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March 12, 2026

Via eCourts

Honorable Robert Malestein, P.J.CH.

Gloucester County Old Courthouse
1 North Broad Street, Floor 2
Woodbury, New Jersey 08096

RE: In the Matter of the Application of the Borough of Woodbury Heights
Docket No. GLO-L-75-25

Dear Judge Malstein:

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

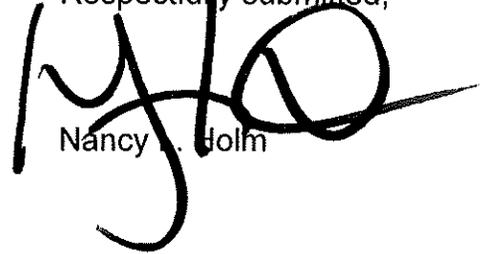
1. Ordinance No. 3-2026, Repealing and Replacing the Borough's Affordable Housing Ordinance and Development Fee Ordinance;
2. Ordinance No. 2-2026, Amending the zoning of the Affordable Housing Overlay Zone and the Habitat for Humanity Project;
3. Resolution No. 52-2026, Authorizing the Mayor to Execute an agreement with Gloucester County Habitat for Humanity, along with fully executed agreement;
4. Resolution No. 52-2026, Adopting an Affirmative Marketing Plan;
5. Resolution No. 54-2026, Adopting an Amended Spending Plan and Affordability Assistance Manual; and
6. Gloucester County Rehabilitation Program Manual.

7. With regard to the Vision Residences, LLC documentation, the license is provided as Appendix F of the Borough's HEFSP.

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

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nancy J. Dolm', is written over the typed name. The signature is stylized with large, overlapping loops.

Nancy J. Dolm

cc: Ashley J. Lee, Esq. (via eCourts and email)
Borough of Woodbury Heights (via email)
Tiffany Morrissey, PP, AICP (via email)

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ORDINANCE NO. 3-2026

AN ORDINANCE OF THE BOROUGH OF WOODBURY HEIGHTS, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY AMENDING, REVISING AND SUPPLEMENTING CHAPTER 70 LAND DEVELOPMENT, UNDER ARTICLE XII AFFORDABLE HOUSING OF THE BOROUGH CODE

WHEREAS, Chapter 70, Article XII (Affordable Housing) of the Ordinances of the Borough of Woodbury Heights has to be repealed and replaced in its entirety to comply with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (“FHA”), as was amended in 2024, the newly adopted Uniform Housing Affordability Controls (“UHAC”) regulations, N.J.A.C. 5:80-26.1 et seq., and newly adopted N.J.A.C. 5:99-1 et seq; and

WHEREAS, this Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with regulations set forth in P.L. 2024, c. 2, N.J.S.A. 52:27D-301 et seq., N.J.A.C. 5:99-1 et seq. and as previously established in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7); and

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

BE IT ORDAINED by the Mayor and Council of the Borough of Woodbury Heights, in the County of Gloucester and State of New Jersey that Chapter 70, Article XII (Affordable Housing), Sections 70-55 through 70-73 of the Ordinances of the Borough of Woodbury Heights is hereby repealed and replaced as follows:

SECTION 1. REPEAL AND REPLACE ARTICLE XII Affordable Housing Sections 70-55 through 70-73 with the Following:

Article XII – Affordable Housing

Section 70-55 Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in *the Borough of Woodbury Heights* consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93

and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).

2. This Ordinance is intended to ensure that very low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The *Borough of Woodbury Heights* Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. 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 pursuant to the municipality’s most recently adopted HEFSP.
 - b. This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
 - c. Projects receiving federal Low Income Housing Tax Credit financing and are proposed for credit shall comply with the low/moderate split and bedroom distribution requirements, maximum initial rents and sales prices requirements, affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

Section 70-56 Definitions

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

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

structure on the same lot as the existing or proposed primary dwelling. Accessory apartments are also referred to as “accessory dwelling units”.

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

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

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

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

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

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

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

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

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

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

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

“Affordable Housing Monitoring System” or “AHMS” means the Department’s cloud-based software application, which shall be the central repository for municipalities to use for

reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

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

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

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

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

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

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

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

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

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

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

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

“Compliance certification” means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1), that protects the municipality from exclusionary

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

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

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

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

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

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

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

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

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

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

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

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

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

by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.

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

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

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

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

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

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

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

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

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

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

“Housing element” means the portion of a municipality’s master plan adopted in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28.b(3) and the Act consisting of reports, statements proposals, maps, diagrams, and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to

low- and moderate-income housing, which shall include the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. at N.J.S.A. 52:27D-304.1.

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

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

“Judgment of compliance” or “judgment for repose” means a determination issued by the Superior Court approving a municipality’s fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

“Low-income household” means a household with a household income equal to 50 percent or less of the regional median income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Non-residential development” means:

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

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

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

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

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

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

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

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

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

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

“Prior round unit” means a housing unit that addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing

obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

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

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

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

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

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

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

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

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

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

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

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with

allowances published by DCA for its Section 8 program. With respect to units in assisted living residences, rent does not include charges for food and services.

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

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

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

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

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

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

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

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

“Treasurer” means the Treasurer of the State of New Jersey.

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

“UHORP” means the Agency’s Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

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

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

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

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

“Veteran” means a veteran as defined at N.J.S.A. 54:4-8.10.

“Veterans’ preference” means the agreement between a municipality and a developer or residential development owner that allows for low- to moderate-income veterans to be given preference for up to 50 percent of rental units in relevant projects, as provided for at N.J.S.A. 52:27D-311.j.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors and is considered a major system for rehabilitation.

Section 70-57 Monitoring and Reporting Requirements

1. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:
 - a. The municipality shall provide electronic monitoring data with the Department pursuant to P.L 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department's website at <https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml>.
 - b. On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.
 - c. On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

Section 70-58 Municipality-wide Mandatory Set-Aside

1. A development, other than single-family detached, providing a minimum of ten or more new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan, is required to include an affordable housing set-aside of 15% if rental units or 20% if for-sale units.
2. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
3. All such affordable units shall be governed by this ordinance the controls on affordability, including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.
4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.
5. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.
6. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.
7. In the event that the inclusionary set-aside (15% for rental units or 20% for for-sale units) of the total number of residential units does not result in a full integer, the developer shall choose one of two options for addressing the fractional unit:

- a. If the set-aside includes a fractional unit equal to 0.5% or greater the developer shall round the set-aside upward to construct a whole additional affordable unit.
- b. If the set-aside includes a fractional unit equal to 0.49 or less, the developer may either round the set-aside up and provide a full unit or the developer may round the set-aside downward and construct the lesser whole number of affordable units and shall also contribute the fractional subsidy payment (“fractional subsidy payment”) to be made to the municipality and deposited in the municipal Affordable Housing Trust Fund. The fractional subsidy payment amount shall be calculated as the fractional unit multiplied by the base subsidy payment amount currently established by the municipality as the average subsidy reflected in financial pro formas for 100% affordable housing or subsidized developments in the municipality or region on file with the municipality. For example, if seven total units are developed at an inclusionary site, a 20% set-aside would require 1.4 affordable units. Per the requirements above:

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

Section 70-59 New Construction

A. New Construction (per N.J.A.C. 5:93 as may be updated per various sections in N.J.A.C. 5:97 and N.J.S.A. 52:27D-301 et seq.). Per the definition of “New Construction,” this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

- 1. The following requirements shall apply to all new or planned developments that contain very low-, low- and moderate-income housing units. To the extent possible, details related to the adherence to the requirements below shall be outlined in the resolution granting municipal subdivision or site plan approval of the project to assist municipal representatives, developers and Administrative Agents.
- 2. Completion Schedule (previously known as phasing). Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following completion schedule for very low-, low- and moderate-income units whether developed in a single-phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units Issued a Temporary or Final Certificate of Occupancy	Minimum Percentage of Affordable Units Issued a Temporary or Final Certificate of Occupancy
25+1	10
50	50
75	75
90	100

3. Design. The following design requirements apply to affordable housing developments, excluding prior round units.
 - a. Design of 100 percent affordable developments:
 - i. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
 - ii. Each bedroom in each restricted unit must have at least one window.
 - iii. Restricted units must include adequate air conditioning and heating.
 - b. Design of developments comprising market-rate rental units and restricted rental units. The following does not apply to prior round units, unless stated otherwise.
 - i. Restricted units must use the same building materials and architectural design elements (for example, plumbing, insulation, or siding) as market-rate units of the same unit type (for example, flat or townhome) within the same development, except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - ii. Restricted units and market-rate units within the same affordable development must be sited such that restricted units are not concentrated in less desirable locations.
 - iii. Restricted units may not be physically clustered so as to segregate restricted and market-rate units within the same development or within the same building, but must be interspersed throughout the development, except that age-restricted and supportive housing units may be physically clustered if the clustering facilitates the provision of on-site medical services or on-site social services. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iv. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - v. Restricted units must include adequate air conditioning and heating and must use the same type of cooling and heating sources as market-rate units of the same unit type. This shall apply to prior round units.
 - vi. Each bedroom in each restricted unit must have at least one window.
 - vii. Restricted units must be of the same unit type as market-rate units within the same building.
 - viii. Restricted units and bedrooms must be no less than 90 percent of the minimum size prescribed by the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

- c. Design of developments containing for-sale units, including those with a mix of rental and for-sale units. Restricted rental units shall meet the requirements of section b above. Restricted sale units shall comply with the below:
 - i. Restricted units must use the same building standards as market-rate units of the same unit type (for example, flat, townhome, or single-family home), except that restricted units and market-rate units may use different interior finishes. This shall apply to prior round units.
 - ii. Restricted units may be clustered, provided that the buildings or housing product types containing the restricted units are integrated throughout the development and are not concentrated in an undesirable location or in undesirable locations. Prior round affordable units shall be integrated with market rate units to the extent feasible.
 - iii. Restricted units may be of different unit housing product types than market-rate units, provided that there is a restricted option available for each market rate housing type. Developments containing market-rate duplexes, townhomes, and/or single-family homes shall offer restricted housing options that also include duplexes, townhomes, and/or single-family homes. Penthouses and higher priced end townhouses may be exempt from this requirement. The proper ratio for restricted to market-rate unit type shall be subject to municipal ordinance or, if not specified, shall be determined at the time of site plan approval.
 - iv. Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.
 - v. Penthouse and end units may be reserved for market-rate sale, provided that the overall number, value, and distribution of affordable units across the development is not negatively impacted by such reservation(s).
 - vi. Residents of restricted units must be offered the same access to communal amenities as residents of market-rate units within the same affordable development. Examples of communal amenities include, but are not limited to, community pools, fitness and recreation centers, playgrounds, common rooms and outdoor spaces, and building entrances and exits. This shall apply to prior round units.
 - vii. Each bedroom in each restricted unit must have at least one window; and
 - viii. Restricted units must include adequate air conditioning and heating.
4. Utilities.
- a. Affordable units shall utilize the same type of cooling and heating source as market-rate units within the affordable housing development.
 - b. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance in accordance with N.J.AC 5:80-26.13(e).
5. Low/moderate split and bedroom distribution.

- a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 - b. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units. (The municipality has chosen to allow rounding)
 - c. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
 - d. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that (The municipality has chosen to allow rounding for the bedroom distribution as indicated below):
 - i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded up or down, of the total number of low- and moderate-income units.
 - iv. At least 30% of all low- and moderate-income units, rounded up or down, shall be two-bedroom units.
 - v. At least 20% of all low- and moderate-income units, rounded up or down, shall be three-bedroom units.
 - vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
 - e. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.
6. Accessibility requirements.
- a. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this

section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.

- b. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multifloor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel however an interior accessible route of travel shall not be required between stories;
 - iv. An adaptable room that can be used as a bedroom, with a door, or the casing for the installation of a door that is compliant with the Barrier Free Subcode, on the first floor;
 - v. If not all of the foregoing requirements in b.i. through b.iv. can be satisfied, then an interior accessible route of travel shall be provided between stories within an individual unit; and
 - vi. An accessible entranceway as set forth in P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the municipality has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - (a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (b) To this end, the builder of restricted units shall deposit funds within the Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (c) The funds deposited shall be expended for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (d) The developer of the restricted units shall submit to the Construction Official a design plan and cost estimate for the conversion from adaptable to accessible entrances.
 - (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such

conversion is reasonable, payment shall be made to the Affordable Housing Trust Fund and earmarked appropriately.

- vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is “site-impracticable” to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.

Section 70-60 Affordable Housing Programs

1. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, “All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions.” The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.
2. Rehabilitation Programs (per N.J.A.C. 5:93-5.2 with updated provisions herein per N.J.A.C. 5:97-6.2 related to credit towards a municipal present need obligation).
 - a. The rehabilitation program shall be designed to renovate deficient housing units occupied or intended to be occupied by very low-, low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28-1.1 et seq or the Rehabilitation Subcode, N.J.A.C. 5:23-6 to the extent applicable.
 - b. Both ownership and rental units shall be eligible for rehabilitation funds.
 - c. All rehabilitated units shall remain affordable to very low-, low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period shall be enforced with a mortgage and note and for renter-occupied units the control period will be enforced with a deed restriction.
 - d. The municipality shall dedicate a minimum average hard cost of \$10,000 for each unit to be rehabilitated through this program and in addition shall dedicate associated rehabilitation program soft costs such as case management, inspection fees and work write-ups.
 - e. The municipality shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with P.L 2024, Chapter 2. The Administrative Agent(s) shall provide rehabilitation manuals for ownership and rental rehabilitation programs. Manuals shall be adopted by resolution of the governing body. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and on the municipal affordable housing web page.

- f. Households determined to be very low-, low-, or moderate-income may participate in a rehabilitation program. Rehabilitated units shall be exempt from the very low-income requirements, low/mod split, and bedroom distribution requirements of UHAC, but shall be administered in accordance with the following:
 - i. If a unit is vacant at the time of rehabilitation, or if a rehabilitated unit becomes vacant and is re-rented before the expiration of the affordability controls, the deed restriction shall require that the unit be rented to a low- or moderate-income household at an affordable rent.
 - ii. If a rental unit is occupied by a tenant at the time rehabilitation is completed, the rent charged after rehabilitation shall not exceed the lesser of the tenant's current rent or the maximum rent permitted under UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in UHAC.
 - iv. At the time of application, applicant households and/or tenant households shall be subject to income eligibility determinations in accordance with UHAC.
3. Market to Affordable program (per N.J.A.C. 5:97-6.9).
- a. The market to affordable program permits the purchase or subsidization of unrestricted units through a mortgage write-down provided to an income-certified buyer or through a sale or rental as a low- or moderate-income unit to an income-eligible household. The market to affordable program may produce both low- and moderate-income units.
 - b. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
 - c. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 - d. A minimum subsidy of \$25,000 per moderate-income unit and/or \$30,000 per low-income unit shall be provided, with additional subsidy depending on the market prices or rents in a municipality.
 - e. The units shall comply with UHAC with the following exceptions:
 - i. Bedroom distribution (N.J.A.C. 5:80-26.4).
 - ii. Low/moderate income split (N.J.A.C. 5:80-26.4).
 - f. Affordability average (N.J.A.C. 5:80-26.4); however:
 - i. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
 - ii. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.

4. Extension of Controls Program (for ownership units per N.J.A.C. 5:97-6.14 and UHAC at N.J.A.C. 5:80-26.6(h) through (k) and (m); and for rental units per N.J.A.C. 5:97-6.14 and N.J.A.C. 5:80-26.12(h) through (k)).
 - a. An extension of affordability controls program is established to maintain and extend the affordability of deed restricted units scheduled to come out of their affordability control period, subject to N.J.A.C. 5:97-6.14 and UHAC, including the following:
 - i. The affordable unit meets the criteria for prior cycle (April 1, 1980 - December 15, 1986) or post December 15, 1986 credits set forth in N.J.A.C. 5:97.
 - ii. The affordability controls for the unit are scheduled to expire in the current round; or in the next round of housing obligations if the municipal election to extend controls is made no earlier than one year before the end of the current round;
 - iii. The municipality shall obtain a continuing certificate of occupancy or a certified statement from the municipal building inspector stating that the restricted unit meets all code standards.
 - iv. If a unit requires repair and/or rehabilitation work in order to receive a continuing certificate of occupancy or certified statement from the municipal building inspector, the municipality shall fund and complete the work.
 - v. The municipality shall adhere to the process for extending controls pursuant to UHAC for extending ownership units and rental units, either inclusionary or 100% affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.
5. Assisted Living Residence (per N.J.A.C. 5:97-6.11).
 - a. An assisted living residence is a facility licensed by the New Jersey Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available. All or a designated number of apartments in the facility shall be restricted to low- and moderate-income households.
 - b. The unit of credit shall be the apartment. However, a two-bedroom apartment shall be eligible for two units of credit if it is restricted to two unrelated individuals.
 - c. A recipient of a Medicaid waiver shall automatically qualify as a low- or moderate-income household.
 - d. Assisted living units are considered age-restricted housing in a HEFSP and shall be included with the maximum number of units that may be age-restricted.
 - e. Low- and moderate-income residents cannot be charged any upfront fees.
 - f. The units shall comply with UHAC with the following exceptions:
 - i. Affirmative marketing (N.J.A.C. 5:80-26.16); provided that the units are restricted to recipients of Medicaid waivers;
 - ii. The deed restriction may be on the facility, rather than individual apartments or rooms;

- iii. Low/moderate income split and affordability average (N.J.A.C. 5:80-26.4); only if all of the affordable units are affordable to households at a maximum of 60 percent of median income; and
 - g. Tenant income eligibility (N.J.A.C. 5:80-26.14); up to 80 percent of an applicant's gross income may be used for rent, food and services based on occupancy type and the affordable unit must receive the same basic services as required by the Agency's underwriting guidelines and financing policies. The cost of non-housing related services shall not exceed one and two-thirds times the rent established for each unit.
- 6. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
 - a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - i. Units are subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968).
 - ii. Units may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services.
 - iii. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - iv. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - v. Occupancy shall not be restricted to youth under 18 years of age.
 - vi. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.
 - vii. The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing, and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
 - viii. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of

Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.

- ix. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.
- x. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
 - (a) An Affirmative Marketing Plan in accordance with D1 above; and
 - (b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.
- xi. The sponsor/owner shall complete annual monitoring as directed by the MHL.

Section 70-61 Regional Income Limits.

1. Administrative agents shall use the current regional income limits for the purpose of pricing affordable units and determining income eligibility of households.
2. Regional income limits are based on regional median income, which is established by a regional weighted average of the “median family incomes” published by HUD. The procedure for computing the regional median income is detailed in N.J.A.C. 5:80-26.3.
3. Updated regional income limits are effective as of the effective date of the regional Section 8 income limits for the year, as published by HUD, or 45 days after HUD publishes the regional Section 8 income limits for the year, whichever comes later. The new income limits may not be less than those of the previous year.

Section 70-62 Maximum Initial 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 N.J.A.C. 5:80-26.4.
2. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
3. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income. The maximum rent may be increased to no more than 70 percent of regional median income for moderate-income units within affordable developments where very-low-income units compose at least 13 percent of the restricted units; however, the number of units with rent affordable to households earning 70 percent of regional median income may not exceed the number of very-low-income units in excess of 13 percent (rounded up) of the restricted units.

4. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.
5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
6. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
7. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:
 - a. A studio or efficiency unit 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.
8. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:
 - a. A studio or efficiency unit 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. Where pricing is based on two one-person households, the developer shall provide a list of units so priced to the Municipal Housing Liaison and the Administrative Agent.

9. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the FreddieMac 30-Year Fixed Rate-Mortgage rate of interest), property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 30 percent of the eligible monthly income of the appropriate size household as determined pursuant to N.J.A.C. 5:80-26.7, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented.
10. The initial rent for a restricted rental unit shall be calculated so that the total monthly housing expense, including an allowance for tenant-paid utilities, does not exceed 30 percent of the gross monthly income of a household of the appropriate size whose income is targeted to the applicable percentage of median income for the unit, as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented. The rent shall also comply with the affordability average requirement of N.J.A.C. 5:80-26.4, as may be amended and supplemented. The initial rent for a restricted rental unit shall be calculated so the eligible monthly housing expenses/income, including an allowance for tenant-paid utilities does not exceed 30 percent of gross income of and the appropriate household size as determined pursuant to N.J.A.C. 5:80-26.3, as may be amended and supplemented.
11. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following proper notice provided to the occupant household pursuant to N.J.S.A. 2A:18-61.1.f, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." Rent increases for units constructed pursuant to Low-Income Housing Tax Credit regulations shall be indexed pursuant to the regulations governing Low-Income Housing Tax Credits.

Section 70-63 Affirmative Marketing.

1. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 5 and is required to be followed throughout the period of deed restriction.
3. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.

- a. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 - b. There shall be a regional preference for all households that live and/or work in Housing Region 5 comprising Burlington, Camden and Gloucester Counties.
 - c. Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
 - d. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.
 5. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.
 6. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
 7. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. The Borough may add a list of community and regional organizations to receive notice of the availability of affordable housing units in addition to the following required entities: Fair Share Housing Center, the new Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, and the Supportive Housing Association. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.
 8. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects

such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

9. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
10. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.

Section 70-64 Selection of Occupants of Affordable Housing Units.

1. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
2. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.

Section 70-65 Occupancy Standards.

1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - a. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
 - b. Provide a bedroom for every two adult occupants;
 - c. With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
 - d. Avoid placing a one-person household into a unit with more than one bedroom.

Section 70-66 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.
2. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).
3. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction.
4. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.

5. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
 - a. If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
 - b. If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
6. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
7. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
8. At the time of the initial sale of the unit and upon each successive price-restricted sale, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obliging the purchaser, as well as the purchaser's heirs, successors, and assigns, to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
9. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to price-restricted ownership units.

Section 70-67 Price Restrictions for Restricted Ownership Units and Resale Prices.

1. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.7, as may be amended and supplemented, including:
 - a. The initial purchase price and affordability percentage for a restricted ownership unit shall be set by the Administrative Agent.
 - b. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the standards set forth in N.J.A.C 5:80-26.7.
 - i. If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.
 - ii. If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3

- c. 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:
 - i. those that render the unit suitable for a larger household or the addition of a bathroom.
 - ii. The maximum resale price may be further increased by an amount up to the cumulative dollar value of approved capital improvements made after the last non-exempt sale for improvements and/or upgrades to the unit, excluding capital improvements paid for by the entity favored on the recapture note and recapture lien described at N.J.A.C. 5:80-26.6(d);
 - d. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase but shall be separate and apart from any contract of sale for the underlying real estate. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price of the air conditioning equipment, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The seller and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

Section 70-68 Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be established pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that very low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 30% of median income, low-income ownership units shall be reserved for occupancy by households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for occupancy by households with a gross household income less than 80% of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income

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

3. 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.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;
 - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments

Section 70-69 Limitations on Indebtedness Secured by Ownership Unit; Subordination.

1. 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.
2. With the exception of original purchase money mortgages, neither an owner nor a lender shall at any time during the control period cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of

that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.7(c).

Section 70-70 Control Periods for Restricted Rental Units.

1. Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432, and amended December 20, 2004, 36 N.J.R. 5713 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.
2. Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9% Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
3. The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.
4. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years.
5. Prior to the issuance of any building permit for the construction/rehabilitation of restricted rental units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
6. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property. The deed restriction shall be recorded by the developer with the county records office, and provided as filed and recorded, to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.
7. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
 - a. Sublease or assignment of the lease of the unit;
 - b. Sale or other voluntary transfer of the ownership of the unit;
 - c. The entry and enforcement of any judgment of foreclosure on the property containing the unit; or
 - d. The end of the control period, until the occupant household vacates the unit, or is certified as over-income and the controls are released in accordance with UHAC.

Section 70-71 Rent Restrictions for Rental Units; Leases and Fees.

1. The initial rent for a restricted rental unit shall be set by the Administrative Agent.
2. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount

of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be retained on file by the Administrative Agent.

3. No additional fees, operating costs, or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
 - a. Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.
4. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
5. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.
6. 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.
7. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
8. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

Section 70-72 Tenant Income Eligibility.

1. Tenant income eligibility shall be determined pursuant to N.J.A.C. 5:80-26.14, as may be amended and supplemented, and shall be determined as follows:
 - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income or moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. 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.
3. The applicant shall file documentation sufficient to establish the existence of any of the circumstances in 2.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

Section 70-73 Municipal Housing Liaison.

1. The Municipal Housing Liaison shall be approved by municipal resolution.
2. The Municipal Housing Liaison shall be approved by the Division, or is in the process of getting approval, and fully or conditionally meets the requirements for qualifications, including initial and periodic training as set forth in in N.J.A.C. 5:99-1 et seq.
3. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program, including the following responsibilities, which may not be contracted out to the Administrative Agent:
 - a. Serving as the primary point of contact for all inquiries from the Affordable Housing Dispute Resolution Program, the State, affordable housing providers, administrative agents and interested households.
 - b. The oversight of the Affirmative Marketing Plan and affordability controls.
 - c. When applicable, overseeing and monitoring any contracting Administrative Agent.
 - d. Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.
 - e. Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.
 - f. Coordinating meetings with affordable housing providers and administrative agents, as needed.
 - g. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division.
 - h. Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.

- i. Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.
- j. Listing on the municipal website contact information for the MHL and Administrative Agents.

Section 70-74 Administrative Agent.

1. All municipalities that have created or will create affordable housing programs and/or affordable units shall designate or approve, for each project within its HEFSP, an administrative agent to administer the affordable housing program and/or affordable housing units in accordance with the requirements of the FHA, NJAC 5:99-1 et seq. and UHAC.
2. The fees for administrative agents shall be paid as follows:
 - a. Administrative agent fees related to rental units shall be paid by the developer/owner.
 - b. Administrative agent fees related to initial sale of units shall be paid by the developer.
 - c. Administrative agent fees related to resales shall be paid by the seller of the affordable home.
 - d. Administrative agent fees related to ongoing administration and enforcement shall be paid by the municipality.
3. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s). The Operating Manual(s) shall be available for public inspection in the Office of the Clerk and in the office(s) of the Administrative Agent(s). Operating manuals shall be adopted by resolution of the Governing Body.
4. Subject to the role of the Administrative Agent(s), the duties and responsibilities as are set forth in N.J.A.C. 5:99-7 and which are described in full detail in the Operating Manual, including those set forth in UHAC, include:
 - a. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Division;
 - b. Affirmative marketing:
 - i. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the municipality and the provisions of N.J.A.C. 5:80-26.16.
 - ii. Providing counseling, or contracting to provide counseling services, to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements; and landlord/tenant law.
 - c. Household certification.
 - i. Soliciting, scheduling, conducting and following up on interviews with interested households.

- ii. 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;
 - iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility within 5 days of the determination thereof.
 - iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in the Appendices J and K of N.J.A.C. 5:80-26.1 et seq.
 - v. 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.
 - vi. Employing a random selection process as provided in the Affirmative Marketing Plan when referring households for certification to affordable units.
- d. Affordability controls.
- i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for the recording at the time of conveyance of title of each restricted unit.
 - ii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and filed properly with the County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit in accordance with UHAC.
 - iii. Communicating with lenders and the Municipal Housing Liaison regarding foreclosures.
 - iv. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.11.
- e. Records retention.
- i. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage, and note, as appropriate.
 - ii. Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.
- f. Resales and re-rentals.
- i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental.
 - ii. Instituting and maintaining an effective means of communicating information to very low-, low-, or moderate-income households regarding the availability of restricted units for resale or re-rental.
- g. Processing requests from unit owners.

- i. Reviewing and approving requests from owners of restricted units who wish to refinance or take out home equity loans during the term of their ownership to determine that the amount of indebtedness to be incurred will not violate the terms of this ordinance.
 - ii. 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.
 - iii. Notifying the municipality of an owner's intent to sell a restricted unit.
 - iv. Making determinations on requests by owners of restricted units for hardship waivers.
- h. Enforcement.
- i. Securing annually from the municipality a list of all affordable ownership units for which property tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - iii. Sending annual mailings to all owners of affordable dwelling units reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.19(d)4;
 - iv. Establishing a program for diverting unlawful rent payments to the municipal Affordable Housing Trust Fund; and
 - v. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent setting forth procedures for administering the affordability controls.
- i. The Administrative Agent(s) shall, as delegated by the municipality, have the authority to take all actions necessary and appropriate to carry out its/their responsibilities, herein.

Section 70-75 Responsibilities of The Owner of a development containing affordable units.

1. The owner of all developments containing affordable units subject to this subchapter or the assigned management company thereof shall provide to the administrative agent:
 - a. Site plan, architectural plan, or other plan that identifies the location of each affordable unit, if subject to the site plan approval, settlement agreement, or other applicable document regulating the location of affordable units. The administrative agent shall determine the location of affordable units if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - b. The total number of units in the project and the number of affordable units.

- c. The breakdown of the affordable units by or identification of affordable unit locations by bedroom count and income level, including street addresses / unit numbers, if subject to the site plan approval, settlement agreement, or other applicable document regulating the breakdown of affordable units. The administrative agent shall determine the bedroom and income distribution if not set forth in the site plan approval, settlement agreement, or other applicable document.
 - d. Floor plans of all affordable units, including complete and accurate identification of all rooms and the dimensions thereof.
 - e. A projected construction schedule.
 - f. The location of any common areas and elevators.
 - g. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project, which must be updated if the contact changes.
2. In addition to A above, the owner of rental developments containing affordable rental units subject to this subchapter or the assigned management company thereof shall:
- a. Send to all current tenants in all restricted rental units an annual mailing containing a notice as to the maximum permitted rent and a reminder of the requirement that the unit must remain their principal place of residence, which is defined as residing in the unit at least 260 days out of each calendar year, together with the telephone number, mailing address, and email address of the administrative agent to whom complaints of excess rent can be issued.
 - b. Provide to the administrative agent a description of any applicable fees.
 - c. Provide to the administrative agent a description of the types of utilities and which utilities will be included in the rent.
 - d. Agree and ensure that the utility configuration established at the start of the rent-up process not be altered at any time throughout the restricted period.
 - e. Provide to the administrative agent a proposed form of lease for any rental units.
 - f. Ensure that the tenant selection criteria for the applicants for affordable units not be more restrictive than the tenant selection criteria for applicants for non-restricted units.
 - g. Strive to maintain the continued occupancy of the affordable units during the entire restricted period.
3. In addition to A, above, the owner of affordable for-sale developments containing affordable for-sale units subject to this subchapter or the assigned management company thereof shall provide the administrative agent:
- a. Proposed pricing for all units, including any purchaser options and add-on items.
 - b. Condominium or homeowner association fees and any other applicable fees.
 - c. Estimated real property taxes.
 - d. Sewer, water, trash disposal, and any other utility assessments.
 - e. Flood insurance requirement, if applicable.

- f. The State-approved planned real estate development public offering statement and/or master deed, where applicable, as well as the full build-out budget.

Section 70-76 Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than \$1,000.00 or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.
4. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.

- a. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the affordable unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- 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- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- c. Foreclosure due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as they apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- 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 affordable unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the affordable unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess that would have been realized from an actual sale as previously described.
- e. Failure of the low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser that may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- or moderate-income unit as permitted by the regulations governing affordable housing units.

- f. The affordable unit owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.
5. It is the responsibility of the municipal housing liaison and the administrative agent(s) to ensure that affordable housing units are administered properly. All affordable units must be occupied within a reasonable amount of time and be re-leased within a reasonable amount of time upon the vacating of the unit by a tenant. If an administrative agent or municipal housing liaison becomes aware of or suspects that a developer, landlord, or property manager has not complied with these regulations, it shall report this activity to the Division. The Division must notify the developer, landlord, or property manager, in writing, of any violation of these regulations and provide a 30-day cure period. If, after the 30-day cure period, the developer, landlord, or property manager remains in violation of any terms of this subchapter, including by keeping a unit vacant, the developer, landlord, or property manager may be fined up to the amount required to construct a comparable affordable unit of the same size and the deed-restricted control period will be extended for the length of the time the unit was out of compliance, in addition to the remedies provided for in this section. For the purposes of this subsection, a reasonable amount of time shall presumptively be 60 days, unless a longer period of time is required due to demonstrable market conditions and/or failure of the municipal housing liaison or the administrative agent to refer a certified tenant.
 6. Banks and other lending institutions are prohibited from issuing any loan secured by owner occupied real property subject to the affordability controls set forth in this subchapter if such loan would be in excess of amounts permitted by the restriction documents recorded in the deed or mortgage book in the county in which the property is located. Any loan issued in violation of this subsection is void as against public policy.
 7. The Agency and the Department hereby reserve, for themselves and for each administrative agent appointed pursuant to this subchapter, all of the rights and remedies available at law and in equity for the enforcement of this subchapter, including, but not limited to, fines, evictions, and foreclosures as approved by a county-level housing judge.
 8. Appeals
 - a. Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

Section 70-77 Development Fees.

1. Purpose
 - a. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

2. Basic Requirements

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

3. Residential Development Fees

a. Imposed fees

- i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- ii. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

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

- i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
- ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of

determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.

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

4. Non-Residential Development Fees

a. Imposition of fees

- i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure; i.e., land and improvements; and such calculation shall be made at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b. Eligible exactions, ineligible exactions and exemptions for non-residential development

- i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
- ii. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

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

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

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

5. 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.
- 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 by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
- d. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
- 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 that 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 associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- h. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.

6. Appeal of development fees

- a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board,

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

- b. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing Trust Fund

- a. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 - ii. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - iii. Rental income from municipally operated units;
 - iv. Repayments from affordable housing program loans;
 - v. Recapture funds;
 - vi. Proceeds from the sale of affordable units; and
 - vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
- c. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
- d. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:

- i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 - ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
 - iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 - iv. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 - v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 - vi. Revocation of compliance certification or a judgment of compliance and repose;
 - vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
 - viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- e. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.
8. Use of Funds
- a. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.
 - b. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
 - c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.

- i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - ii. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
- d. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

9. Monitoring

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

10. Ongoing Collection of Fees

- a. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
- b. If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).

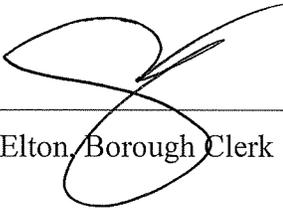
11. Emergent Affordable Housing Opportunities. Requests to expend affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent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

SECTION 2. This ordinance shall take effect immediately upon final passage and publication according to law and filing with the Gloucester County Planning Board

SECTION 3. If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

SECTION 4. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Dated:



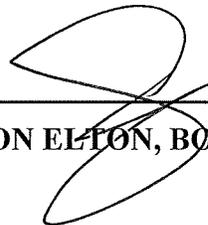
Shannon Elton, Borough Clerk

Approved:



Matthew W. Cosenza, Mayor

The foregoing Ordinance was introduced at the Regular Meeting of the Mayor and Borough Council of the Borough of Woodbury Heights conducted on February 13, 2026, and will be considered for final hearing and adoption at a meeting to be held on the 11th day of March 2026, at 7:30 p.m. at which time any objections hereto may be heard.



SHANNON ELTON, BOROUGH CLERK

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ORDINANCE #2-2026

AN ORDINANCE OF THE BOROUGH OF WOODBURY HEIGHTS AMENDING CHAPTER 70, ARTICLE IV, SECTION 13.1 “AH AFFORDABLE HOUSING OVERLAY DISTRICT” AND SECTION 13.3 “RESIDENTIAL MULTIFAMILY AFFORDABLE (RM-2) DISTRICT”

WHEREAS, Chapter 70, Article IV, Section 13.1 (AH Affordable Housing Overlay District) and Section 13.3 (RM-2 Residential Multifamily Affordable District) of the General Legislation of the Borough of Woodbury Heights must be amended to implement the proposed zoning set forth in the Borough’s Fourth Round Housing Element and Fair Share Plan; and

WHEREAS, the Borough must adopt all ordinances implementing its Fourth Round HEFSP and file said adopted ordinances with the Affordable Housing Dispute Resolution Program by March 16, 2026, in accordance with the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq.; and

BE IT ORDAINED by the Mayor and Council of the Borough of Woodbury Heights, in the County of Gloucester and State of New Jersey that Chapter 70, Article IV, Section 13.1 (AH Affordable Housing Overlay District) and Section 13.3 (RM-2 Residential Multifamily Affordable District) of the General Legislation of the Borough of Woodbury Heights is hereby amended as follows:

Section 1. Amend Section 70-13.1 under Article IV. District Regulations as follows:

New Items are Underlined
Deleted Items are ~~Crossed-out~~

Section 70-13.1 AH Affordable Housing Overlay District

- A. The purpose of the AH Overlay District is to provide for the construction of multifamily dwellings, and to create a realistic opportunity for the construction of a portion of the low and moderate income housing obligation of the Borough of Woodbury Heights under New Jersey’s Fair Housing Act, N.J.S.A. 52:27D-301 et seq., the rules of the New Jersey Council on Affordable Housing, N.J.A.C. 5:93-1 et seq., and the Mount Laurel doctrine.
- B. Principal Permitted Uses.
- (1) Multi-family residential units – 100% affordable housing
 - (2) Age-Restricted multi-family residential housing units with a 20% affordable housing set-aside.
- C. Accessory Uses Permitted.

- (1) Recycling and solid waste collection facilities
 - (2) Recreation facilities and buildings
 - (3) Fences, walls and signs
 - (4) Maintenance and on site storage buildings
 - (5) Other customary incidental uses
- D. A maximum of 70 multi-family units in no more than 7 separate buildings shall be permitted. ~~This is a 100% affordable housing development.~~
- E. Maximum Building Height of 3 stories/45 feet if the following conditions are satisfied:
- (1) The building is designed to conform to the guidelines provided in the National Fire Protection Association/NFPA 1141 – Standard for Fire Protection in Planned Building Groups, current edition.
 - (2) Additional requirements are provided under Section 70-34.
- F. Area and Yard Requirements.
- (1) Minimum Lot Frontage: 200 feet
 - (2) Minimum Lot Depth: 200 feet
 - (3) Minimum Side Yard Setback: 30 feet
 - (4) Minimum Front Yard Setback: 40 feet
 - (5) Minimum Rear Yard Setback: 50 feet
 - (6) Maximum Building Coverage: 20%
 - (7) Maximum Impervious Coverage: 30%
 - (8) A minimum building separation of 21 feet shall be provided for buildings side by side. Buildings which are back to back shall have a minimum separation of 40-feet.
 - (9) Accessory structures shall be subject to the same setback requirements as principal buildings, as provided above.
- G. Landscaping, buffers, street/shade trees and landscaping in parking facilities shall be provided in accordance with Section 79-49.14 and as follows:
- (1) All rear, front and side yards shall include a landscape buffer equal to at least half the width of the required setback.
 - (2) The landscaping in the buffer shall consist of a combination of trees, shrubs and planting beds. The use of landscape berms and decorative fencing are encouraged. In addition to this section, the plans shall conform to the buffer requirements under Section 79-49.14F in order to ensure adequate screening between the multifamily development and surrounding single-family residential development.
 - (3) Existing vegetation should be preserved to the extent possible and be supplemented with additional screening.

- (4) The plans shall provide for an identification of the remaining vegetation include type and size of existing materials.
 - (5) Tree protection measures shall be provided on the plans for areas where existing vegetation will remain.
 - (6) All landscaped areas shall include irrigation with rain sensors.
 - (7) Landscaping around stormwater management areas shall be provided in accordance with Section 70-49.6G.
- H. Off-street parking shall be provided in accordance with the Residential Site Improvement Standards and Section 70-23. Parking shall be in designated parking areas.
- I. Curbs and sidewalks shall be provided along the entire length of street frontage and throughout the development connecting the residential units to the parking areas.
- J. Building Design. The design of the buildings shall be consistent with the surrounding single-family neighborhood so that the appearance remains residential and not institutional.
- (1) Architectural elevations and floor plans shall be provided for each of the buildings.
 - (2) The building design shall incorporate a combination stone, stucco or other combination of building materials.
 - (3) The buildings shall include breaks in the facades to break up the building lengths.
 - (4) Rooflines shall be pitched.
 - (5) All HVAC and mechanical equipment shall be incorporated into the building design and not visible.
- K. Common recreation shall be provided as follows:
- (1) A clubhouse or community building shall be provided.
 - (2) If a non-age restricted development, a playground area for children shall be provided. The playground shall include equipment appropriate for different age groups.
 - (3) Additional recreation areas such as walkways or other similar areas should be encouraged where appropriate
 - (4) All such common uses shall be subordinated to the residential character of the development, and no advertising shall be permitted.
 - (5) Architectural elevations and floor plans shall be provided for the clubhouse.
 - (6) The completion of the common recreation areas shall be tied to the completion of the units so that at no time shall there exist residential units without any recreational amenities. A plan shall be submitted addressing the timing of the completion of the common recreation areas.
- N. Permitted Signs.

- (1) A site identification sign shall be permitted.
- (2) The maximum sign area shall not exceed 26 square feet.
- (3) The maximum height shall not exceed 6 feet.
- (4) All signs shall be located in a landscaped island.
- (5) Signs shall be setback 14 feet from all property lines and located outside all sight triangles.
- (6) Subject to additional sign regulations as provided under Section 70-28.

O. Refuse storage.

- (1) The refuse storage area shall be suitably located and screened and arranged for access and ease of collection and shall not be part of, restrict or occupy any parking aisle.
- (2) All refuse storage areas shall be enclosed with a block wall with a finish similar to the facades of the residential structures.
- (3) The gate on the refuse storage enclosure shall consist of a solid material and be self-closing.
- (4) A side entry shall be provided to the trash enclosure so that residents can easily access the containers.
- (5) Landscaping shall be provided around the exterior of the refuse storage enclosure.

P. All development shall conform to the Residential Site Improvement Standards and other provisions of the local land use ordinance not specifically referenced in this subsection.

Q. Affordable Housing Requirements.

- (1) The developer is responsible for preparing and implementing an Affirmative Marketing Plan in accordance with the requirements of Section 70-32.2 of the ordinance. The developer shall enter into a contract with the Borough to act as the Municipal Housing Liaison and be responsible for administering the affordable housing program pursuant to standards and requirements provided in Section 70-32.2.M of this ordinance.
- (2) Affordable Housing Regulations: The affordable housing units shall be developed and sold or rented in accordance with the current applicable Uniform Housing and Affordability regulations (N.J.A.C. 5:80-26 et seq.), including requirements on: split between low and moderate income housing, bedroom distribution, range of affordability, pricing and rent of units, affirmative marketing, affordability controls, and construction phasing with the market-rate units developed on the tract.

Section 2. Amend Section 70-13.3 Residential Multifamily Affordable (RM-2) District as follows:

**New Items are Underlined
Deleted Items are ~~Crossed-out~~**

A. The purpose of the RM-2 District is to provide for the construction of supportive housing for persons of low and moderate income consistent with New Jersey's Fair Housing Act, N.J.S.A. 52:27D-301 et seq., ~~the rules of the New Jersey Council on Affordable Housing and the Mount Laurel Doctrine.~~

B. Permitted principal uses.

(1) All principal permitted uses in the Residential — R District under Section **70-13A**.

(2) Supportive housing or Affordable Housing Units in single-family, semi-detached or quadruplex dwelling units.

C. Accessory uses permitted. All accessory uses permitted in the R District under Section **70-13B**.

D. A maximum density of 13 units per acre.

E. Maximum building height in accordance with Section **70-13C**.

F. Area and yard requirements.

(1) For all uses as permitted in the R-District the area and yard requirements of Section **70-13D**, apply.

(2) Supportive or Affordable housing as single-family units in accordance with the following:

Minimum lot area:	5,000 square feet
Minimum lot width:	50 feet
Minimum lot depth:	100 feet
Minimum side yard setback:	10 feet
Minimum front yard setback:	25 feet
Minimum rear yard setback:	25 feet

(3) Supportive or Affordable housing as semi-detached single-family units in accordance with the following:

Minimum lot area:	3,750 square feet
Minimum lot width:	37 feet
Minimum lot depth:	100 feet
Minimum side yard setback:	0-feet and 10-feet
Minimum front yard setback:	25 feet
Minimum rear yard setback:	25 feet

(4) Supportive or Affordable housing as quadruplex dwelling units in accordance with the following:

Minimum lot area:	10,000 square feet
Minimum lot width at building line:	100 feet
Minimum lot depth:	150 feet
Minimum side yard setback:	15-feet with an aggregate of 25-feet
Minimum front yard setback:	30 feet
Minimum rear yard setback:	30 feet

G. Design criteria.

- (1) If parking is proposed in the front yard for the duplex units, the front yard setback shall be increased to accommodate all spaces on site.
- (2) Parking for the quadruplex units shall be provided in the rear yard area. The total number of spaces shall meet the Residential Site Improvement Standards. All parking areas shall be screened from adjoining properties.
- (3) Street/Shade trees shall be provided for each residential unit with a minimum spacing of one tree for every 50 feet of lot width.
- (4) Landscaping plans shall be provided including foundation plantings. Perimeter plantings/fencing shall be provided adjacent to existing single-family dwelling units.

Section 3. This ordinance shall take effect immediately upon final passage and publication according to law and filing with the Gloucester County Planning Board

Section 4. If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 5. All ordinances or parts of ordinances inconsistent with this ordinance are hereby

repealed to the extent of such inconsistency.

Dated:



Shannon Elton, Borough Clerk

Approved:



Matthew W. Cosenza, Mayor

The foregoing Ordinance was introduced at the Regular Meeting of the Mayor and Borough Council of the Borough of Woodbury Heights conducted on February 18, 2026, and will be considered for final hearing and adoption at a meeting to be held on the 11th day of March 2026, at 7:30 p.m. at which time any objections hereto may be heard.



SHANNON ELTON, BOROUGH CLERK

3

RESOLUTION 53-2026

**RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF
WOODBURY HEIGHTS AUTHORIZING THE MAYOR TO EXECUTE AN
AFFORDABLE HOUSING AGREEMENT WITH GLOUCESTER COUNTY
HABITAT FOR HUMANITY**

WHEREAS, pursuant to the March 2024 amendments to the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. (the “FHA”), the Borough of Woodbury Heights (hereinafter “Borough”) filed a Declaratory Judgment Action on January 17, 2025 with the Affordable Housing Dispute Resolution Program (hereinafter “the Program”) and the Court; and

WHEREAS, in order to maintain immunity from all Mount Laurel lawsuits, the Borough was required to prepare a Fourth Round Housing Element and Fair Share Plan (the “Fourth Round HEFSP”), which the Borough’s Planning Board adopted, the Borough Council endorsed, and the Borough submitted to the Program and the Court for review in June of 2025; and

WHEREAS, the Borough’s June 2025 Fourth Round Plan included an eight (8) unit, 100% affordable project, where the Borough envisioned working with Habitat to create new affordable housing units on the Borough-owned property set forth in this Agreement; and

WHEREAS, the Borough received a letter requesting additional information by the statutory challenge deadline from Fair Share Housing Center (“FSHC”); and

WHEREAS, as per the Consent Order entered into between the Borough and FSHC, the Borough must move forward with implementing its Fourth Round Plan, which includes entering into an Agreement with Habitat for the construction of at least eight (8) new affordable units at the corner of Woodland Avenue and Church Street, Block 91, Lot 6; and

WHEREAS, in order to satisfy its affordable housing obligations in compliance with the Fair Housing Act and the Mount Laurel doctrine, as well as the terms of its Consent Order with

Fair Share Housing Center, the Borough deems it appropriate to enter into an affordable housing agreement with Habitat for Humanity; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODBURY HEIGHTS:

That the Borough Council hereby authorizes and directs the Mayor of the Borough of Woodbury Heights to execute the Affordable Housing Agreement between the Borough and Habitat for Humanity, in a form acceptable to the Borough's affordable housing professionals.

BOROUGH OF WOODBURY HEIGHTS

BY: _____

MATTHEW W. COSENZA, MAYOR

ATTEST:

SHANNON ELTON, BOROUGH CLERK

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Council of the Borough of Woodbury Heights at a regular meeting held on the 11th day of March 2026.

Shannon Elton, Municipal Clerk

MUNICIPALLY SPONSORED AFFORDABLE HOUSING AGREEMENT

THIS MUNICIPALLY SPONSORED AFFORDABLE HOUSING AGREEMENT ("Agreement") is made on this 11th day of March, 2024 (the "Effective Date"), by and between the **BOROUGH OF WOODBURY HEIGHTS**, a municipal corporation of the State of New Jersey, County of Gloucester, having an address of 500 Elm Avenue, Woodbury Heights, New Jersey 08097 (hereinafter "the Borough" or "Woodbury Heights") and **GLOUCESTER COUNTY HABITAT FOR HUMANITY, INC.**, a New Jersey Non-Profit corporation, with an address of 425 S. Broadway, Pitman, New Jersey 08071 ("Habitat").

RECITALS

WHEREAS, pursuant to the Fair Housing Act ("FHA"), N.J.S.A. 52:27D-301 et seq., the Borough adopted a "binding resolution" challenging the DCA-calculated Present Need and calculating its own Prospective Need, as required by the Amended FHA, on January 28, 2025, establishing its Fourth Round Present Need of 15 and Prospective Need of 36; and

WHEREAS, the Borough filed a timely Fourth Round Declaratory Judgment complaint ("DJ Complaint") with the Affordable Housing Dispute Resolution Program ("the Program") and the Court, along with its binding resolution, by the January 31, 2025 deadline and the filing of the DJ Complaint gave the Borough automatic, continued immunity from all exclusionary zoning lawsuits, including builder's remedy lawsuits, which is still in full force and effect; and

WHEREAS, the FHA required the municipality to adopt a Fourth Round Housing Element and Fair Share Plan ("Fourth Round Plan") by June 30, 2025; and

WHEREAS, the Planning Board adopted the Fourth Round Plan, the Borough Committee endorsed the Fourth Round Plan, and the Borough filed the adopted Fourth Round Plan with the Program and the Court by the June 30, 2025 statutory deadline; and

WHEREAS, the Borough's June 2025 Fourth Round Plan included an ~~eight (8)~~ ^{Six (6) MC} unit, 100% affordable project, where the Borough envisioned working with Habitat to create new affordable housing units on the Borough-owned property set forth in this Agreement; and

WHEREAS, the Borough received a letter requesting additional information by the statutory challenge deadline from Fair Share Housing Center ("FSHC"); and

WHEREAS, as per the Consent Order entered into between the Borough and FSHC, the Borough must move forward with implementing its Fourth Round Plan, which includes entering into an Agreement with Habitat for the construction of at least eight (8) new affordable units at the corner of Woodland Avenue and Church Street, Block 91, Lot 6; and

WHEREAS, Habitat is an experienced and reputable entity in providing affordable home ownership opportunities to low- and moderate-income households; and

WHEREAS, the Borough is the owner of real property located in the Borough of Woodbury Heights, at the corner of Woodland Avenue and Church Street, Block 91, Lot 6,

which the Borough wishes to donate to Habitat for the construction of the eight-unit project; and

WHEREAS, through private negotiations, the parties reached an agreement in principle, providing that the Borough will transfer title of Block 91, Lot 6, which will be subdivided into separate parcels, to Habitat in fee simple, and Habitat will construct at least four (4) two-family homes. Each for-sale affordable family unit will be available to low- or moderate-income households for all ages (no age-restriction), and will be credit-worthy towards the Borough's affordable housing obligation, as mutually agreed upon by the parties; and

WHEREAS, to ensure that the family units contemplated by this Agreement generate affordable housing units that will be credit-worthy towards the Borough's affordable housing obligation, the family units shall be developed in accordance with the the Borough's Housing Element and Fair Share Plan, as amended, the Borough's anticipated Certificate of Compliance from the Court, the Borough's adopted Affordable Housing Ordinance, applicable Affordable Housing regulations, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (“UHAC”), and all other applicable law.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties covenant and agree as follows:

1. **RECITALS.**

The Recitals set forth above are incorporated by reference herein as if set forth herein at length.

2. **PURPOSE OF AGREEMENT.**

The purpose of this Agreement is to create a realistic opportunity for the construction of affordable housing “units” and “credits” that are credit-worthy for the Borough to apply to its Fourth Round Obligation, to provide housing for low- and moderate-income households in the Borough, and facilitate the conveyance of the lots for each family unit for nominal consideration of \$1.00, at a private sale to Habitat, a nonprofit housing corporation.

3. **DUE DILIGENCE.**

Habitat will have the period commencing on the Effective Date and expiring sixty (60) days thereafter (the “**Due Diligence Period**”) to conduct any inspections, surveys or testing with respect to the Properties it so desires, including, but not limited to, a Preliminary Assessment under New Jersey law and confirm that all utilities necessary for occupancy of the family units are available at each Property boundary, all at Habitat's sole cost and expense. Should Habitat discover, as a result of the inspections, surveys or testing, including, without limitation, (i) the existence of any historical features or structures, or environmental hazards on a Property; (ii) that a Property does not have necessary access to or connection at the Property boundary

to public water and sewer service and electric and natural gas service necessary for the family unit to be constructed thereon; or (iii) that development of a family unit on the applicable Property is not physically or financially viable, as determined by Habitat in its sole discretion, Habitat shall have the right to terminate this Agreement as to the applicable Property, in which event Habitat shall be under no obligation to proceed with development of that Property (the "**Terminated Property**"). Notwithstanding the foregoing, this Agreement will continue as to the non-Terminated Property and Habitat will have the continuing right to proceed with the development of that non-Terminated Property, unless otherwise determined terminable, in Habitat's sole discretion, under this Section 3.

4. MUNICIPAL OBLIGATIONS.

(a) Unless Habitat shall have notified the Borough prior to the expiration of the Due Diligence Period that the Properties are unacceptable, after the expiration of the Due Diligence Period, and prior to Habitat being obligated to take title to Block 91, Lot 6, the Borough shall subdivide the Property to create eight (8) lots legally capable of having constructed thereon a single-family attached unit, with the option of the Borough changing the zoning to make the construction of up to four (4) two-family homes and as-of-right site plan application to the Planning Board. The Borough will work with Habitat on the final concept plan and create the zoning based upon Habitat's examination of the property during the Due Diligence Period. The timing on completion of the subdivision will be coordinated between Habitat and the Borough in order to be consistent with Habitat's planned construction schedule, subject to commencement of predevelopment on all lots by June 30, 2027. Habitat will work with the Borough Engineer to design the location of driveways and place the dwellings on each lot based on Habitat's anticipated design plans.

(b) The Borough shall convey a fee title to the lots on which construction is to occur after Habitat has obtained building permits for the construction of dwellings on the specific lots to be acquired below and prior to the commencement of construction on those lots by Habitat. All demolition of existing improvements shall be completed prior to the conveyance of title. Consideration of \$1.00 shall be paid by Habitat for each lot at closing.

(c) The Borough agrees to waive all local inspection and permit fees, tree removal fees, and application fees in order to help facilitate the Project through to completion. Notwithstanding the foregoing, Habitat or its successors shall be responsible for payment of the sewer allocation fee and annual sewer usage charge that may be imposed on the dwellings constructed on each lot, with a 50% reduction in connection fees for sewer. Habitat is responsible for all coordination and payment for water connection to the Project. Payment of such allocation fee and annual sewer usage charges by Habitat shall not be deemed consideration for purposes of Section 4(b) above. The Borough further agrees not to impose any cost generative features on Habitat, including requiring the use of any historic materials, techniques or features.

(d) At the closing of title on the sale of the respective dwelling and lot to a Habitat Partner Family (as defined below) the title company completing the closing shall cause the fully executed and notarized deed restriction to be recorded prior to or simultaneously with recording of the deed conveying the dwelling and lot to the Partner Family. Evidence of the recording of

the Deed Restriction shall be provided to the Borough within five (5) days receipt by Habitat of the recorded document from the County Clerk's Office. The Borough has the option of having the recorded Deed Restriction returned to the Borough's affordable housing counsel.

(e) The Borough agrees to cooperate with Habitat and assist it, at no cost to the Borough, in obtaining state and/or county funding for the construction of the houses, including, but not limited to, affordable housing funds from the New Jersey Department of Community Affairs (the "**Governmental Funding**"), if Habitat is able to obtain such funding.

5. HABITAT OBLIGATIONS

(a) Upon the completion of the subdivision per Section 4(a) above, Habitat will have a six (6) month period to obtain necessary governmental approvals for the construction of the dwellings on the subdivided lots.

(b) Habitat shall construct at least four (4) affordable, for-sale two-family homes with of which there will be a mix of two- and three-bedroom units (the "**Project**"), which obligation shall accrue only after each Property is deeded over to Habitat pursuant to Section 4(a) above. Habitat shall have the right to utilize modular construction to develop and construct the units.

(c) Habitat shall have an obligation to deed-restrict each family unit with affordability controls for low- or moderate-income households as defined by the New Jersey Fair Housing Act ("**FHA**"), UHAC, and current affordable housing regulations, as applicable. Habitat reserves the right to identify its own Administrative Agent for the project. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Camden, Gloucester, and Burlington Counties. Any such family unit shall comply with the Borough's Affordable Housing Ordinance, the FSHC Settlement Agreement, as amended, the Borough's Housing Element and Fair Share Plan, as may be amended, the FHA, UHAC, applicable COAH regulations, any applicable order of the Court, including but not limited to the Borough's JOR Order, and other applicable laws. Habitat's designation as a Special Purpose Credit Program ("**SPCP**") per the CFPB 12 CFR Part 1002.8 allows a tailored approach to meet the special needs and benefit economically disadvantaged groups, including groups that share a common characteristic such as race, national origin, or gender. The Borough recognizes and agrees that, as a SPCP, Habitat goes beyond UHAC affirmative marketing guidelines with criteria for determining housing need, ability to pay and willingness to partner. Accordingly, a unit may be offered for sale to low- or moderate-income households that are screened and approved by Habitat in accordance with Habitat's selection criteria. That said, Habitat will work with the Borough's affordable housing counsel to ensure that any enhanced affirmative marketing performed by Habitat for each unit still results in a unit that is creditworthy towards the Borough's Third Round Obligation. Each House shall be deed restricted as a low- or moderate-income affordable unit for a period of at least thirty (30) years from the date of initial occupancy of said unit ("**Deed- Restriction Period**"), until the Borough chooses to either release or extend the affordability controls on the

unit under applicable UHAC or affordable housing regulations. At closing on the transfer of each unit and Property to the respective families selected to purchase such family unit and Property (the "**Partner Family**"), Habitat shall include in the deed conveying title or in a separate document to be recorded against the unit and Property prior to transfer to the Partner Family a 30-year affordability deed restriction substantially in the form set forth in the Appendices of UHAC. At the closing of title on the sale of the respective unit and Property to a Partner Family the title company completing closing shall cause the fully executed and notarized deed restriction to be recorded prior to or simultaneously with recording of the deed conveying the dwelling and Lot to the Partner Family. Evidence of the recording of the deed restriction shall be provided to the Borough within five (5) days of submission of the document to the County Clerk for recording and a copy of the executed deed restriction shall be provided to the Borough within five (5) days receipt by Habitat of the recorded document from the County Clerk's Office, if the Borough does not choose to have the recorded Deed Restriction returned to its Affordable Housing counsel after recording.

(d) Upon the expiration of the Due Diligence Period, Habitat will have a six (6) month period to obtain necessary building permits to complete the Project. In connection with Habitat's pursuit of building permits, the Borough must (i) cooperate with Habitat, (ii) assist in and expedite the process, to the extent possible, and (iii) execute any and all required application documents necessary for Habitat to obtain the building permits. Habitat will have the right to take title to either Property and construct the Project in phases. The Borough shall convey fee title to the Property on which construction is to occur after Habitat has obtained building permits for the construction of the family units on the specific Property to be acquired.

(e) Habitat projects that predevelopment on both sites, to the extent that up to two (2) single-family homes shall be constructed by Habitat pursuant to this Agreement, will commence no later than June 30, 2027, and will be completed as soon as possible after commencement of construction (the "**Completion Deadline**"). If at any time Habitat informs the Borough in writing that Habitat will not construct a unit on any of the Lots (the "**Abandoned Property**"), the Borough shall have the right to construct units on such Abandoned Property or convey the Abandoned Property to another affordable housing developer so that the intent of this Agreement, to construct the units contemplated by this Agreement and generate affordable housing credits to the Borough's Affordable Housing Obligation, can be accomplished. Habitat shall not be required to complete one or all of the units by the Completion Deadline if such default is a result of an actual delay or failure in performance due solely to any causes or events beyond Habitat's reasonable control, including without limitation, any acts of God, Fire, flood, hurricanes, terrorism, war, governmental actions, civil disturbances, pandemics, or epidemics, as well as any shortages or changes in financing such that the Project cannot be completed, so long as the same is not a result of Habitat's negligence (collectively, "**Force Majeure**"). Delay or non-performance due to Force Majeure shall be excused and the Completion Deadline shall be extended to include the period of such delay or non-performance caused by Force Majeure.

6. CLOSING AND QUALITY OF TITLE.

Unless this Agreement has been terminated pursuant to Section 3 above prior thereto, the Borough shall convey title to each Property to Habitat within the later of 30 days after Habitat's building permits and approvals for the construction of the respective unit thereon become final, unappealed, and unappealable. It is the parties' intent that Habitat be able to start construction of affordable homes as soon as it takes title. The conveyance(s) shall be made for the nominal consideration of \$1.00 by bargain and sale deeds with covenants as to grantor's acts insurable at regular rates by a title insurance company licensed by the State of New Jersey. Any title insurance that Habitat cares to secure shall be paid for by Habitat. Closing costs shall be apportioned as is customarily done in Gloucester County real estate transactions with each party paying their own attorney's fees.

7. DEFAULT.

In the event that any party shall fail to perform any undertaking required to be performed by it pursuant to the terms of this Agreement, unless such obligation is waived in writing by the party or parties for whose benefit such obligation was intended, such failure to perform shall constitute an event of default under this Agreement. In the event of default, the non-defaulting party shall have available any and all rights and remedies that may be provided in law or in equity, including, but not limited to the right of specific performance and/or the right to bring a motion in aid of litigant's rights, and the prevailing party shall be entitled to recover from the non-prevailing party all of the prevailing party's reasonable expenses, including, without limitation, reasonable attorneys' fees and court costs. Prior to such proceedings, there shall be an opportunity to cure said alleged default as follows: (i) the benefited party shall notify the defaulting party of such alleged default specifying the nature of the default, (ii) the defaulting party shall thereafter have ten (10) business days to effect a cure; (iii) the benefited party shall promptly notify the defaulting party of its acceptance of the proposed cure, or its alternative election to seek judicial remedies.

8. NOTICES.

All notices required under this Agreement shall be in writing and shall be given by certified mail, return receipt requested, or by recognized overnight personal carriers with certified proof of receipt, and by duplicate facsimile or email transmission if under 25 pages. All notices shall be deemed received upon the date of delivery which is set forth in the mailing certifications by the mail or delivery services used, and all times for performance based upon such notices, shall be from the date set forth in such proof of delivery. The persons and entities to receive notice shall be as follows:

To Habitat: Gloucester County Habitat for Humanity
425 S. Broadway, Pitman, New Jersey 08071
c/o Scott Bosley, Executive Director

With Copy to:
To the Borough: Borough of Woodbury Heights
500 Elm Avenue

Woodbury Heights, New Jersey
Attention: Shannon Eton, Borough Clerk

With a Copy to:

Nancy L. Holm, Esquire
Surenian, Edwards, Buzak & Nolan LLC
311 Broadway, Suite A
Point Pleasant Beach, NJ 08742
NLH@Surenian.com

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.

9. MISCELLANEOUS.

(a) Captions. Captions and titles to this Agreement are inserted for the purposes of convenience and reference only, and are in no way to be construed as limiting or modifying the scope and intent of the various purposes and provisions of this Agreement.

(b) Cooperation. The parties expressly agree to cooperate with each other in order to effectuate and carry out the purposes of this Agreement in addition to the Mount Laurel doctrine, the FHA, COAH's rules, and the UHAC regulations. Habitat agrees to participate in any proceedings before the Court or COAH with respect to the Borough's affordable housing compliance initiatives that are implicated by this Agreement. For purposes of this Agreement, the term "COAH" shall mean the Council on Affordable Housing, or the substitute therefore, pursuant to New Jersey law or court order if the Council on Affordable Housing shall no longer exist.

(c) Waiver. Each of the parties waives all rights to challenge the validity and enforceability of this Agreement. Failure to enforce provisions or obligations in this Agreement by any party shall not be construed as a waiver of these provisions and obligations.

(d) Entire Agreement. This Agreement and its prefatory statements and recitals constitute the entire agreement between the parties. No representative, agent or employee of any party has been authorized to make any representation and/or promises that are not contained herein or to otherwise modify, amend, vary or alter the terms hereof except as stated herein. No modifications, amendments, variations or alternations shall be binding unless reduced to writing and signed by the parties.

(e) Validity. In the event that one or more of the provisions of this Agreement shall be held to be invalid, unenforceable or void, the parties shall within thirty (30) days of such determination, attempt to restructure this Agreement consistent with its underlying intent. If the parties fail to resolve such a restructuring, any party may seek Court review and a ruling to restructure the Agreement in a legally acceptable manner reflecting the underlying intent of the parties as expressed herein.

(f) Preparation. The parties acknowledge that this Agreement has been jointly prepared by the parties' attorneys. Therefore, this Agreement shall be construed on a parity among the parties and any presumption for resolving ambiguities against the drafter shall not apply.

(g) Counterpart Signature. This Agreement may be executed simultaneously or in one or more counterparts, each of which, when so executed and delivered, shall constitute an original, fully enforceable counterpart for all purposes. A signed facsimile or electronic copy of this Agreement shall have the same effect as an original signed Agreement.

(h) Governing Law. This Agreement shall be governed, construed in accordance with the laws of the State of New Jersey. Any action brought under this Agreement shall be brought in the Superior Court of New Jersey in Gloucester County, New Jersey, or in the United States District Court for the District of New Jersey, in Camden County, New Jersey.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:

Marie Deavel

GLOUCESTER COUNTY HABITAT FOR HUMANITY, INC.

By: [Signature]
Scott R. Bosley

Dated: March 11, 2026

Witness/Attest:

[Signature]
Shannon Eton, Borough Clerk

BOROUGH OF WOODBURY HEIGHTS

By: [Signature], Mayor

Dated: 3/11/26

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Borough of Woodbury Heights

RESOLUTION NO. 52-2026

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF WOODBURY HEIGHTS ADOPTING AN "AFFIRMATIVE MARKETING PLAN" FOR THE BOROUGH OF WOODBURY HEIGHTS

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

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

Affirmative Marketing Plan

- A. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Borough of Woodbury Heights is located in Housing Region 5, consisting of Burlington, Camden, and Gloucester Counties.
- B. The Borough of Woodbury Heights has a plan to address both its Prior Round Obligation (1987-2025) and its Fourth Round Obligation (2025-2035). This Affirmative Marketing Plan shall apply to all developments that contain or will contain very low-, low- and moderate-income units, including those that are part of the municipality's Housing Element and Fair Share Plan, and those that may be constructed in future developments not yet anticipated by the Housing Element and Fair Share Plan.
- C. The Affirmative Marketing Plan shall be implemented by the Administrative Agent under contract to the Borough of Woodbury Heights, or the Administrative Agent of any specific developer approved by the municipality.

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

- k. The expected lease-up/closing date(s) for the affordable housing units;
 - l. The expected date of the random selection;
 - m. The business hours when interested households may obtain paper applications for the affordable housing units;
 - n. Contact information, including an email address and phone number that are regularly monitored by the administrative agent;
 - o. The name of the sales agent and/or rental manager; and
 - p. Application fees, if any.
3. Affirmative fair marketing of affordable units must be completed in accordance with the requirements set forth in UHAC at N.J.A.C. 5:80-26.16 in all media and outlets required by the rules.
 4. Each affordable housing development must complete worksheet substantially in the form of the model affirmative marketing worksheet published by the state.
 5. Affordable units must be listed on the New Jersey Housing Resource Center's website (www.njhrc.gov) in accordance with N.J.A.C. 5:80-26.16(f)1 at least 60 days before the random selection.
 6. Applications, or notices thereof, used as part of the affirmative marketing program must be available in the following locations:
 - a. Gloucester County Administration Building, 2 S. Broad Street, Woodbury, NJ 08096

Camden County Administration Building, 520 Market Street, Camden, NJ 08102

Burlington County Administration Building, 49 Rancocas Mt. Holly Road, Mount Holly, NJ 08060
 - b. Gloucester County Library Headquarters, 389 Wolfert Station Road, Mullica Hill, NJ 08062

Camden County Library Headquarters, 203 Laurel Road, Voorhees, NJ 08043

Burlington County Library Headquarters, 5 Pioneer Blvd, Westampton, NJ 08060
 7. Additional outreach efforts, as dictated by the Settlement Agreement, will include the following organizations:
 - a. Fair Share Housing Center;
 - b. The New Jersey State Conference of the NAACP
 - c. The Latino Action Network;
 - d. Gloucester County and Salem County Branches of the NAACP;

- e. Senior Citizens United Community Services; and
 - f. Supportive Housing Association
8. The municipality's Administrative Agent, or the Administrative Agent of a specific developer, shall comply with all requirements set forth in N.J.S.A. 52:27D-321.3 et seq. with regard to the affirmative marketing of affordable housing units.
- G. The municipality's Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organizations(s) in Burlington, Camden, and Gloucester Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers.
- H. The municipality's Administrative Agent shall develop, maintain and update a list of major employers in Burlington, Camden, and Gloucester Counties that will aid in the affirmative marketing program.
- I. A random selection method to select occupants of very low-, low- and moderate-income housing will be used by the municipality's Administrative Agent, or the Administrative Agent of any specific developer, in conformance with N.J.A.C. 5:80-26.16(d). This Affirmative Marketing Plan provides a state-wide and/or regional preference for very low-, low-, and moderate-income households that live and/or work in Housing Region 5, which is comprised of Burlington, Camden, and Gloucester Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the municipality prior to the affirmative marketing of the units.
- J. All developers/owners of very low-, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the municipality's Administrative Agent.

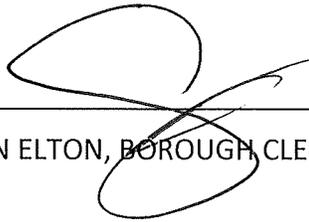
BE IT FURTHER RESOLVED that the appropriate municipal officials and professionals are authorized to take all actions required to implement the terms of this Resolution.

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

BOROUGH OF WOODBURY HEIGHTS

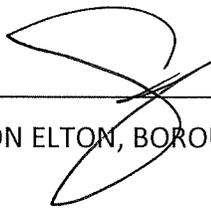
BY: 
MATTHEW W. COSENZA, MAYOR

ATTEST:



SHANNON ELTON, BOROUGH CLERK

I, Shannon Elton, Clerk of the Borough of Woodbury Heights, do hereby certify that the above is a true copy of a resolution adopted by the Borough Council of the Borough of Woodbury Heights at a meeting held on March 11, 2026.



SHANNON ELTON, BOROUGH CLERK

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RESOLUTION 54-2026

**RESOLUTION OF THE BOROUGH COUNCIL OF
THE BOROUGH OF WOODBURY HEIGHTS
ADOPTING AN AMENDED FOURTH ROUND SPENDING PLAN AND AN
AFFORDABILITY ASSISTANCE PROGRAM MANUAL**

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

WHEREAS, the Borough prepared a Fourth Round Spending Plan which was adopted on June 18, 2025 and filed with the Court on June 24, 2025; and

WHEREAS, the Borough received a deficiency letter to its Fourth Round Housing Element and Fair Share Plan from Fair Share Housing Center (“FSHC”) on August 25, 2025 and entered into a Consent Order with FSHC which was entered by the Court on December 5, 2025, which required the Borough to adopt a Fourth Round Spending Plan; and

WHEREAS, based on the Consent Order with FSHC the Borough amended its Fourth Round Spending Plan to be consistent with the Amended FHA and the newly adopted affordable housing regulations, which projects anticipated revenues to the Borough’s Affordable Housing Trust Fund and describes the anticipated expenditures of funds; and

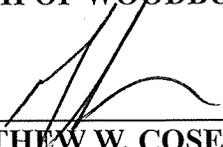
WHEREAS, on November 6, 2025, the Uniform Housing Affordability Controls (“UHAC”) were updated and amended;

WHEREAS, to ensure that the Borough’s Affordability Assistance Program conforms with UHAC as amended, the Borough will adopt an updated Affordability Assistance Program Manual;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Woodbury Heights, County of Gloucester, State of New Jersey as follows:

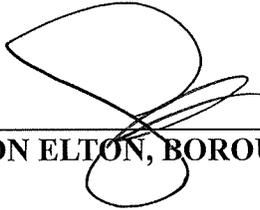
1. The Borough of Woodbury Heights (“Borough”) hereby adopts an Amended Fourth Round Spending Plan and Affordability Assistance Program Manual attached hereto as Exhibit A.
2. This Resolution shall take effect immediately.

BOROUGH OF WOODBURY HEIGHTS

BY: 

MATTHEW W. COSENZA, MAYOR

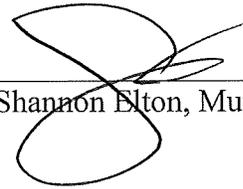
ATTEST:



SHANNON ELTON, BOROUGH CLERK

CERTIFICATION

The undersigned, Municipal Clerk for the Borough of Woodbury Heights, County of Atlantic, State of New Jersey, hereby certifies the foregoing to be a true copy of a Resolution adopted by the Borough Council of the Borough of Woodbury Heights on 3/11/2026, 2026.



Shannon Elton, Municipal Clerk

**Borough of Woodbury Heights
Gloucester County**

**Spending Plan
March 9, 2026**

Approved by the Governing Body on March 11, 2026
By Resolution No. -----

Borough of Woodbury Heights
500 Elm Avenue
Woodbury Heights, NJ 08097

Prepared By:

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**Borough of Woodbury Heights
Gloucester County**

**Spending Plan
March 9, 2026**

Mayor and Council

Mayor Matthew Cosenza
Cara Witasick
Robert Yerka
Bruce Farrell
Eileen Connors
Richard Gambale, Jr.
Collin Aregood

Planning Board

Robbie J. Conley– Vice Chairman
Matthew Cossenza, Mayor
Eileen Connors, Councilperson
Harry W. Elton, Jr.
Sean Flynn
Stephen Hart
Michael McCabe
Debra Sesko
Scott Norcross, Alt 1
Susan Reim, Alt 2
Lavon Phillips, Alt 3
Tim Abraldes, Alt 4

Prepared By:



Tiffany A. Morrissey, AICP, PP#5533

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

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INTRODUCTION

This 2026 spending plan addresses the Fourth-Round Housing Element and Fair Share Plan (HEFSP) mechanisms and components and accounts for the funds already deposited, and to be deposited through 2035, into the Borough's Mount Laurel Trust Fund; and (2) demonstrates the manner in which the Borough intends to expend the funds to advance the interests of the region's low- and moderate-income households.

This Spending Plan is prepared in accordance with the provisions of the amended Fair Housing Act under N.J.S.A. 52:27D-301 et seq., the Fair Housing Act Regulations at N.J.A.C. 5:99 et seq., and is subject to all laws, regulations, ordinances, codes of the New Jersey Department of Community Affairs and the Municipality.

In 2019, the Borough of Woodbury Heights prepared, adopted, and endorsed an Affordable Housing Plan ("2019 Plan") to address its Affordable Housing Obligation. The 2019 Affordable Housing Plan included the Mount Laurel compliance techniques through which the Borough will satisfy its Prior Round and Third-Round obligation. The Borough obtained a Judgment of Compliance and Repose, which approved the Borough's 2019 Plan, on December 22, 2020 after a duly noticed Compliance Hearing held on November 10, 2020. This Plan amends the approved 2019 Spending Plan to provide for projections through 2035.

SPENDING PLAN

A development fee ordinance creating a dedicated revenue source for affordable housing was adopted by the municipality on November 26, 2013 by Ordinance 17-2013. The ordinance establishes the Borough of Woodbury Heights's affordable housing trust fund for which this Spending Plan is prepared.

This Spending Plan has been prepared in accordance with the provisions of the amended Fair Housing Act under N.J.S.A. 52:27D-301 et seq., the Fair Housing Act Regulations at N.J.A.C. 5:99 et seq., and has been submitted to the Program for approval as part of the Borough's compliance certification as required.

Revenues for Certification Period

To calculate a projection of revenue anticipated during the period relevant to the Borough's Fourth Round HEFSP (2025-2035), the Borough of Woodbury Heights considered the following:

- Development fees:
 - Projects which have had development fees imposed upon them at the time of development approvals;
 - All projects currently before the planning and zoning boards for development approvals that may apply for certificates of occupancy; and
 - Future development that is likely to occur based on historical rates of development and/or projected development in accordance with projections.
 - Revenues from the 2.5 non-residential, for all commercial development
- Other funding sources: No other funds have been or are anticipated to be collected.