside to be met through payments-in-lieu of constructing affordable units or the construction of affordable units off-site, in accordance with [proposed N.J.A.C. 5:99-2.7], provided that the municipality identified how the off-site units will be provided on a one-for-one basis at the time of the final site plan approval for the inclusionary development and provides notice of information regarding the provision of the off-site units to Fair Share Housing Center ten (10) days before the site plan approval is heard. Developments of 31 units or more shall provide the units on site, with no off-site option.
- (5) All payments-in-lieu referenced above shall be expended for construction of affordable units conforming to a compliance mechanism recognized in [proposed N.J.A.C. 5:99] within four years of the deposit of the payments-in-lieu in the Borough's Affordable Housing Trust Fund, and such expenditure shall be deemed a commitment of funds pursuant to N.J.S.A. 52:27D-329.3.

- (6) The Inclusionary Zoning Ordinance shall not be deemed an admission by the Borough that affordable housing set-asides automatically constitute an inherently beneficial use for purposes of zoning variances.
- (7) For additional compliance mechanisms, the Borough agrees to rely on [proposed N.J.A.C. 5:99] with regard to the compliance mechanism specifically described therein. For additional compliance mechanisms to address unmet need, the Borough agrees to rely on [proposed N.J.A.C. 5:99-___].
- (8) The Borough shall provide for a lookback at least once every three years to make sure this provision is complied with for the units built during that period.

§ 12-18. Utilities.

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the Department for its Section 8 program.

§ 12-19. Occupancy Standards.

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

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

§ 12-20. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Paulsboro takes action to release the unit from such requirements. Prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. In those instances in which control periods expire, the Administrative Agent shall, within 60 days of the expiration of the control period, execute a release, substantially in the form set forth at N.J.A.C. 5:80-26 Appendix F, of all restriction instruments with respect to the unit. The owner of the restricted unit is responsible for recording the release instruments and returning the recorded originals promptly to the Administrative Agent. Upon the expiration of the control period for a restricted ownership unit established in this section, the owner of the unit may sell it to any purchaser at the fair market price.

§ 12-21. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

- A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, et. seq., as may be amended and supplemented, including:
- B. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- C. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- D. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- E. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See § 12-24.

§ 12-22. Buyer Income Eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, et. seq., as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, pennit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent

determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing mid pricing restrictions for low-income units.

- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income.

§ 12-23. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.9(b).

§ 12-24. Capital Improvements To Ownership Units.

- A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the

purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 12-25. Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80- 26.12, as may be amended and supplemented and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years, until Paulsboro takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, et seq., as may be amended and supplemented.
- B. Deeds of all real property that include restricted rental units must contain deed restriction language that conforms with the requirements of this subchapter and is substantially in the form set forth at N.J.A.C. 5:80-26 Appendix E. The preparer of the foregoing instrument shall certify to the administrative agent that the deed restriction language at N.J.A.C. 5:80-26 Appendix E has been included therein. If the recorded deed restriction is not provided to the administrative agent within 30 days of the receipt of the certificate of occupancy, the administrative agent shall at any time thereafter send notice to the developer or seller providing a 30-day cure period. If the deed restriction is not provided within the cure period, the administrative agent shall record the deed restriction with the records office of the county on notice to the developer or seller and may bill the seller for reasonable costs associated therewith. Under no circumstances may a developer or seller be excused from any requirements of this subchapter because of a failure to record the deed restriction. If a development is sold by a developer prior to recording the deed restriction, the buyer is not excused from adhering to the requirements of this subchapter and any recourse shall be to recover from the seller rather than seeking to extinguish any affordability controls of the development.
- C. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Gloucester. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 12-26. Rent Restrictions for Rental Units; Leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent within 10 business days after execution of the lease.

- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- D. Fees for truly optional, unit-specific, non-communal items that are charged to market-rate tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may be charged to affordable tenants, if applicable. Pet fees may not exceed \$ 30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited. Fees for other optional, unit-specific, non-communal items may not exceed the amounts charged to market-rate tenants.
- E. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§ 12-27. Tenant Income Eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
 - (1) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;

- (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in A(1) through B(5) above with the Administrative Agent, who shall counsel the household on budgeting.

§ 12-28. Municipal Housing Liaison.

- A. There is hereby established the position of Municipal Housing Liaison for the Borough of Paulsboro.
- B. The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee. The Municipal Housing Liaison shall be certified by the DCA in accordance with the regulations promulgated by the DCA.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Paulsboro, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (1) Serving as the Borough of Paulsboro's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 - (2) Monitoring the status of all Restricted Units identified in any of the Borough of Paulsboro's Fair Share Plans;
 - (3) Compiling, verifying, and submitting annual monitoring reports as may be required under the FHA or any implementing regulations;
 - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as needed;
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.
 - (6) Monitoring all Administrative Agents within the Borough to ensure compliance with the FHA and all regulations adopted by the DCA pursuant to N.J.S.A. 52:27D-321(f).
 - (7) Filing legal challenges in accordance with N.J.S.A. 52:27D-321(i)(3) to determine if properties are noncompliant with the FHA or regulations adopted by the DCA pursuant thereto.
 - (8) Monitoring foreclosure actions for properties subject to an affordable housing deed restriction as required by the FHA, UHAC, and regulations adopted pursuant to the

FHA.

(9) Ensuring that all Restricted Units are being administered by a certified Administrative Agent.

(10) Comply with all standards adopted by the DCA applicable to municipal housing liaisons pursuant to N.J.S.A. 52:27D-321(i)(1) and all applicable requirements set forth in UHAC for municipal housing liaisons.

D. Subject to the approval of the Court, the Borough of Paulsboro shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the Administrative Agent(s).

E. Compensation, if any, shall be fixed by the governing body at the time of the appointment of the Municipal Housing Liaison.

§ 12-29. Administrative Agent.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the Restricted Units for which the services of the Administrative Agent are required. The Administrative Agent may administer one or more affordable projects. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, and any regulations adopted pursuant to the FHA which includes:

A. Affirmative marketing:

- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Paulsboro the FHA, UHAC, and regulations adopted pursuant to the FHA; and
- (2) Providing counseling or contracting to provide counseling services to very-low, low- and moderate-income applicants.

B. Household certification:

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

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

C. Affordability controls:

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

D. Resales and rentals:

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

E. Processing requests from unit owners:

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of

UHAC or other Affordability Controls;

- (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- (3) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

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

G. Additional responsibilities:

- (1) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the FHA, UHAC, and regulations adopted pursuant to the FHA.
- (3) The Administrative Agent shall attend continuing education sessions on affordability

controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

(4) The Administrative Agent shall comply with all standards adopted pursuant to N.J.S.A. 52:27D-321(i)(2) and all requirements set forth in UHAC.

H. To the extent that any duties or obligations of the Municipal Housing Liaison or Administrative Agent conflict with the requirements of the FHA, UHAC, or regulations adopted pursuant to the FHA, those requirements shall control.

§ 12-30. Affirmative Marketing Requirements.

- A. The Borough of Paulsboro shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
- B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 5 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Burlington, Camden and Gloucester Counties.
- D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of Paulsboro shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 12-31. Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - (a) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Paulsboro Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - (2) The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the

same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

- (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
- (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable

housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

- (e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate- income unit as permitted by the regulations governing affordable housing units.
- (f) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§ 12-32. Appeals.

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

Section 2. Chapter 44B, Article I of the Code of the Borough shall be deleted in its entirety.

Section 3. Chapter 44B, Article II shall be renumbered as Chapter 44B, Article I.

Section 4. All other Chapters of the Borough Code remain valid and in effect and are not amended by this Ordinance.

Section 5. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. All other provisions of the Borough Code are ratified and remain in full force and effect.

Section 6. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

Section 7. This Ordinance shall take effect immediately upon approval by the Superior Court of New Jersey, Chancery Division, Gloucester County of the Borough of Paulsboro's Housing Element and Fair Share Plan and entry of a judgment approving the Borough of Paulsboro's Housing Element and Fair Share Plan.

BOROUGH OF PAULSBORO

John A. Giovannitti, Mayor

Elsie Tedeski, Borough Clerk

DRAFT
ORDINANCE NO. 25.____

**ORDINANCE ADOPTING A REDEVELOPMENT PLAN FOR AN AREA IN NEED OF
REDEVELOPMENT WITHIN THE BOROUGH OF PAULSBORO**

WHEREAS, in order to facilitate the development, redevelopment, and rehabilitation of the Borough of Paulsboro, County of Gloucester, State of New Jersey (the “City”), by way of Resolution #25.____ adopted on June 17, 2025, the Mayor and Council of the Borough of Paulsboro (the “Borough Council”) declared Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01) within the Borough as a Non-Condensation Redevelopment Area (the “Redevelopment Area”) pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12-1 et seq., specifically N.J.S.A. 40A:12A-7, a redevelopment project must be undertaken pursuant to a “Redevelopment Plan” adopted by a Borough Ordinance and said Redevelopment Plan must include an outline for the planning, development, redevelopment or rehabilitation of the project area; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, a redevelopment plan entitled “_____” (the “Redevelopment Plan”), dated _____, 2025, has been prepared for the Redevelopment Area; and

WHEREAS, the Redevelopment Plan provides a broad overview for the planning, development, redevelopment and rehabilitation of the Redevelopment Area for purposes of improving conditions within the Borough; and

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to adopt the Redevelopment Plan to effectuate redevelopment and rehabilitation within the Borough and specifically Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01); and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, the Borough Council adopted a Resolution referring the Redevelopment Plan to the Borough of Paulsboro Joint Land Use Board (the “Planning Board”) for review and approval following introduction and first reading; and

WHEREAS, the Joint Land Use Board held a public hearing on _____, 2025 and recommended that the Redevelopment Plan for Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01), be adopted; and

WHEREAS, the Redevelopment Plan for the Redevelopment Area meets the requirements of N.J.S.A. 40:12A-1 et seq., and is consistent with the Borough’s Master Plan; and

WHEREAS, the Borough Council has reviewed and accepted the recommendations of the Joint Land Use Board and determined it to be in the best interest of the Borough to adopt the attached Redevelopment Plan to effectuate redevelopment and rehabilitation within the Borough and specifically Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01) ; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Paulsboro as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Borough Council declares and determines that said Redevelopment Plan meets the criteria, guidelines, and conditions set forth in N.J.S.A. 40A:12A-7, provides realistic opportunities for the development, redevelopment and rehabilitation of the Borough, and is otherwise in conformance with N.J.S.A. 40A:12A-1, et seq.

Section 3. The Borough Council hereby accepts the recommendations of the Joint Land Use Board and adopts the attached Redevelopment Plan entitled “_____”, dated _____ 2025, for the Borough of Paulsboro and specifically Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01).

Section 4. The Borough Council of the Borough of Paulsboro shall have, be entitled to, and is hereby vested all power and authority granted by the aforementioned statutory provisions to effectuate the Redevelopment Plan.

Section 5. The Redevelopment Plan shall constitute an overlay zone to the extent set forth therein.

Section 6. In the event any clause section or paragraph of this Ordinance is deemed invalid or unenforceable for any reason, it is the intent of Borough Council that the balance of the Ordinance remains in full force and effect to the extent it allows the Borough to meet the goals of the Ordinance.

Section 7. This Ordinance shall take effect after final adoption and publication according to law.

BE IT FURTHER ORDAINED that all prior Ordinances inconsistent with this Ordinance are repealed only to the extent of any such inconsistency.

BOROUGH OF PAULSBORO

John A. Giovannitti, Mayor

Elsie Tedeski, Borough Clerk

DRAFT
RESOLUTION #25._____

**RESOLUTION DESIGNATING BLOCK 121, LOT 1, AND BLOCK 123, LOT 1
(ADDITIONAL LOT, BLOCK 132, LOT 1.01) AS A NON-CONDEMNATION AREA IN
NEED OF REDEVELOPMENT**

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., specifically N.J.S.A. 40A:12-6, authorizes the governing body of any municipality, by resolution, to have its Planning Board conduct a preliminary investigation to determine whether any area of a municipality is a redevelopment area; and

WHEREAS, pursuant to Resolutions #25.65, adopted by the Mayor and Council of the Borough of Paulsboro, the Joint Land Use Board of the Borough of Paulsboro (“Planning Board”) conducted an investigation to determine whether Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01) (“Study Area”) should be designated as a non-condemnation area in need of redevelopment and considered the “Determination of Need Report Paulsboro Gardens Block 121, Lot 1, and Block 123, Lot 1, Block 132, Lot 1.01” as prepared by Tiffany A. Morrissey, AICP, PP, dated May 30, 2025 (“Study Area Report”); and

WHEREAS, the Planning Board conducted a public hearing on June 3, 2025, concerning the potential designation of the Study Area as a non-condemnation redevelopment area and the meeting was open to the public and all members of the public, as well as all affected property owners, had an opportunity to address questions and comments to the Planning Board and its professionals; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, due notice of the public hearing was provided to the property owners as mandated by the aforesaid statute and also notice was posted and published in accordance with the law; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, the Planning Board prepared a map showing the boundaries of the Study Area and the location of the various parcels of property included therein. Appended to the map was a statement setting forth the basis for the investigation; and

WHEREAS, the Study Area Report is adopted herein by reference; and

WHEREAS, all members of the Planning Board reviewed the Study Area Report; and

WHEREAS, the Planning Board of the Borough of Paulsboro made the following findings of fact and drew the following conclusions of law with respect to the Study Area Report for the Study Area:

1. That pursuant to Resolution #25.65, adopted by the Mayor and Council of the Borough of Paulsboro, the Joint Land Use Board of the Borough of Paulsboro (“Planning Board”) conducted an investigation and, on June 3, 2025, held a public hearing, to determine whether

the Study Area, Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01), should be designated as a non-condemnation area in need of redevelopment; and

2. Tiffany Morrissey, PP, AICP, the Board's Special Redevelopment Planning Professional, presented the Study Area Report and testimony constituting substantial, credible evidence that the Study Area qualifies as a non-condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-1, et seq., as amended; and
3. The Study Area is a blighted area as defined by the Supreme Court of New Jersey due to the substandard and obsolescent conditions and the lack of development through private capital. This lack of investment has resulted in reduced property values and lack of development in an area designated for growth. These conditions have an overall detrimental effect on the community. As a result, development of this area will not occur without governmental assistance.
4. That the Study Area, Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01), satisfies criteria "a," "c," and/or "h" as set forth in N.J.S.A. 40A:12A-5 or is otherwise necessary for the effective development of the area as set forth in the Study Area Report and the testimony of Tiffany A. Morrissey, AICP, PP specifically finding that the following conditions exist:

N.J.S.A. 40A:12A-5(a) – The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.

Paulsboro Gardens, Block 123, Lot 1 and Block 132, Lot 1.01 contain affordable housing units in need of improvements ranging from general and customary upgrades to clean-up from an oil spill and overall improvements to bring the property into compliance with accessibility standards. These conditions are, in some cases, substandard in terms of codes and regulations and contribute to unwholesome living.

conditions.

N.J.S.A. 40A:12A-5(c) – Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

Block 121 Lot 1 is a municipality owned parcel. The site has been vacant for more than two (2) decades. The site also has limited road frontage onto Swedesboro Avenue. As a result, the site is not likely to be developed through private investment.

N.J.S.A. 40A:12A-5(h) - The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

Block 123, Lot 1 and Block 132, Lot 1.01 are consistent with smart growth planning principles adopted pursuant to law or regulation. Both properties located within State Planning Area 1: Metropolitan, where the redevelopment and revitalization of sites are prioritized. Further, both lots are located within the State's Smart Growth Planning Area, a tool used to ensure consistency with the State Development and Redevelopment Plan.

N.J.S.A. 40A:12A-3 -A redevelopment area may include land, buildings, or improvements, which of themselves are not detrimental to the health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area in which they are a part.

Block 123, Lot 1 and Block 132, Lot 1.01 are developed in concert as an apartment complex in need of significant investment and repair. The Renovation Scope identified in the appendix, details numerous items that are necessary in order to maintain and revitalize the site. The site requires substantial private investment, which is not likely under conventional zoning.

5. That the Study Area, Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01), satisfies criteria "a," "c," and/or "h" as set forth in N.J.S.A. 40A:12A-5 or is otherwise necessary for the effective development of the area as set forth in the Study Area Report and the testimony of Tiffany A. Morrissey, AICP, PP and should be declared a non-condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-1, et seq., as amended; and

WHEREAS, the Planning Board adopted Resolution No. PB.18.2025, adopted herein by reference, as its official report and recommendation to Mayor and Council that the above noted Study Area satisfies the statutory requirements set forth in N.J.S.A. 40A:12A-5 and should be declared a non-condemnation area in need of redevelopment; and

WHEREAS, the Mayor and Council has reviewed the proposed redevelopment area Study for the Study Area submitted by Ms. Morrissey and determines that it is in the best interest of the Borough of Paulsboro to declare Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01), as a non-condemnation area in need of redevelopment pursuant to the Study and the report and recommendation of the Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Paulsboro, County of Gloucester, that:

1. The Borough Council hereby accepts the recommendation of the Joint Land Use Board and hereby designates Block 121, Lot 1, and Block 123, Lot 1 (additional lot, Block 132, Lot 1.01), as a Non-Condensation Redevelopment Area within the Borough of Paulsboro pursuant to N.J.S.A. 40A:12A-1 et seq.

2. The Borough Clerk, or her designee, is hereby directed to serve within ten (10) days a copy of this Resolution upon each property owner thereby affected, the Commissioner of the Department of Community Affairs, and each person, if any, who filed a written objection to

the Planning Board's recommendation, with service to be in a manner provided by N.J.S.A. 40A:12A-1 et seq., as amended.

3. This Resolution shall take effect immediately.

BOROUGH OF PAULSBORO

John A. Giovannitti, Mayor

Elsie Tedeski, Borough Clerk