

Housing Element and Fair Share Plan

Prepared for:

**The Borough of Belmar
Monmouth County, New Jersey**

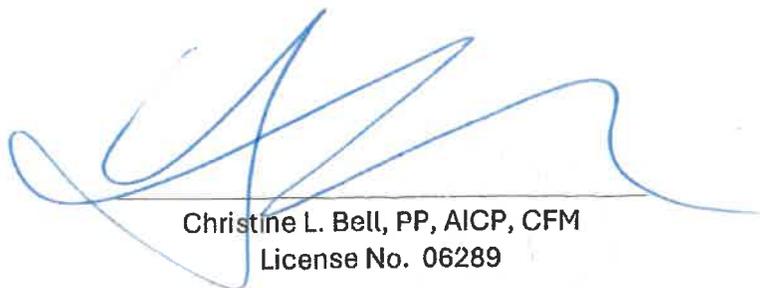
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INTRODUCTION

In the case of Southern Burlington County NAACP v. the Township of Mount Laurel, (commonly known as Mount Laurel I), the New Jersey Supreme Court established the doctrine that developing municipalities in New Jersey have a constitutional obligation to provide a realistic opportunity for the construction of low and moderate income housing in their communities. In its Mount Laurel decision, decided on January 20, 1983 (Mount Laurel II), the Supreme Court expanded the Mount Laurel doctrine by stating that this constitutional responsibility extended to all municipalities in New Jersey. The Court also established various remedies, including the “builder remedy” or court-imposed zoning, to ensure that municipalities affirmatively addressed this obligation.

In response to the Mount Laurel II decision, the New Jersey Legislature adopted the Fair Housing Act in 1985 (Chapter 222, Laws Of New Jersey, 1985). The Fair Housing Act established a Council on Affordable Housing (COAH) as an administrative alternative to the courts. COAH was also given the responsibility of establishing various housing regions in the state, determining regional and municipal fair share affordable housing obligations, and adopting regulations establishing the guidelines and approaches that municipalities may use in addressing their affordable housing need.

Under COAH’s regulations, low income households are defined as those with incomes no greater than 50 percent of the median household income, adjusted for household size, of the housing region in which the municipality is located, and moderate-income households are those with incomes no greater than 80 percent and no less than 50 percent of the median household income, adjusted for household size, of the housing region. For the Borough of Belmar, the housing region is defined by COAH as Region 4 and is comprised of Mercer, Monmouth, and Ocean counties. In Region 4 the median income for a four-person household is \$130,054, the moderate-income limit is \$104,043, the low-income limit is \$65,027, and the very low-income limit is \$39,016 in 2024.

Pursuant to both the Fair Housing Act and the Municipal Land Use Law (MLUL), municipalities in New Jersey are required to include a housing element in their master plans. The principal purpose of the housing element is to provide for methods of achieving the goal of access to affordable housing to meet the municipality’s low- and moderate-income housing needs. The statutory required contents of the housing element are:

- An inventory of the municipality’s housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- A projection of the municipality’s housing stock, including the probable future construction of low- and moderate-income housing, for the ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of

applications for development and probable residential development of lands;

- An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share for low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low- and moderate-income housing; and
- A consideration of the lands that are most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing.

MUNICIPAL SUMMARY

The Borough of Belmar is a popular beach town in southern Monmouth County, nestled along the Atlantic Ocean to the east and the Shark River to the north and west. The Borough is a fully developed community, comprised of mostly residential uses with a downtown area that is home to a variety of shops, restaurants, and cafes; and has been recognized for many of its innovative environmental, art, tourism, and recreation programs.

Throughout the existing residential neighborhoods are a number of municipally owned parks and open space facilities including the 1.3 miles of public beach on the eastern edge, the marina along Shark River to the west, the boardwalk which was rebuilt in 2013 following Hurricane Sandy, and the beach front pavilions that re-opened in Spring 2017. In addition to State Route 35, there are several County roadways, including Ocean Avenue, 16th Avenue, and Main Street, all serving as the Borough's main thoroughfares. Development throughout the Borough is primarily residential; however, there are several commercial uses located along the western side of Ocean Avenue; and Main Street functions as the Borough's main downtown commercial corridor. NJ Transit also provides access to the Borough via the North Jersey Coast Line. Belmar is part of the continuous string of Monmouth County Shore Towns, each of which have a distinctive character that adds to the vibrancy of variety of the Jersey Shore in this region.

The current year-round population of Belmar is estimated at 5,861 (ACS 2023 5-year data), swelling substantially in the summer months. Belmar has a population density of 5,653 persons per square mile, compared to that of the county's 1,375 persons per square mile. The Borough's median age increased between 2010 and 2023, with a 2010 median age of 38.4 and a 2023 median age of 43.6 years of age. Belmar's 2023 median household income estimate of \$92,859 was lower than that of both the County (\$122,727) and the State (\$101,050).

In the guidelines established by COAH, Belmar Borough is located in affordable housing Region 4 which is comprised of Monmouth, Mercer, and Ocean Counties.

DEMOGRAPHIC CHARACTERISTICS

POPULATION

In 2023, Belmar had an estimated total population of 5,861. This number represents a population increase of 248 persons or 4.4 percent since 2020, when the total population was 5,613. Despite gains from the most recent Census, the Borough has been experiencing an overall downward population trend since 1980, the year in which the population peaked at 6,771.

TABLE 1: POPULATION TRENDS, 1940-2020

Year	Belmar			Monmouth County			New Jersey		
	Population	Change		Population	Change		Population	Change	
		Number	Percent		Number	Percent		Number	Percent
1940	3,435	-	-	161,238	-	-	4,160,165	-	-
1950	4,636	1,201	35.0%	225,327	64,089	39.7%	4,835,329	675,164	16.2%
1960	5,190	554	11.9%	334,401	109,074	48.4%	6,066,782	1,231,453	25.5%
1970	5,782	592	11.4%	461,849	127,448	38.1%	7,171,112	1,110,330	18.2%
1980	6,771	989	17.1%	503,173	41,324	8.9%	7,365,011	193,899	2.7%
1990	5,877	-894	-13.2%	553,124	49,951	9.9%	7,730,188	365,177	5.0%
2000	6,045	168	2.9%	615,301	62,177	11.2%	8,414,350	684,162	9.0%
2010*	5844	-201	-3.3%	628,112	12,811	2.1%	8,721,577	307,227	3.7%
2020	5613	-231	-4.0%	620,821	-7,291	-1.2%	8,885,418	163,841	1.9%
2023	5861	248	4.4%	643,615	15,503	2.5%	9,267,014	545,437	6.3%
2050	6,234	373	6.4%	669,624	26,009	4.4%	-	-	-

Source: U.S. Census Bureau Decennial Census (table DP-1)
 *U.S. Census Bureau, 2020 ACS 5-Year Estimates (table DP05)
 **Population Projections from North Jersey Transportation Planning Authority (NJTPA)

POPULATION COMPOSITION BY AGE

The age composition of Belmar has shifted noticeably since 2010. According to American Community Survey 2023 5-Year Estimates, significant changes occurred in many age groups. The greatest percentage decreases occurred in the 75 to 84 years cohort, which decreased by 55.1 percent, followed by the 20 to 24 years age cohort, which decreased by 38.2 percent. Conversely, the Borough has seen a significant increase in the number of residents between 55 and 74 years. The greatest percentage increases occurred in the 65 to 74 years age cohort, which increased by 163 percent, and the 55 to 59 years and older age cohort, which increased by 55 percent.

TABLE 2: POPULATION BY AGE COHORT, BELMAR, 2010-2023

Population	2010		2023		Change 2010-2023
	Number	Percent	Number	Percent	
Total population	5,844	100.0%	5,861	100.0%	0.3%
Under 5 years	214	3.7%	152	2.6%	-29.0%
5 to 9 years	323	5.5%	276	4.7%	-14.6%
10 to 14 years	273	4.7%	177	3.0%	-3.5%
15 to 19 years	246	4.2%	243	4.1%	-1.2%
20 to 24 years	536	9.2%	331	5.6%	-38.2%
25 to 34 years	1,074	18.4%	1091	18.6%	1.6%
35 to 44 years	844	14.4%	708	12.1%	-16.1%
45 to 54 years	781	13.4%	752	12.8%	-3.7%
55 to 59 years	351	6.0%	544	9.3%	55.0%
60 to 64 years	371	6.3%	549	9.4%	48.0%
65 to 74 years	278	4.8%	731	12.5%	162.95%
75 to 84 years	472	8.1%	212	3.6%	-55.1%
85 years and over	81	1.4%	95	1.6%	17.3%

U.S. Census Bureau American Community Survey 2023 5-Year Estimates (table DP-05)

Monmouth County also experienced shifts in the age make-up of its population. The County experienced a significant decrease in the elementary, middle, and high school-aged population, while the largest decreases were seen among residents aged 35 to 54. The 65 to 74 years cohort experienced the most substantial population increase over this timeframe, with a 70.4 percent increase. The percentage of the County's older age cohorts (55 years and over) experienced increases between 2010 and 2020, suggesting that the County has an aging population.

TABLE 3: POPULATION BY AGE COHORT, MONMOUTH COUNTY, 2010-2023

Population	2010		2023		Change 2010-2023
	Number	Percent	Number	Percent	
Total population	628,112	100.0%	643,615	100.0%	2.5%
Under 5 years	36,105	5.7%	32,114	5.0%	-11.1%
5 to 9 years	43,432	6.9%	37,013	5.8%	-14.8%
10 to 14 years	45,172	7.2%	39,484	6.1%	-12.6%
15 to 19 years	44,706	7.1%	42,163	6.6%	-5.7%
20 to 24 years	33,055	5.3%	37,390	5.8%	13.1%
25 to 34 years	63,105	10.0%	70,569	11.0%	11.8%
35 to 44 years	93,461	14.9%	75,860	11.8%	-18.8%
45 to 54 years	108,675	17.3%	88,083	13.7%	-18.9%
55 to 59 years	85,861	6.8%	50,654	7.9%	18.9%
60 to 64 years	34,235	5.5%	50,797	7.9%	48.4%
65 to 74 years	41,719	6.6%	71,107	11.0%	70.4%
75 to 84 years	29,301	4.7%	33,953	5.3%	15.9%
85 years and over	12,552	2.0%	14,428	2.2%	14.9%

U.S. Census Bureau American Community Survey 2023 5-Year Estimates (table DP-05) S0101

The median age of Belmar residents increased by 5.2 years between 2010 and 2023. The State and County also experience median age increases between 2010 and 2023, though not as large as the Borough’s. While also experiencing the greatest increase in median age, Belmar’s median age in 2023 the oldest median age, slightly greater than Monmouth County, both of which were older than the New Jersey State median age.

TABLE 4: MEDIAN AGE

Year	Belmar	Monmouth County	New Jersey
2010	38.4	40.6	38.5
2023	43.6	43.2	40.1
Change	5.2	2.6	1.6
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP-05)			

HOUSEHOLDS

A household is defined as one or more persons, related or not, living together in a housing unit. 2023 ACS 5-Year Estimates note that there were approximately 2,791 households in Belmar. Approximately 71.5 percent of the Borough’s households were comprised of one and two persons, with the one-person category containing the greatest number of households. A smaller percentage (59.1%) of Monmouth County households fell into these categories. The Borough exhibited a lower percentage of three and four-or-more person households than the County. The Borough’s average household size reflects these trends, at 2.10 persons per household compared to the County’s 2.58 persons per household figure.

**TABLE 5: HOUSEHOLD CHARACTERISTICS
BELMAR AND MONMOUTH COUNTY, 2023**

	Belmar		Monmouth County	
	Number	Percent	Number	Percent
Total Households	2,791	100.0%	250,195	100.0%
1-person	1,226	43.9%	66,589	26.6%
2-persons	770	27.6%	81,289	32.5%
3-persons	407	14.6%	40,929	16.4%
4 or more persons	388	13.9%	61,388	24.5%
Average Household Size	2.10		2.55	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (tables S2501 & B25010)				

Family households are defined as two or more persons living in the same household, related by blood, marriage, or adoption. Households in Belmar are mainly non-family households, comprising 52.2 percent of all households. The average household size in Belmar is 2.10 persons. Of all Borough households, 47.8 percent were family households. Approximately 63.2 percent of all family households were family households with married couple householders, while 15.4 percent and 21.5 percent of family households respectively were family households consisting of single parent male or female householders. The average family size was 2.92 persons.

TABLE 6: HOUSEHOLDS BY TYPE (2023)

Household Size	Total	Percent
Total Households	2,791	100.0%
1 person household	1,226	43.9%
2 or more person household	1,565	56.1%
Family households	1,335	47.8%
Married Couple Family	843	63.1%
With own children under 18 years	270	32.0%
No children under 18 years	573	68.0%
Other Family	492	17.6%
Male householder, no spouse present	205	15.4%
With own children under 18 years	0	0.0%
No own children under 18 years	205	100.0%
Female householder, no spouse present	287	21.5%
With own children under 18 years	137	47.7%
No own children under 18 years	150	52.3%
Nonfamily Households	1,456	52.2%
Average Family Size (persons)		
	2.92	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (tables S2501, S1101)		

INCOME

Belmar experienced an estimated 104 percent increase in per capita income between 2010 and 2023, which was greater than Monmouth County’s 60 percent increase, and the State’s 52.4 percent increase. Additionally, Belmar’s 2023 per capita income of \$71,843 was greater than the County’s \$65,545 per capita income figure, both of which are higher than the State’s \$53,118 per capita income. Belmar’s median household income was \$92,859, lower than the median income for both the County and State. In terms of the rate of change since 2010, Belmar residents experienced a 55 percent rise in their median household income, higher than their Monmouth County and New Jersey counterparts.

TABLE 7: PER CAPITA INCOME AND MEDIAN HOUSEHOLD INCOME

	2010 Per Capita Income	2023 Per Capita Income	Percent Change	2010 Median Household Income	2023 Median Household Income	Percent Change
Belmar	\$35,223	\$71,843	104.0%	\$59,928	\$92,859	55.0%
Monmouth County	\$40,976	\$65,545	60.0%	\$82,265	\$122,727	49.2%
New Jersey	\$34,858	\$53,118	52.4%	\$69,811	\$101,050	44.7%

U.S. Census Bureau, 2023 ACS Selected Population Tables (table DP03)

The income distribution for the Borough was similar to that of the County. The income bracket containing the highest percentage of households was \$200,000 or more in both Belmar (25.1%) and Monmouth County (27.7%). The income bracket containing the second highest percentages for Belmar was \$75,000 to \$99,999 range, representing 15 percent of Borough residents, while the income bracket representing the second highest percentage of Monmouth County residents was the \$150,000 to \$199,999, representing 13.6% of County residents.

**TABLE 8: HOUSEHOLD INCOME DISTRIBUTION
BELMAR AND MONMOUTH COUNTY, 2023**

	Belmar		Monmouth County	
	Number	Percent	Number	Percent
Total Households	2,791	100.0%	250195	100.0%
Less than \$10,000	111	4.0%	8,165	3.3%
\$10,000 to \$14,999	19	0.7%	5,319	2.1%
\$15,000 to \$19,999	56	2.0%	5,203	2.1%
\$20,000 to \$24,999	92	3.3%	5,578	2.2%
\$25,000 to \$29,999	0	0.0%	5,530	2.2%
\$30,000 to \$34,999	73	2.6%	5,175	2.1%
\$35,000 to \$39,999	54	1.9%	5,648	2.3%
\$40,000 to \$44,999	239	8.6%	5,544	2.2%
\$45,000 to \$49,999	81	2.9%	6,198	2.5%
\$50,000 to \$59,999	182	6.5%	9,995	4.0%
\$60,000 to \$74,999	168	6.0%	15,158	6.1%
\$75,000 to \$99,999	418	15.0%	25,542	10.2%
\$100,000 to \$124,999	178	6.4%	24,161	9.7%
\$125,000 to \$149,999	163	5.8%	19,756	7.9%
\$150,000 to \$199,999	257	9.2%	33,996	13.6%
\$200,000 or more	700	25.1%	69,227	27.7%

U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table B19001)

HOUSEHOLD COSTS

The tables below show housing expenditures for owner- and renter-occupied units in Belmar in 2023. The first table shows the housing costs of owner occupants as a percentage of total income. A total of 383 households (27.9%) were devoting more than 30 percent of their annual income to housing costs. The State affordability threshold for housing as a percent of income suggests that not more than 28 percent of gross income should be allocated for housing costs.

The second table shows rental costs as a percentage of household income. Almost half of households in Belmar, a total of 685 rental households or 48.5%, were spending over 30 percent of their incomes on rent. The State affordability threshold for housing as a percent of income suggests that not more than 30 percent of gross income should be allocated for rent.

TABLE 9: MONTHLY OWNER COSTS AS A PERCENTAGE OF HOUSEHOLD INCOME, 2023

	Belmar		Monmouth County	
	Number	Percent	Number	Percent
Total Owner-Occupied Housing Units	1,377	100.0%	188,578	100.0%
Less than 10.0 percent	381	27.7%	28,917	15.3%
10.0 to 14.9 percent	109	7.9%	32,253	17.1%
15.0 to 19.9 percent	238	17.3%	31,997	17.0%
20.0 to 24.9 percent	144	10.5%	25,780	13.7%
25.0 to 29.9 percent	108	7.8%	16,946	9.0%
30.0 to 34.9 percent	67	4.9%	10,722	5.7%
35.0 to 39.9 percent	33	2.4%	8,426	4.5%
40.0 to 49.9 percent	132	9.6%	10,377	5.5%
50.0 percent or more	151	11.0%	21,847	11.6%
Not Computed	14	1.0%	1,313	0.7%

U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table B25091)

TABLE 10: GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME, 2023

	Belmar		Monmouth County	
	Number	Percentage	Number	Percentage
Total Renter-Occupied Housing Units	1,414	100.0%	61,617	100.0%
Less than 10.0 percent	79	5.6%	2,113	3.4%
10.0 to 14.9 percent	165	11.7%	4,993	8.1%
15.0 to 19.9 percent	77	5.4%	6,970	11.3%
20.0 to 24.9 percent	138	9.8%	6,927	11.2%
25.0 to 29.9 percent	159	11.2%	6,419	10.4%
30.0 to 34.9 percent	268	19.0%	4,751	7.7%
35.0 to 39.9 percent	33	2.3%	3,057	5.0%
40.0 to 49.9 percent	93	6.6%	6,163	10.0%
50.0 percent or more	291	20.6%	16,805	27.3%
Not computed	111	7.9%	3,419	5.5%

U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table B25070)

EXISTING HOUSING CONDITIONS

HOUSING UNIT DATA

According to the 2023 ACS, there are approximately 3,835 housing units in Belmar, with 2,791 occupied housing units. Most occupied units (50.7%) are renter occupied. Approximately 27.2 percent of the Borough’s housing stock is vacant. The majority of these homes are considered vacant because they serve as seasonal homes, rather than as the primary residence of the owners. Most of the housing structures (~80%) were built before 1980.

TABLE 11: HOUSING UNIT DATA, 2023

Housing Units in Belmar	Number	Percent
Total Housing Units	3,835	100.0%
Vacant Housing Units	1,044	27.2%
Occupied Housing Units	2,791	72.8%
Owner Occupied	1,377	49.3%
Renter Occupied	1,414	50.7%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04)		

	Number	Percent
Built 2020 or later	0	0.0%
Built 2010 to 2019	266	6.9%
Built 2000 to 2009	265	6.9%
Built 1990 to 1999	169	4.4%
Built 1980 to 1989	173	4.5%
Built 1970 to 1979	442	11.5%
Built 1960 to 1969	505	13.2%
Built 1950 to 1959	730	19.0%
Built 1940 to 1949	221	5.8%
Built 1939 or earlier	1,064	27.7%
Total	3,835	100.0%
Median Year Structure Built	1959	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04 and B25035)		

HOUSING TYPE AND SIZE

The majority of residences in Belmar are one unit detached homes, which comprise 49.4 percent of the housing stock, followed by residences with 20 units or more, which comprise 15.2 percent of the housing stock. The median number of rooms per unit was 4.8.

TABLE 12: HOUSING UNITS BY TYPE, 2023

Units in Structure	Total	Percent
Total	3,835	100.0%
1 Unit, detached	1,894	49.4%
1 Unit, attached	273	7.1%
2 Units	445	11.6%
3 or 4 Units	297	7.7%
5 to 9 Units	130	3.4%
10 to 19 Units	203	5.3%
20 Units or more	584	15.2%
Mobile home	9	0.2%
Boat, RV, van, etc.	0	0.0%
Rooms	Total	Percent
1 room	140	3.7%
2 rooms	256	6.7%
3 rooms	698	18.2%
4 rooms	702	18.3%
5 rooms	423	11.0%
6 or more rooms	1,616	42.2%
Median number of rooms	4.8	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (DP04)		

HOUSING VALUES AND CONTRACT RENTS

According to ACS 5-Year Estimates, the majority of units in Belmar, approximately 70.6 percent, were valued at over \$500,000. Table 13 provides a breakdown of home values for owner-occupied units within the Borough. Only 41 owner-occupied housing units in Belmar were worth less than \$50,000. The median value of an owner-occupied housing unit in Belmar was \$771,400 at the time of the survey, compared to the county’s median value of \$566,500.

TABLE 13: VALUE OF OWNER-OCCUPIED HOUSING UNITS, 2023

	Belmar		Monmouth County	
	Number	Percentage	Number	Percentage
Total	1377	100.0%	188,578	100.0%
Less than \$50,000	41	3.0%	3,202	1.7%
\$50,000 to \$99,999	21	1.5%	2,703	1.4%
\$100,000 to \$149,999	6	0.4%	1,760	0.9%
\$150,000 to \$199,999	20	1.5%	2,797	1.5%
\$200,000 to \$299,999	66	4.8%	12,780	6.8%
\$300,000 to \$499,999	250	18.2%	55,119	29.2%
\$500,000 to \$999,999	685	49.7%	88,909	47.1%
\$1,000,000 or more	288	20.9%	21,308	11.3%
Median Value	\$771,400		\$566,500	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04)				

The number of rental units is estimated at 1,303. However, 111 of these rental units are categorized as units for which no cash rent is paid. The overall median rent paid in Belmar was \$1,832, which was more than what was paid by county residents (\$1,771).

TABLE 14: GROSS RENT PAID, 2023

	Belmar		Monmouth County	
	Number	Percentage	Number	Percentage
Total Renter Occupied Units	1,303	100.0%	59,223	100.0%
Less than \$500	0	0.0%	4,045	6.8%
\$500 to \$999	104	8.0%	3,453	5.8%
\$1,000 to \$1,499	279	21.4%	13,711	23.2%
\$1,500 to \$1,999	404	31.0%	15,499	26.2%
\$2,000 to \$2,499	161	12.4%	10,920	18.4%
\$2,500 to \$2,999	293	22.5%	6,150	10.4%
\$3,000 or more	62	4.8%	5,445	9.2%
No cash rent	111	(X)	2,394	(X)
Median Contract Rent	\$1,832		\$1,771	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04)				

HOUSING CONDITIONS

According to the 2023 ACS, there were zero (0) owner occupied units and zero (0) renter occupied units experiencing overcrowding. No units exhibiting lacking complete plumbing facilities, or lacking complete kitchen facilities. Table 15 details the condition of housing within Belmar based on plumbing facilities, kitchen facilities, and overcrowding. These factors are utilized in determining housing deficiency and general housing problems and are used as the basis to calculate the municipal rehabilitation obligation.

TABLE 15: HOUSING DEFICIENCY CHARACTERISTICS, 2023

	Count	Percent
Housing Units with 1.01 or More Persons Per Room		
Owner Occupied	0	0.0%
Renter Occupied	0	0.0%
Plumbing Facilities		
Total Occupied Housing Units	2,791	100.0%
Lacking complete plumbing facilities	0	0.0%
Kitchen Equipment		
Total Occupied Housing Units	2,791	100.0%
Lacking complete kitchen facilities	0	0.0%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (tables B25014, S2504)		

PROJECTED HOUSING STOCK

According to New Jersey Department of Community Affairs, the Borough of Belmar has issued building permits for 329 residential dwelling units between 2004 and 2023. During that same time period, the Borough issued 352 residential demolition permits, for a total net decrease of 23 dwelling units over this time period. Building permit data by year is summarized in Table 16 below.

TABLE 16: BUILDING PERMITS AND DEMOLITION PERMITS ISSUED, 2004-2023

Year	1 & 2 Family	Multi Family	Mixed Use	Total New Construction	Total Residential Demolitions	Net Units Added
2004	13	0	0	13	18	-5
2005	14	0	0	14	40	-26
2006	26	0	0	26	33	-7
2007	27	3	6	36	32	4
2008	8	0	0	8	41	-33
2009	10	0	0	10	7	3
2010	9	0	0	9	8	1
2011	6	0	34	40	7	33
2012	10	0	0	10	9	1
2013	25	0	0	25	27	-2
2014	16	0	16	32	13	19
2015	16	0	0	16	17	-1
2016	9	0	0	9	9	0
2017	15	0	0	15	28	-13
2018	6	60	24	90	6	84
2019	10	0	0	10	10	0
2020	9	0	0	9	16	-7
2021	11	0	0	11	11	0
2022	12	0	30	42	11	31
2023	14	0	0	14	9	5
Total	266	63	110	439	352	87

Source: NJ DCA Construction Reporter

EMPLOYMENT DATA

The 2023 ACS reports on the work activity of residents aged 16 years and older. The Borough’s working age population was 5,220 persons (80.7 percent of the overall population), approximately 3,838 of whom were part of the labor force (73.5%). 26.5 percent of the Borough’s working age residents were not participating in the labor force, which is 7 percent lower than that of the County. All of Belmar’s labor force was employed in civilian jobs. Approximately 5.3 percent of Borough residents are estimated to be unemployed at this time, which is higher than the estimated unemployment rate of Monmouth County overall (3.5%).

TABLE 17: EMPLOYMENT STATUS, 2023

	Belmar		Monmouth County	
	Number	Percent	Number	Percent
Population 16 years and over	5,220	100.0%	526,352	100.0%
In labor force	3,838	73.5%	349,815	66.5%
Civilian Labor Force	3,838	73.5%	349,355	66.4%
Employed	3,563	68.3%	331,018	62.9%
Unemployed	275	5.3%	18,337	3.5%
Armed Forces	0	0.0%	460	0.1%
Not in labor force	1,382	26.5%	176,537	33.5%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)				

74.7 percent of the Borough’s workers were employed in private wage and salary positions, while about five percent of workers are self-employed. Government workers comprise about 19.4 percent of the Borough’s workforce. Table 18 provides a breakdown of worker classifications.

TABLE 18: CLASSIFICATION OF WORKERS IN BELMAR, 2023

	Number	Percent
Total	3,563	100.0%
Private Wage and Salary Worker	2,663	74.7%
Government Worker	691	19.4%
Self-Employed Worker	183	5.1%
Unpaid Family Worker	26	0.7%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)		

EMPLOYMENT BY INDUSTRY

An analysis of employees (over the age of 16) by economic sector indicates that employed working age individuals in Belmar were involved in a range of economic sectors. As depicted in Table 19 below, the highest concentration of workers (21.2%) are educational services and health care and social assistance, followed by professional, scientific, and

management, and administrative and waste management services (19.2%). The only other sectors to employ over ten percent of the Borough's residents were finance and insurance, and real estate and rental and leasing, and arts, entertainment, and recreation, and accommodation and food services, both with slightly over 11%.

TABLE 19: WORKFORCE BY SECTOR, 2023

Sector	Number	Percent
Civilian employed population 16 years and over	3,563	100.0%
Agriculture, forestry, fishing and hunting, mining	0	0.0%
Construction	285	8.0%
Manufacturing	266	7.5%
Wholesale Trade	50	1.4%
Retail Trade	226	6.3%
Transportation and Warehousing, and Utilities	250	7.0%
Information	22	0.6%
Finance and insurance, and real estate and rental and leasing	415	11.6%
Professional, scientific, and management, and administrative and waste management services	683	19.2%
Educational services, and health care and social assistance	757	21.2%
Arts, entertainment, and recreation, and accommodation and food services	411	11.5%
Other Services, except public administration	78	2.2%
Public administration	120	3.4%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)		

Table 20 provides a percentage comparison of the Borough's workforce against that of the County. The Borough's profile of employment by sector generally mirrors that of the County. A higher percentage of the Borough's workforce was employed in 'arts, entertainment, and recreation, and accommodation and food services' and 'finance and insurance, and real estate and rental and leasing, and arts'. Conversely, a higher percentage of the County's population worked in 'retail trade'.

**TABLE 20: COMPARISON OF WORKFORCE BY SECTOR
BELMAR BOROUGH AND MONMOUTH COUNTY, 2023**

Sector	Belmar	Monmouth County
Civilian employed population 16 years and over	3,563	331,018
Agriculture, forestry, fishing and hunting, mining	0.0%	0.4%
Construction	8.0%	7.0%
Manufacturing	7.5%	6.2%
Wholesale Trade	1.4%	2.5%
Retail Trade	6.3%	10.5%
Transportation and Warehousing, and Utilities	7.0%	4.4%
Information	0.6%	3.2%
Finance and insurance, and real estate and rental and leasing	11.6%	10.3%
Professional, scientific, and management, and administrative and waste management services	19.2%	15.5%
Educational services, and health care and social assistance	21.2%	24.4%
Arts, entertainment, and recreation, and accommodation and food services	11.5%	7.7%
Other Services, except public administration	2.2%	3.7%
Public administration	3.4%	4.3%
U.S. Census Bureau, American Community 2023 Survey 5-Year Estimates (table DP03)		

Table 21 provides a breakdown of occupations by type for the Borough’s employed civilian labor force. Approximately 45 percent of the Borough’s employed civilian labor force was employed in ‘management, business, science and arts’, followed by the two other leading types of occupation: ‘service occupations’ and ‘sales and office occupations’. Together these three (3) occupation types make up over 85 percent of the Borough’s employed civilian labor force.

TABLE 21: OCCUPATIONS BY TYPE, 2023

Occupation	Number	Percent
Employed Civilian population 16 years and over	3,563	100.0%
Management, business, science and arts occupations	1,608	45.1%
Service occupations	831	23.3%
Sales and office occupations	618	17.3%
Natural resources, construction and maintenance occupations	225	6.3%
Production Transportation and material moving occupations	281	7.9%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)		

As indicated in Table 22 below, it is projected that Monmouth County will add 21,400 jobs by 2032. The ‘ambulatory health care services’, ‘transportation and warehousing’, and ‘information’ sectors are poised to experience the greatest percentage increases over the course of the projection period.

TABLE 22: PROJECTED EMPLOYMENT, MONMOUTH COUNTY, 2032

Industry Title	2022 Actual Employment	2032 Projected Employment	Numeric Change	Annual Growth Rate	Percent Change	Outlook
Mining	0	50	13.6	0.0	0.0%	Stable
Utilities	16,250	16,900	650	4.1	4.0%	Growing
Construction	1,300	1,400	100	6.9	7.8%	Growing
Manufacturing	9,700	10,250	550	5.9	5.6%	Growing
Wholesale Trade	8,900	9,200	300	3.5	3.3%	Growing
Retail Trade	36,450	36,700	250	0.7	1.5%	Growing
Transportation and Warehousing	6,100	7,100	1,000	16.6	16.3%	Growing
Postal Service	1,050	1,000	-50	-6.8	-4.7%	Declining
Information	6,050	6,950	900	14.8	14.8%	Growing
Finance and Insurance	10,950	11,050	100	0.9	0.9%	Growing
Real Estate and Rental and Leasing	4,150	4,300	150	4.0	3.6%	Growing
Professional, Scientific, and Technical Services	21,850	22,650	800	3.9	3.6%	Growing
Management of Companies and Enterprises	4,150	4,800	650	15.3	15.7%	Growing
Administrative and Support and Waste Management and Remediation Services	14,650	15,450	800	5.4	5.4%	Growing
Educational Services	25,800	27,350	1,550	6.0	6.0%	Growing
Health Care and Social Assistance	51,200	57,750	6,550	12.7	12.7%	Growing
Ambulatory Health Care Services	24,450	29,550	5,100	20.8	20.9%	Growing
Hospitals	11,250	11,600	350	3.2	3.1%	Growing
Nursing and Residential Care Facilities	8,150	8,400	250	3.0	3.1%	Growing
Social Assistance	7,350	8,200	850	11.4	11.5	Growing
Arts, Entertainment, and Recreation	8,150	9,700	1,550	19.4	13.9%	Growing
Accommodation and Food Services	28,750	30,650	1,900	6.7	6.6%	Growing
Other Services (except Government)	14,150	15,450	1,300	9.1	9.2%	Growing
Government	14,350	15,150	800	5.3	5.5%	Growing
Total Federal Government Employment	1,950	1,900	-50	-3.3	-2.5%	Declining
State Government, Excluding Education and Hospitals	1,300	1,200	-100	-7.3	-7.6%	Declining
Local Government, Excluding Education and Hospitals	11,100	12,050	950	8.3	8.6%	Growing
Federal Government, Excluding Post Office	900	900	0	0.8	0	Stable
Total Self Employed and Unpaid Family Workers, All Jobs	18,700	19,950	1,250	6.5	6.6%	Growing
Total All Industries	302,150	323,550	21,400	7.1	7.0%	Growing

Source: 2022-2032 Industry Employment Projections, NJ Department of Labor and Workforce Development

Lands Most Appropriate for Affordable Housing

An analysis was conducted to determine which areas of the Borough could accommodate developments that address affordable housing need. This analysis reviews the Borough's existing zoning and planned zoning changes and outlines the Borough's capacity to accommodate residential and non-residential growth projections. The following are included:

- An analysis of the available existing and planned infrastructure;
- The projected demand for types of uses permitted by zoning based on present and anticipated future demographic characteristics of the Borough and anticipated land use patterns; and
- Factors, such as environmental conditions, that present constraints on development.

Infrastructure

Water and Sewer

The Borough of Belmar is located within public water and sewer service areas. Sewer service is provided by the South Monmouth Regional Sewerage Authority, which directs wastewater to a secondary treatment plant located in Wall Township. Public water is provided by the Belmar Water Department which owns and operates the potable water system within the Borough. Water for public consumption is drawn from four (4) wells tapping into the Englishtown Aquifer and one (1) purchased surface water source.

Anticipated Demand and Land Use Patterns

The Borough of Belmar contains mainly residential neighborhoods, as well as a commercial Main Street corridor, a beach area, a marina and access to the Shark River and Shark River Inlet. According to NJTPA population estimates projected to 2050, it is anticipated that the Borough will grow to approximately 6,234 people (a 6.4 percent increase since 2023). As a fully built-out municipality, it is anticipated that Belmar will need to accommodate future population and employment growth as opportunities for redevelopment arise.

Residential

Currently, the Borough is predominantly zoned for Single Family housing in the R-36, R-40, R-50, R-70, R-75, and R-100 Single Family Residential Zones. The Planned Residential Development District for persons aged 55 and older allows a density of 11 dwelling units per acre and is a conditional use within the CBD-2 Zone. Apartments/ Residences are permitted on the second floor of a commercial or professional office structure in the CBD-1, CBD—2, B-C, MC-1, MC-2, and PO-75 Zone Districts. The Seaport Redevelopment Area allows for

residential dwellings restricted to the second floor or above where fronting on Main/ F Street or Route 35 or on a side street withing 50 ft. of Main/F Street or Route 35, unless located entirely within one hundred (100) feet of an adjacent residential zone and on property located within the Plan Area and previously zoned R-75.

Non-Residential

Belmar has a well-defined commercial area that runs the length of the Borough along Main Street. Buildings located in the Commercial district are typically two-stories in height, between two and three tenant spaces per lot or building. This area, with many positive aspects of downtown commercial corridors, has a variety of restaurants, salons, offices, and a couple of retail establishments. An additional commercial corridor can be found along the western side of Ocean Avenue, with a variety of restaurants and shops catering to beach-goers concentrated in specific blocks from 4th to 5th Avenues, 8th to 9th Avenues, 16th to 17th Avenues, and 18th to 19th Avenues. Given the built-out nature of the Borough, new commercial development will most likely take the place of existing tenants or will require some degree of redevelopment to occur on already developed sites.

Environmental Constraints

Belmar enjoys many natural environmental amenities, including the ocean, lake, dunes, river and inlet, and wetlands. In order for these environmentally sensitive features to retain their existing quality and perform vital ecosystem functions, the Borough must be conscious of its role as steward of its natural environment. Belmar is home to a stretch of coastline, bordered by the Shark River Inlet to the north and by Spring Lake Borough to the south. The Shark River forms the western and northern boundaries of the Borough, leading out to the Atlantic Ocean between Belmar and Avon by the Sea. Along this stretch of coastal zone there are limited pervious surfaces. Impervious surface contributes to negative environmental outcomes, particularly in coastal communities, by creating high velocity runoff and limiting groundwater recharge during storm events. Given these realities, the Belmar must conserve natural features such as dunes and wetlands that can absorb excess stormwater and help filter polluted runoff.

Historic

Belmar has a number of properties that are Eligible or Identified on the State Register of Historic places, however the Borough does not have any properties that are listed on either the National or State Register of Historic Places.

Existing Land Use Designations

The Borough's land use designations have been continually examined and updated through the Master Plan Reexamination process. The last Reexamination Report was adopted in August 2016.

The following districts comprise the Borough's **residential** zones:

Single-Family Residential Zones: R-100, R-75, R-70, R-50, R-40, R-36

The Borough has established six (6) single-family residential zones, which have similar principal, accessory, and conditional uses. The principal permitted uses in all districts are single family dwellings and community residences for the developmentally disabled and victims of domestic violence for 1-6 residents, municipal services and facilities, public parks and playgrounds, athletic fields, and swimming pools, and public libraries. Conditionally permitted uses in all zones include community residences for the developmentally disabled and victims of domestic violence for 7-15 residents, elementary and secondary schools, nursery schools, places of worship, public utilities. Bed and Breakfast Inns are permitted as a conditional use in the R-75, R-70, R-50, and R-40 Zone Districts.

The R-100 Zone has the largest minimum lot requirement of all residential zone in Belmar, with a minimum area requirement of 10,000 sq. ft. This zone is located primarily in the area around and including Inlet Terrace. The R-75 zone is the largest zone district in the Borough, encompassing much of the area east of the Main Street Central Business Districts from the Shark River Inlet to 11th Ave and along Ocean Avenue to 16th Ave. There are also small pockets of the R-75 zone west of Main Street. This zone has a minimum lot area of 7,500 sq. ft. for interior lots and 9,000 sq. ft. for corner lots. The R-70 zone district is located between 11th and 13th Avenues, west of B street and east of the CBD-2 Zone with a minimum lot area of 7,000 sq. ft. for interior lots and 8,400 sq. ft. for corner lots.

The R-50 zone has a minimum lot area of 5,000 sq. ft. for interior lots and 6,000 sq. ft. for corner lots. The R-40 requires a minimum lot area of 4,000 sq. ft. for interior lots and 5,500 sq. ft. for corner lots. The R-36 zone district permits a minimum lot area of 3,600 sq. ft. for interior lots and 4,950 sq. ft. for corner lots.

In addition to its residential zones, Belmar permits some form of residential development in **all non-residential zones** where the main purpose is to accommodate non-residential uses, but **where dwelling units are permitted by right as a principal use**. Permitted residential development in primarily non-residential zone districts includes:

Apartments/ Residences on the second floor of Commercial or Professional office structures are permitted in the CBD-1 Central Business District, CBD-2 Central Business District, B-C Beachfront Commercial District, MC-1 Marine Commercial District, MC-2 Marine Commercial District, and PO-75 Professional Office Zone District.

The Seaport Redevelopment Area allows for residential dwellings restricted to the second floor or above where fronting on Main/ F Street or Route 35 or on a side street withing 50 ft. of Main/F Street or Route 35, unless located entirely within one hundred

(100) feet of an adjacent residential zone and on property located within the Plan Area and previously zoned R-75.

CONSISTANCY WITH STATE PLAN

The Borough of Belmar remains consistent with the New Jersey State Development and Redevelopment Plan. The entirety of the Borough is classified as being in the State's PA-1 Metropolitan Planning Area. This Planning Area is intended to: provide for much of the state's future growth in compact development and redevelopment; revitalize cities, towns and neighborhoods, and in particular overburdened neighborhoods; address existing legacy issues such as air pollution, urban heat islands, lead contamination, Brownfields, urban highways, and combined sewer systems; prevent displacement and gentrification; promote growth that occurs in Centers, other appropriate areas that are pedestrian friendly, and in compact transit-oriented forms; rebalance urbanization with natural systems; promote increased biodiversity and habitat restoration; stabilize and enhance older inner ring suburbs; redesign and revitalize auto oriented areas; protect and enhance the character of existing stable communities. The PA-1 encourages redevelopment, including affordable housing.

The Borough of Belmar has published multiple public documents related to storm water planning, most notably, a stormwater management plan that outlines the proactive steps the Borough is taking to protect citizens and property from the adverse effects of stormwater flooding. The Borough of Belmar continues to follow NJDEP requirements regarding stormwater management.

The Borough of Belmar is one of the 36 New Jersey designated Transit Villages. The Borough is served by NJ Transit's North Jersey Coast Line, which connects Bay Head, New Jersey with Newark Penn Station, Secaucus Junction, and Penn Station New York. NJ Transit also operates two bus routes within the Borough; Route 317, which runs between Asbury Park and Center City Philadelphia, and Route 830, which runs between Asbury Park and Point Pleasant.

FAIR SHARE PLAN

Fair Share Obligation Summary

The Fourth Round (2025-2035) housing obligation is based upon the figures calculated in the NJ Department of Community Affairs Affordable Housing Obligations for the 2025-2035 (Fourth Round) Methodology. The Borough’s housing obligation is outlined in Table 23, below:

TABLE 23: FAIR SHARE OBLIGATION SUMMARY

Obligation Component	Number of Credits Required
Present Need	0
Prior Round Obligation (1987-1999)	59
Third Round “Gap” and Prospective Need (1999-2025)	145
Fourth Round Prospective Need (2025-2035)	43

The following sections outline how the Borough will comply with its Fair Share Obligation.

Lack of Developable Vacant Land

From the outset of the Mount Laurel affordable housing program, Belmar has continually had to contend with the reality that it is a built-out municipality with virtually no available developable vacant land upon which to construct new affordable housing units.

Given the Borough’s lack of sufficient vacant and developable land, the Borough’s ability to satisfy its Court-determined affordable housing obligation is limited. To demonstrate its continued lack of vacant developable land, the Borough has prepared an updated Vacant Land Adjustment analysis in accordance with N.J.A.C. 5:93:4.2, submitted as part of this plan as Appendix A. The Borough continues to exhibit a lack of vacant developable land, with redevelopment over time presenting itself as the principal vehicle for accomplishing projects with affordable housing. The prepared VLA illustrated a lack of vacant land and a Realistic Development Potential (RDP) of five (5) affordable units.

Satisfaction of the Borough’s Rehabilitation/Present Need Obligation

The Borough of Belmar’s rehabilitation obligation is zero (0) units for the Fourth Round period from 2025 to 2035.

Third Round Compliance Summary

Lack of Developable Vacant Land

The Borough’s cumulative 1999-2025 affordable housing obligation calculation does not factor in the availability of vacant and developable land within the Borough. Belmar

conducted an analysis of vacant developable land within the Borough pursuant to N.J.A.C. 5:93-4.2 and determined that the Borough was entitled to a vacant land adjustment that reduces the Borough's new construction obligation to ninety one (91) as part of the Borough's Cumulative Affordable Housing Obligation (Prior Round, Gap and Prospective Need).

The Court and Fair Share Housing Center's acceptance of the Borough's vacant land adjustment has established a Realistic Development Potential (RDP) of ninety one (91) units and an unmet need of 113 units within the Borough. N.J.A.C. 5:93-4.2(g) permits a municipality to address its RDP through any activity permitted to be used to satisfy a municipality's new construction obligation outlined in N.J.A.C. 5:93-5.

Satisfaction of the Borough's Realistic Development Potential

The Borough's Realistic Development Potential (RDP) is 91 units. The Borough proposed to address this RDP through the following inclusionary projects:

Existing Units

The Borough has required, through redevelopment efforts, the inclusion of 12 units located at 500 Main Street (2 units); 800 Main Street (4 units) and Tenth Avenue Associates (6 units). These units are constructed and occupied within the Borough.

Repetti Redevelopment Project

The Repetti project area is located on Block 87, Lots 1, 2, and 3, as identified on the tax maps of the Borough of Belmar. This site is located between 10th and 8th Avenue and Route 35 and the NJ Transit Line and W. Railroad Avenue. The Repetti redevelopment project includes a four-story building consisting of 198 residential units with a 15% set-aside. Twenty (20) low- and moderate-income units will be constructed on-site as part of this project and the redeveloper will provide a payment in lieu for the construction of 10 remaining units to be paid into the Borough's Affordable Housing Trust Fund.

Mark Built Redevelopment Area

The Mark Built project area is located on Block 56, Lots 1, 2, 4 and 6, and Block 57, Lot 4 and is comprised of the Block bounded by 6th Avenue, River Road and Main Street. The Mark Built redevelopment project includes 139 residential units and 24 affordable rental units.

Sackman Redevelopment Area

The Sackman project area is located on Block 75, Lots 4, 5 and 6. The Sackman redevelopment project includes 56 rental units including 46 market rate units and 10 affordable rental units.

613 Tenth Avenue Development

The 613 Tenth Avenue Development Project is located at Block 105 Lot 8 as identified on the Borough's tax maps. This site is located on the south side of 10th Avenue just east of Main

Street. The site is 0.26 acres in area. The 613 Tenth Avenue project includes twelve (12) units of which two (2) units are identified as available to low- and moderate-income households.

As the affordable units will be available as family rentals, the Borough has taken a bonus credit for up to twenty-five percent (25) of the Borough’s RDP can be bonus credits.

$RDP * 0.25 = \text{Max Rental Bonus}$

$91 * 0.25 = \mathbf{23 \text{ bonus credits}}$

TABLE 24: THIRD ROUND COMPLIANCE SUMMARY

Affordable Housing Mechanism	Units	Bonus Credits	Total Credits
Existing Units	12	-	12
Repetti Redevelopment Project	20	-	20
Mark Built Redevelopment Project	24	-	24
Sackman Redevelopment Area	10	-	10
613 Tenth Ave Development	2	-	2
Total	68	23	91
Realistic Development Potential			91

The Borough will ensure and require that thirteen percent (13%) of the low-income units will be made available to very low-income households and will satisfy the distribution requirement for both low- and moderate-income households and will comply with all UHAC requirements to ensure compliance with the required bedroom distribution. The Borough has demonstrated compliance with the maximum age-restricted requirements as well as the family rental requirements. All the affordable housing units will be affirmatively marketed and administered.

All the proposed projects included within this report to meet the Borough’s affordable housing obligation are located within a half mile of the NJ Transit Stop along the New Jersey Coastline. All the properties are located within the New Jersey State Development and Redevelopment Plan’s Planning Area 1 (PA-1), the Metropolitan Planning Area, where redevelopment including affordable housing is encouraged. Within a half mile to the north and west of the project sites is the Shark River and associated marina activities. To the east of all subject sites is the Atlantic Ocean and Belmar Beach and Boardwalk. All sites are located within the Coastal Area Facilities Review Act (CAFRA) jurisdiction, which will require any redevelopment activity to obtain a CAFRA permit for the proposed development applications. All the sites maintain access to public sewer and water.

There are no wetlands or special flood hazard areas on the subject sites, therefore all the projects included herein are available, suitable, developable and approvable in accordance with N.J.A.C. 5:93-5.3.

Satisfaction of the Borough's Unmet Need

The Borough's unmet need was 113 units based on the remaining Prior Round Obligation and Gap and Prospective Need or Round 3 Obligation (1999-2025). The Borough adopted a Mixed-Use District Inclusionary Overlay Zone (MU-O) which included the properties that currently front on both the east and west side of Main Street and extends to the west to Route 35. The Overlay Zone permits:

- Retail/commercial on ground level with residential units above; no residence on ground level; townhouse units are permitted in the rear of the mixed-use building. Any mixed-use development requires a mandatory 20% set aside for affordable housing. All affordable housing units shall be two- and three- bedroom units.
- Essential services
- Municipal facilities, public parking lots, public parks, and walkways deemed necessary and appropriate by the governing body.
- All non-residential uses permitted in the Seaport Redevelopment Plan

Conditional Uses within the MU-O Zone Include:

- Townhouses attached with individual connecting walls.
- Bed and Breakfast

Development within the MU-O Zone is allowed two and one-half (2.5) stories over retail at the street level for a total of 3.5 stories and can increase to four (4) stories total twelve (12) feet back off the street line.

Fourth Round Obligation Compliance

Lack of Developable Vacant Land

To demonstrate its continued lack of vacant developable land, the Borough has prepared an updated Vacant Land Adjustment analysis in accordance with N.J.A.C. 5:93:4.2, submitted as part of this plan as Appendix A. The Borough continues to exhibit a lack of vacant developable land, with redevelopment over time presenting itself as the principal vehicle for accomplishing projects with affordable housing.

During the Third-Round settlement process, the Borough agreed to include Block 66, Lots 11 and 12, and Block 76, Lots 1, 4, 5, 6, 13, and 14, the "7th Ave Site," as a potential site for inclusionary development within the Fourth Round. Belmar identified this one (1) site as generating an RDP. The prepared VLA illustrated a lack of vacant land and calculated a Realistic Development Potential (RDP) of ten (10) affordable units based upon the agreed upon settlement agreement. Additionally, another challenge to the Borough's Housing Element and Fair Share Plan was filed by 101 4th Avenue LLC to include Block 40, Lots 1, 2,

and 17 as a site for inclusionary development. The Borough agreed to include this site in the VLA, generating an RDP of four (4) units, for a total Realistic Development Potential (RDP) of 14 units for the Fourth Round.

Satisfaction of the Borough's Realistic Development Potential

The Borough's Realistic Development Potential is fourteen (14) units. The Borough proposes to address this RDP through the creation of ten (10) affordable units at the 7th Avenue Site and four (4) bonus credits for being located within a half mile of the NJ Transit Stop along the North Jersey Coastline.

7th Avenue Site

The proposed 7th Avenue Site project will consist of Block 66, Lots 11 and 12, and Block 76, Lots 3, 4, 5, and 6, located on both the north and south sides of 7th Avenue, west of Main Street. The project will consist of a four-story building, consisting of 48 total residential units with a 20% set aside for affordable housing units, allocated as 38 market rate units and 10 affordable housing units, is permitted on Block 76, Lots 3, 4, 5, and 6. A parking lot with a one-way access drive is permitted on Block 66, Lots 11 and 12. The project will also be eligible for four (4) bonus credits.

The Borough will ensure and require that thirteen percent (13%) of the low-income units will be made available to very low-income households and will satisfy the distribution requirement for both low- and moderate-income households and will comply with all UHAC requirements to ensure compliance with the required bedroom distribution. The Borough has demonstrated compliance with the maximum age-restricted requirements as well as the family rental requirements. All the affordable housing units will be affirmatively marketed and administered.

Satisfaction of the Borough's Unmet Need

The Borough's unmet need is 29 units based on the Fourth Round Obligation. The Borough proposes to utilize the following mechanisms to address its unmet need:

Mandatory Set-Aside Ordinance ("MSO")

The Borough established a Borough-wide Mandatory Set-Aside Ordinance ("MSO"). The MSO requires a 20 percent (20%) affordable housing set-aside for residential developments comprised of five or more dwelling units. The MSO requires that to the extent possible, in all inclusionary developments, low and moderate-income units should be integrated with market units. The Ordinance ensures that the MSO does not give any developer the right to any such rezoning, variance, redevelopment designation or other relief, or establish any obligation on the part of Belmar or its boards to grant such rezoning, variance, redevelopment designation or other relief. The ordinance is included in the Affordable Housing ordinance located in Appendix E.

Mixed Use District Overlay Zoning 2

The Borough will adopt a Mixed-Use District Inclusionary Overlay 2 Zone (MU-O2) which will include the properties located between 11th and 16th Avenues, west of W Railroad Avenue and east of State Routes 71 and 35. The Overlay Zone permits:

- Mixed Use consisting of business, office, and retail permitted uses permitted within the Seaport Redevelopment Area on ground level with residential units above; no residence on ground level; townhouse units are permitted in the rear of the mixed-use building. Any mixed-use development with five (5) or more dwelling units requires a mandatory 20% set aside for affordable housing. All affordable housing units shall be developed in accordance with UHAC requirements.
- Essential services
- Municipal facilities, public parking lots, public parks, and walkways deemed necessary and appropriate by the governing body.

Conditional Uses within the MU-O2 Zone Include:

- Townhouses attached with individual connecting walls.
- Bed and Breakfast

Development within the MU-O2 Zone is allowed two and one-half (2.5) stories over retail at the street level for a total of 3.5 stories and can increase to four (4) stories total, twelve (12) feet back off the street line. A copy of the MU-O2 Ordinance is enclosed in Appendix C.

State Route 35 Affordable Housing Overlay

The Borough will adopt a State Route 35 Affordable Housing Overlay Zone to allow for the creation of a multi-family housing building with a 20% set-aside for affordable housing on Block 117, Lots 6, 7, 8, and 9. Development within the SR35-AH is allowed to be four stories in height and have a density of 60 unit/acre. A copy of the SR35-AH Ordinance is enclosed in Appendix D.

Affordable Housing/Development Fee Ordinance

The Borough adopted a development fee ordinance in August 2023 for all new non-residential development and new non-inclusionary residential development. The ordinance also requires residential development fees be collected for all residential expansions that increase density pursuant to N.J.S.A. 40:55D-70d(5). The Borough adopted the new state model Affordable Housing and Development Fee Ordinance in January 2026. The ordinance can be found in Appendix E.

Plan Caps and Requirements

Family Units

Per COAH rule, a minimum of 50 percent of the actual affordable housing units, exclusive of

any bonus credits, created to address its prospective need affordable housing obligation through the creation of housing shall be available to families with children and otherwise in compliance with the requirements and controls established pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321). All of the Borough's affordable housing units will be available to families.

Rental Obligation

Per COAH rule, a minimum of 25 percent of the actual affordable housing units, exclusive of any bonus credits, created to address its prospective need affordable housing obligation through the creation of housing shall be rental housing, and at least half of that number shall be available to families with children. All of the Borough's affordable housing units will be rentals and will be available to families.

Maximum Age-Restricted Units

Per COAH rule, the maximum number of age-restricted affordable units to address its fourth-round obligation is 30 percent, exclusive of bonus credits. The Borough of Belmar is not proposing any age-restricted units.

APPENDICES

Appendix A. Vacant Land Adjustment

Vacant Land Inventory and Analysis Report

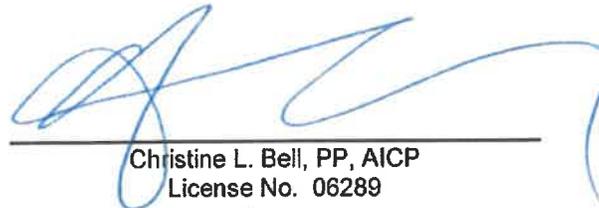
Prepared for:
Borough of Belmar
Monmouth County, New Jersey

January 2026

Prepared By:



788 Wayside Road
Neptune, New Jersey 07753
(732) 922-9229



Christine L. Bell, PP, AICP
License No. 06289

I. INTRODUCTION

As noted in N.J.A.C. 5:93, “there may be instances where a municipality can exhaust an entire resource (land, water or sewer) and still not be able to provide a realistic opportunity for addressing the need for low and moderate income housing.” In recognition of the need to provide for the opportunity to adjust municipal affordable housing obligations, N.J.A.C. 5:93 outlines standards and procedures for municipalities to demonstrate that a municipal response to its housing obligation is limited by lack of land, water or sewer. This report outlines the vacant land analysis methodology and summarizes the results of the vacant land analysis prepared on behalf of the Borough of Belmar by Leon S. Avakian Inc (Avakian).

Previous Housing Rounds and Vacant Land Analyses

The Borough of Belmar is a fully developed shore community located in southern Monmouth County. Belmar participated in prior Fair Share Housing Rounds.

Current Housing Round and Vacant Land Assessment

Given the Borough’s relative lack of vacant and developable land, the Borough’s ability to satisfy its Court-determined affordable housing obligation is limited. To demonstrate its continued lack of vacant developable land, the Borough has prepared an updated Vacant Land Adjustment analysis in accordance with N.J.A.C. 5:93:4.2, which includes the following components:

- An inventory of all vacant parcels in accordance with N.J.A.C. 5:93-4.2(b), included as Attachment A.
- A Vacant Land Map depicting vacant properties within the Borough, included as Attachment B.
- An existing land use map for the Borough in accordance with N.J.A.C. 5:93-4.2(a), included as Attachment C.

The realistic development potential (RDP) of the Borough’s vacant land was analyzed in accordance with the provisions of Subchapter 4 of N.J.A.C. 5:93 based on the most recently available data. After following the procedures as outlined, the analysis shows that the Borough has two (2) sites available for development, and consequently, has an RDP new construction obligation of fourteen (14) affordable units.

II. PERMITTED EXCLUSIONS

N.J.A.C. 5:93 establishes criteria by which sites, or portions thereof, in a municipal land inventory may be excluded from a municipality’s RDP. Environmentally sensitive areas, including flood hazard areas, areas within Environmentally Sensitive Planning Areas according to the State Plan Policy Map, areas outside of the Sanitary Sewer Service Area (SSA), wetlands, and areas characterized by steep slopes of greater than 15 percent that render a site unsuitable for affordable housing may be excluded from consideration. In addition, small, isolated lots lacking sufficient acreage to generate affordable housing set-aside as part of an inclusionary

development may also be excluded. Vacant lots under development or properties for which site plan approval has been granted may also be excluded. Finally, landlocked parcels or sites with limited or no access may also be excluded from the calculation of the Borough's RDP.

The vacant land inventory table in Attachment A provides a parcel-by-parcel description of exclusions that have been made pursuant to N.J.A.C. 5:93.

It should be noted that the Borough is permitted to reserve up to three percent of its total developed and developable acreage, less existing active municipal recreation areas, for active municipal recreation and exclude this acreage from consideration as potential sites for low and moderate income housing pursuant to N.J.A.C. 5:93-4.2(e)4. Any such site designated for active recreation in accordance with this section must be purchased and limited to active recreational purposes within one year of substantive certification. Although this calculation has not been completed as part of this analysis, the Borough reserves the right to revise this analysis to complete this calculation.

III. Summary and Conclusion

Based on the procedures for municipal adjustments provided in N.J.A.C. 5:93, the Borough of Belmar's RDP has been determined to be fourteen (14) affordable units. This finding is consistent with the Borough's current development conditions.

ATTACHMENT A: VACANT LAND INVENTORY **TABLE**

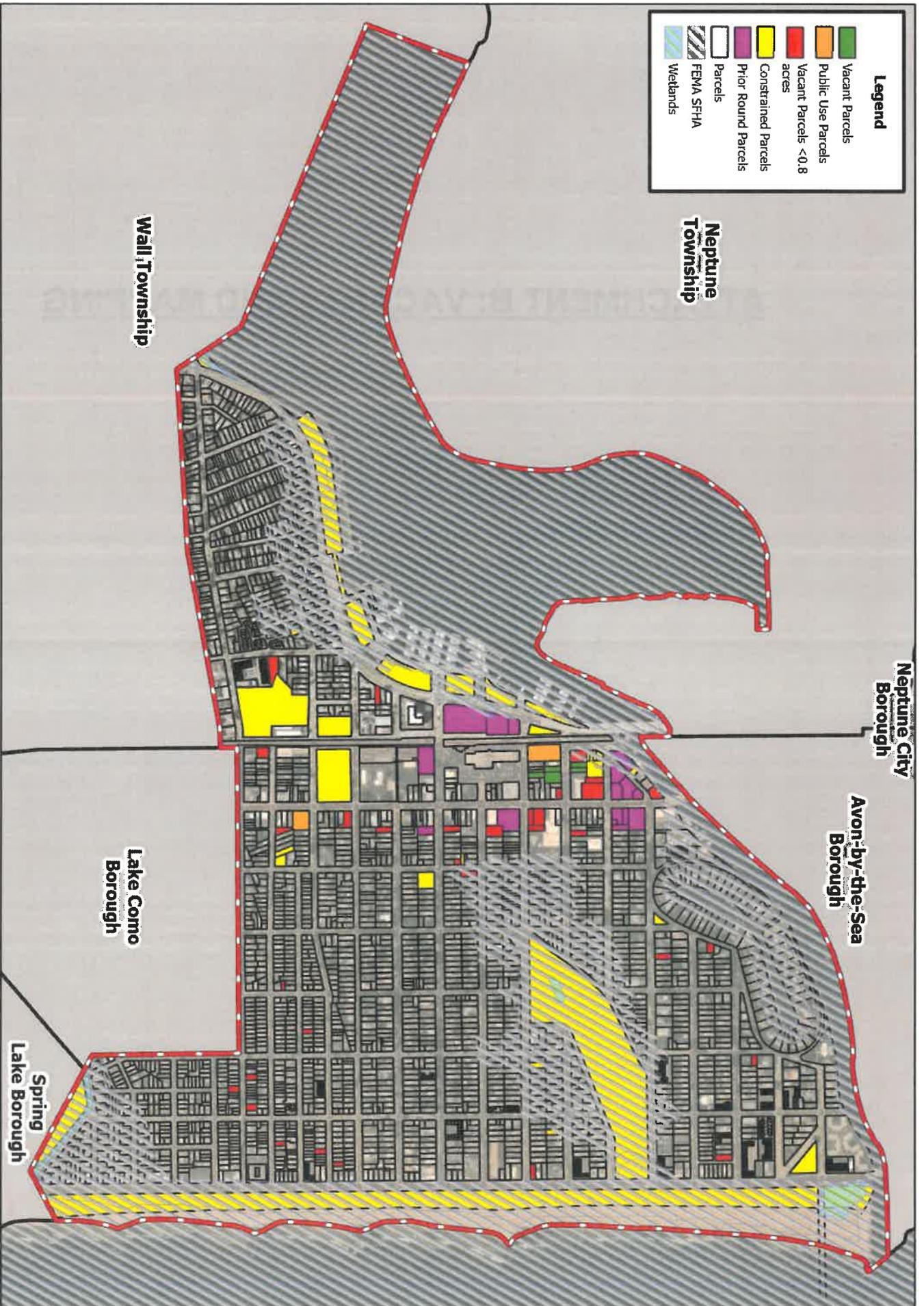
Borough of Belmar
Vacant Land Analysis
June 2015

Block	Lot	Class	Location	Owner Name	Area	Constrained Acres	Unconstrained Acres	Developable Acres	Reason for Exclusion	Total Units	Affordable Units
173	20	1	18TH AVE-LAND LOCKED	UNKNOWN EASTSIDE BUILDERS %BERNER	0.00801	0	0.00801	0	0 developable acreage less than 0.8	0	0
167	12	1	SIXTEENTH AVE	UNKNOWN OWNER C/O BELMAR BORO	0.009774	0	0.009774	0	0 developable acreage less than 0.8	0	0
136	6.01	1	707.5 THIRTEENTH AVE	UNKNOWN % EASTSIDE BUILDERS&BERNER	0.013772	0	0.013772	0	0 developable acreage less than 0.8	0	0
12	30.01	15C	RIVER AVE	BORO OF BELMAR	0.018164	0	0.018164	0	0 Located within SFHA, developable acreage less than 0.8	0	0
106	6.01	1	709 TENTH AVE	B&H BELMAR 2010, LLC	0.02	0	0.02	0	0 developable acreage less than 0.8	0	0
62	1	15C	SEVENTH AVE & B ST	BORO OF BELMAR	0.022499	0	0.022499	0	0 On ROSI	0	0
86	3	15C	807.5 MAIN ST	BORO OF BELMAR	0.034438	0	0.034438	0	0 alleyway	0	0
51	1	15C	FIFTH AVE & B ST	BORO OF BELMAR	0.056693	0	0.056693	0	0 On ROSI	0	0
55	12	4A	614 SIXTH AVE	BELMAR MAIN STREET, LLC	0.0574	0	0.0574	0	0 Eastport Development - third round site	0	0
96	4	15C	919 MAIN ST	BORO OF BELMAR	0.060836	0	0.060836	0	0 alleyway	0	0
84	20.05	15C	510.5 NINTH AVE REAR	BORO OF BELMAR	0.061163	0	0.061163	0	0 located within SFHA, alleyway	0	0
66	5	15C	RIVER AVE	BORO OF BELMAR	0.065138	0	0.065138	0	0 Located within SFHA, municipal parking lot	0	0
66	7	15C	RIVER AVE	BORO OF BELMAR	0.065139	0	0.065139	0	0 Located within SFHA, municipal parking lot	0	0
143	22	1	1403 C ST	SALANDRA, GUIDO	0.066359	0	0.066359	0	0 developable acreage less than 0.8	0	0
95	21	15C	905 E ST	BORO OF BELMAR	0.068871	0.051416	0.017455	0	0 Located partially within SFHA, developable acreage less than 0.8	0	0
95	22.01	1	903 E ST	WALSH, THOMAS & GLORIA	0.068871	0.013312	0.055559	0	0 Located partially within SFHA, developable acreage less than 0.8	0	0
120	17.03	1	100 THIRTEENTH AVE	LONSKI, DAVID P & JEANNINE	0.087236	0	0.087236	0	0 developable acreage less than 0.8	0	0
132	21	1	308 FOURTEENTH AVE	PHILLOWER, MARK B	0.09	0	0.09	0	0 developable acreage less than 0.8	0	0
140	18	1	104 FIFTEENTH AVE	NEPPEL, ARLENE A	0.091829	0	0.091829	0	0 developable acreage less than 0.8	0	0
66	8	15C	608 RIVER RD	BORO OF BELMAR	0.095657	0.086872	0.008785	0	0 developable acreage less than 0.8	0	0
66	4	15C	713 SIXTH AVE	BORO OF BELMAR	0.106386	0.106386	0	0	0 Belmar Arts Council	0	0
76	1	1	701 MAIN ST	701 MAIN URBAN RENEWAL, LLC	0.11	0	0.11	0	0 municipal parking lot, located within SFHA	0	0
130	6	1	105 THIRTEENTH AVE	CHOUHARY, AMOD & RATNA	0.11	0	0.11	0	0 developable acreage less than 0.8	0	0
21	7	1	202 B ST	MERKLER, WILLIAM & MCALOON, SHANNON	0.114785	0	0.114785	0	0 developable acreage less than 0.8	0	0
237	5	1	1603 RIVERVIEW TER	COLLINS, MARK B	0.115687	0	0.115687	0	0 developable acreage less than 0.8	0	0
33	6.03	1	405 RIVER AVE	YARUSI, BRETT & LAURIE	0.119331	0	0.119331	0	0 developable acreage less than 0.8	0	0
138	3	1	902 THIRTEENTH AVE	BLASER, ANTONIO & PATRICIA	0.12	0.12	0	0	0 Located within SFHA, developable acreage less than 0.8	0	0
151	19.02	1	214 SIXTEENTH AVE	CHIURAZZI, ANDREW	0.123965	0	0.123965	0	0 developable acreage less than 0.8	0	0
161	6	1	213 SIXTEENTH AVE	BELMAR VF REALTY, LLC, ETAL	0.137737	0	0.137737	0	0 developable acreage less than 0.8	0	0
151	26	1	200 SIXTEENTH AVE	SESSA-KOPCHA FAMILY LLC	0.137742	0	0.137742	0	0 developable acreage less than 0.8	0	0
70	19.01	15C	711 OCEAN AVE	S. MONMOUTH REGIONAL SEWERAGE AUTH	0.145731	0	0.145731	0	0 Sewage Treatment Plant	0	0
44	1	15C	5TH AVE & D ST	BORO OF BELMAR	0.147329	0	0.147329	0	0 On ROSI	0	0
57	4.01	15C	RIVER AVE	BORO OF BELMAR	0.16	0.16	0	0	0 Located within SFHA, developable acreage less than 0.8	0	0
135	13	1	614 FIFTEENTH AVE	WALSIFER HOLDINGS, LLC	0.162339	0	0.162339	0	0 developable acreage less than 0.8	0	0
115	8	15C	613 ELEVENTH AVE	BORO OF BELMAR	0.166439	0	0.166439	0	0 Firehouse	0	0
43	14	1	410 FIFTH AVE	SILVESTRI, JOSEPH P	0.17	0	0.17	0	0 developable acreage less than 0.8	0	0
70	7	1	111 SEVENTH AVE	LASALANDRA, ANDREA & VITO	0.17	0.17	0	0	0 Located within SFHA, developable acreage less than 0.8	0	0
71	11	1	216 EIGHTH AVE	FORTUNATO, KEVIN J & NILSA TOPPE	0.17	0	0.17	0	0 Located within SFHA, developable acreage less than 0.8	0	0
56	4	4A	501 MAIN ST	EPK ENTERPRISES OF BELMAR, LLC	0.171	0	0.171	0	0 Mark Built - third round site	0	0
55	6	1	500 MAIN ST	500 MAIN STREET PARTNERS URBAN REINE	0.172176	0	0.172176	0	0 parking lot for development at 500 Main - third round site	0	0
55	13.02	1	612 SIXTH AVE	EPK ENTERPRISES OF BELMAR, LLC	0.172176	0	0.172176	0	0 Eastport Development - third round site	0	0
65	16	15C	610 SEVENTH AVE	BORO OF BELMAR	0.172178	0	0.172178	0	0 Firehouse	0	0
75	5	1	710 MAIN ST	75 RAINEY, LLC	0.172178	0	0.172178	0	0 This is the Sackman/ St. Rose Site. 3 sites combines are 0.69 acres	0	0
75	6	1	614 EIGHTH AVE	75 RAINEY, LLC	0.172178	0	0.172178	0	0 This is the Sackman/ St. Rose Site. 3 sites combines are 0.69 acres	0	0
94	11	15C	519 NINTH AVE	BORO OF BELMAR	0.172178	0.172178	0	0	0 Firehouse	0	0
55	9	4A	506 MAIN ST	G.S.K., LLC	0.1722	0	0.1722	0	0 Eastport Development - third round site	0	0
117	8	1	1104 RIVER RD	COLGATE DESIGN CORP	0.173985	0	0.173985	0	0 developable acreage less than 0.8	0	0
95	14	15C	612 TENTH AVE	BORO OF BELMAR	0.183655	0	0.183655	0	0 municipal parking lot	0	0
66	2	15C	703 SIXTH AVE	BORO OF BELMAR	0.189395	0	0.189395	0	0 municipal parking lot	0	0
30	2	15C	101 THIRD AVE	BORO OF BELMAR	0.190083	0	0.190083	0	0 Storage Building	0	0
135	17	15C	604 FIFTEENTH AVE	BORO OF BELMAR	0.190646	0	0.190646	0	0 On ROSI	0	0
135	18	15C	600 FIFTEENTH AVE	BORO OF BELMAR	0.21672	0	0.21672	0	0 On ROSI	0	0
57	1	1	700 RIVER AVE	KLEIN REALTY, INC.	0.221932	0.013375	0.208557	0	0 parking lot for Kleins restaurant	0	0

ATTACHMENT B: VACANT LAND MAPPING

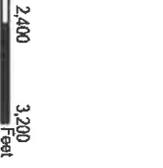
Legend

- Vacant Parcels
- Public Use Parcels
- Vacant Parcels <0.8 acres
- Constrained Parcels
- Prior Round Parcels
- Parcels
- FEMA SFHA
- Wetlands



LEON S. AVAKIAN, Inc.
Consulting Engineers

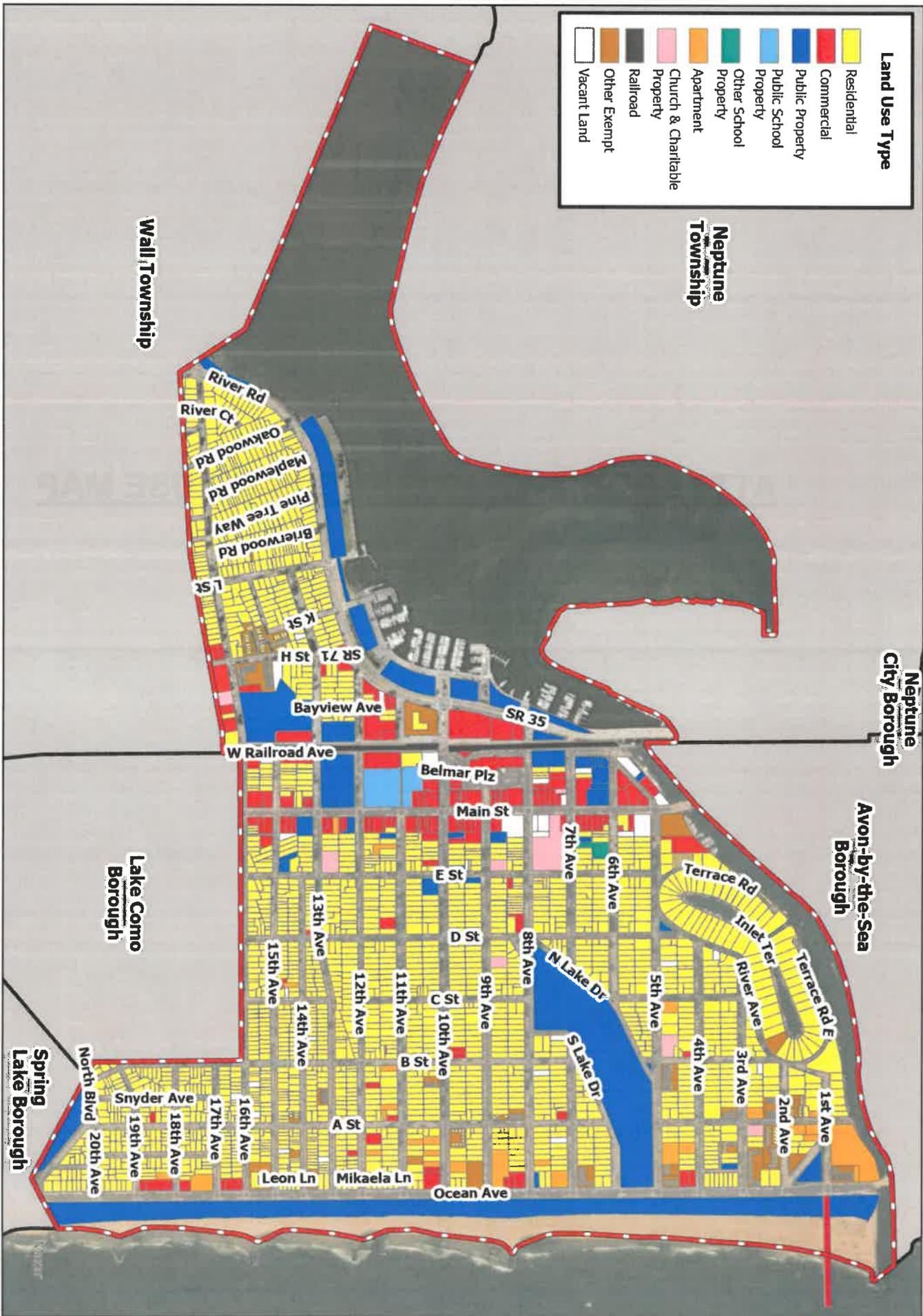
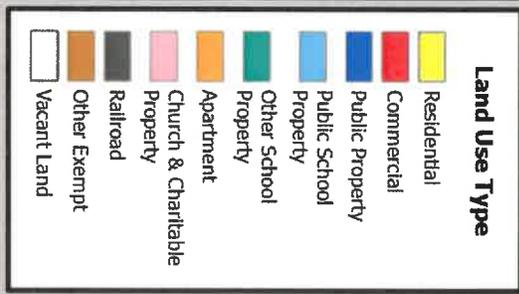
This map was developed using Aerial Imagery. Department of Environmental Protection, Geographic Information System, State of New Jersey. All other necessary products have not been verified by A/E/C/P and are not intended for use as such.



Vacant Land and Constraints
 Vacant Land Adjustment
 Borough of Belmar
 Monmouth County, New Jersey

SCALE: 1:24,000
 DATE: 03/13/2026
 REVISED: June 5, 2025

ATTACHMENT C: EXISTING LAND USE MAP



LEON S. AVAKIAN, Inc.
Consulting Engineers
 This map was developed using New Jersey Department of Environmental Protection Geographic Information System data. The information is provided as a service and is not intended to be used for any other purpose without the express written consent of the provider.

0 400 800 1,600 2,400 3,200 Feet

Existing Land Use
 Vacant Land Assessment
 Borough of Belmar
 Monmouth County, New Jersey

Source: LSA, NADIS, and Monmouth County GIS
 Revised: April 23, 2025

Appendix B. Spending Plan

BELMAR BOROUGH
AFFORDABLE HOUSING TRUST FUND SPENDING PLAN
JANUARY 2026

The Borough has prepared a Fourth Round Housing Element and Fair Share Plan that advances a comprehensive strategy for meeting its regional share of affordable housing need in accordance with the intent of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) and the Fair Housing Act (N.J.S.A. 52:27D-301), and in accordance with the procedural and substantive requirements of N.J.A.C. 5:93-1 et seq. and N.J.A.C. 5:91-1 et seq. The Borough has actively participated in the Fourth Round compliance process.

The Borough adopted a new Development Fee Ordinance on August 8, 2023 pursuant to a Consent Order entered by the Court In the Matter of the Application of the Borough of Belmar, in the Declaratory Judgment proceeding, in the Superior Court of New Jersey, Law Division: Monmouth County, Docket No. MON-L-655-23. The Development Fee Ordinance, has been codified as part of the Borough's Revised General Ordinances, and authorizes the Borough to regulate the collection of residential and non-residential development fees as revenue for deposit into a separate interest-bearing Affordable Housing Trust Fund account which funds are to be expended in accordance with a Spending Plan approved by the Court. The sections below outline the Borough's plan for the administration and use of collected development fee revenues as per the requirements of N.J.A.C. 5:93-5.1(c)

I. Projected Revenues 2025 through 2035

A projection of anticipated revenues to be collected during the tenure of the Fourth Round has been calculated based on the collected revenues in the trust fund through August 2025. In the year between August 2024 and August 2025, the Borough collected \$123,104.05 in development fees. The current interest rate of the trust fund account is 0.40%.

Using the development fees collected from August 2024 through August 2025 provides a reasonable estimate for the anticipated annual development fee revenues through 2035. The Borough also anticipates collecting \$ 2,060,890.80 in revenue from payments in lieu of construction of affordable units. We estimate that Belmar should generate approximately \$1,395,351.41 in development fees and interest through 2035.

II. Administrative Mechanisms for Collecting and Distributing Revenues

The Borough's Development Fee Ordinance will be recorded in Belmar's General Ordinances. Procedures for collection, administration, and distribution of development fees as affordable housing trust fund revenues are fully established in this section. The Borough's ordinance complies with P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7).

The Development Fee Ordinance covers the following general topics:

1. Determination of residential development fees;
2. Determination of non-residential development fees;
3. Fee collection procedures;
4. Operation of the affordable housing trust fund;
5. Permitted uses of funds;
6. Monitoring; and
7. Ongoing collection of fees as related to affordable housing compliance.

III. Anticipated Use of Development Fees

As per the Borough's ordinance, development fees shall be used for the sole purpose of providing low- and moderate-income housing. Funding mechanisms can be set up as a grant or revolving loan program to cover costs associated activities including, but not limited to, the following:

1. Preservation or purchase of housing for maintaining or implementing affordability controls;
2. Rehabilitation grants;
3. New construction of affordable housing units and related costs;
4. Implementing accessory apartment, market to affordable, or regional housing partnership programs;
5. Conversion of existing non-residential buildings to create new affordable units;
6. Green building strategies designed to be cost saving and in accordance with accepted national or State standards;
7. Purchase of land or improvement of land to be used for affordable housing;
8. Extensions or improvements of roads and infrastructure to affordable housing sites;
9. Financial assistance designed to increase affordability; and
10. Administration necessary for implementation of the Housing Element and Fair Share Plan.

(A) Anticipated Rehabilitation

As discussed in the Housing Element and Fair Share Plan, Belmar has a rehabilitation present need obligation of zero (0) units in the Fourth Round. However, the Borough had a 60-unit obligation in the Third Round and anticipates spending a total of \$720,000 to address its Third-Round rehabilitation obligation. The Borough anticipates spending \$12,000 per unit and will provide funds to rehabilitate 30 units each year in years 2025 and 2026.

(B) New Construction Projects

The Borough has allocated \$1,500,000 towards a municipally sponsored 100% supportive special needs housing project and will explore opportunities for a 100%

municipally sponsored project, or a supportive needs housing program throughout the Fourth Round and intends to identify a 100% municipally sponsored project, or a supportive needs housing program for receipt of the Spending Plan allocation and to spend the funds prior to the conclusion of the Fourth Round. The Borough will explore partnering with a group home provider such as ARC of Monmouth County to establish group homes serving developmentally disabled adults. The Borough shall include an update on (1) its identification of a potential site and (2) status of ongoing conversations with providers in every annual report pursuant to the agreement with FSHC, either by way of update on the AHMS system, or by an annual narrative report filed under the Fourth Round case caption.

(C) Affordability Assistance Requirement

The Borough anticipates dedicating \$1,066,651.00 to its affordability assistance program.

As per the requirements of N.J.A.C. 5:93-8.16, at least thirty (30%) percent of all development fees and interest earned shall be used to provide low- and moderate-income households in affordable units with affordability assistance. One-third of the required affordability assistance shall specifically be used to provide affordability assistance to very low-income households (i.e. those households earning thirty percent or less of regional median income).

The projected minimum affordability assistance requirement through 2035 is calculated as follows:

Table 1. Minimum Affordability Assistance

AHTF Balance as of 8/18/2025	\$190,054.39
Payments in Lieu of Construction	\$2,060,890.80
Projected development fees plus interest, 2025 - 2035	\$1,395,351.41
PROJECTED TOTAL	\$3,646,296.60
Projected minimum affordability assistance requirement (30%)	\$ 1,093,888.98
Projected minimum required for very low-income households (1/3 of total affordability assistance)	\$ 364,629.66

Affordability assistance programs may include down payment assistance; security deposit assistance; low interest loans; rental assistance; assistance with homeowner’s association or condominium fees and special assessments; and assistance with emergency repairs.

Affordability assistance to households earning thirty (30%) percent or less of median

income may further include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income.

(D) Administrative Expenses

The Borough of Belmar may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan. Also in accordance with N.J.A.C. 5:93-8.16, the Borough can use up to twenty (20%) percent of all revenues collected from development fees on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, rehabilitation program, a Housing Element and Fair Share Plan, an affirmative marketing program, income qualification of households, monitoring the turnover of sale and rental units, and/or compliance with monitoring requirements.

The projected maximum administrative expenditures through 2035 are calculated as follows:

Table 2. Maximum Administrative Expenditures

Projected development fees 2025 - 2035	\$1,272,075.18
PROJECTED TOTAL	\$1,272,075.18
Projected maximum administrative expenditures (20%)	\$254,415.04

IV. Schedule for New or Rehabilitated Housing Units

The schedule for new or rehabilitated housing units is documented by year in the Projected Expenditures table attached to this Spending Plan.

V. Expenditure Schedule

The schedule for expenditures by year can be found in Table 3 attached to this Spending Plan.

VI. Excess of Funds

In the event that more funds than anticipated are collected, these excess funds will be used to fund additional rehabilitation and/or affordability assistance programs.

VII. Barrier Free Escrow

Collection and distribution of barrier free funds shall be consistent with the Borough’s Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5. A process describing

the collection and distribution procedures for barrier free escrow funds pursuant to N.J.A.C. 5:97-8.5 is detailed within the Affordable Housing Ordinance.

VIII. In Sum

Belmar has prepared this Spending Plan in support of the implementation of its Fourth Round Housing Element and Fair Share Plan, and in accordance with the administrative requirements of N.J.A.C. 5:93-1 et seq. The Borough has a balance of \$190,053.39 as of August 18, 2025, and anticipates an additional \$3,456,242.21 in revenues, including interest, by December 31, 2035. The Spending Plan represents the Borough's intended use of development fee revenues that are collected in its Housing Trust Fund, illustrating how the Borough will use these funds to provide for its fair share of regional affordable housing need. This will leave a balance of \$77,989.75 which the Borough will reserve in the event that an additional affordable housing project becomes necessary. The Spending Plan represents the Borough's intended use of development fee revenues that are collected in its Housing Trust Fund, illustrating how the Borough will use these funds to provide for its fair share of regional affordable housing need.

Appendix C. Mixed Use Overlay Zoning District

ORDINANCE 2026-04

BOROUGH OF BELMAR - COUNTY OF MONMOUTH

ORDINANCE AMENDING CHAPTER 40, ARTICLE V ZONING DISTRICTS, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BELMAR

BE IT HEREBY ORDAINED by the Mayor and Council of the Borough of Belmar in the County of Monmouth, State of New Jersey that the Borough’s Land Development Ordinance at Chapter 40, Article V Zoning Districts, Sections 5.2 is hereby amended and Section 5.8 is hereby created by a new overlay zoning district within the southwestern portion of the Borough entitled “Mixed Use Overlay Zone 2 (MU-O2). The purpose of the MU-O2 would be to allow for a combination of mixed uses between 11th and 16th Avenues, west of West Railroad Avenue and East of State Routes 71 and 35, including commercial, retail, and residential uses.

Mixed Use Overlay 2 (MU-O2)

- A. Purpose.** The purpose of the MU-O2 Zone is to allow for a combination of mixed uses between 11th and 16th Avenues, west of West Railroad Avenue and East of State Routes 71 and 35 as indicated in the attached map, including commercial, retail, and residential uses.
- B. Permitted Principal Uses (Land and Building)**
 - 1. Mixed Use consisting of business, office, and retail permitted uses permitted within the Seaport Redevelopment Area on ground level with residential units above; no residence on ground level; townhouse units are permitted in the rear of the mixed-use building. Any mixed-use development with five (5) or more dwelling units requires a mandatory 20% set aside for affordable housing. All affordable housing units shall be developed in accordance with UHAC requirements.
 - 2. Essential services
 - 3. Municipal facilities, public parking lots, public parks, and walkways deemed necessary and appropriate by the governing body.
- C. Permitted Accessory Uses**
 - 1. Off-street parking and loading facilities
 - 2. Signs, conforming to the provisions of the development regulations
 - 3. Fences and walls
- D. Conditional Uses.** Other uses permitted upon site approval of the Planning Board
 - 1. Townhouse attached with individual connecting walls
 - 2. Bed and Breakfast
- E. Area and bulk requirements**

Minimum Lot Area:	7,000 square feet
Minimum Lot Frontage:	50 feet
Minimum Lot Width:	50 feet
Minimum Lot Depth:	125 feet
Minimum Front Yard:	0 feet
Minimum Side Yard:	0 feet
Minimum Rear Yard:	0 feet
Maximum Building Height:	3.5 stories (42 ft.) at the street line; 4 stories (48 ft) setback 12 feet from the street line
Maximum Lot Coverage:	80%
Buffer to existing Residential Use or Zone:	10 ft.

F. Off-street parking and Loading requirements

- 1. All residential development shall comply with the Residential Site Improvement Standards for all residential development.**
- 2. Non-residential use will not be required to have off-street parking.**

G. Design Criteria: In accordance with the Design Guidelines set forth within the Seaport Redevelopment Plan

SECTION 2

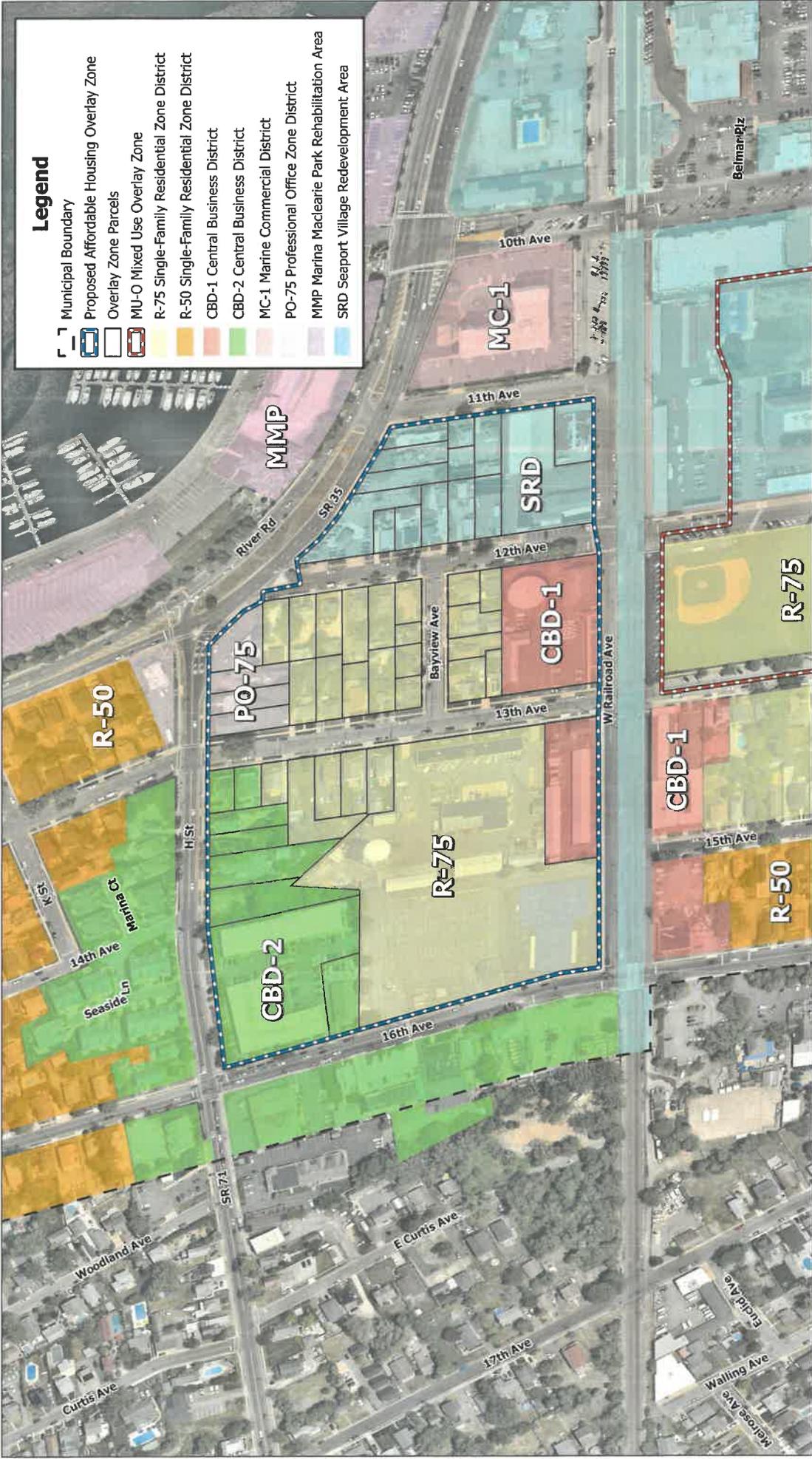
All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency.

SECTION 3

If any section, paragraph, subdivision, clause or provision of this ordinance is adjudged to be invalid, such adjudication shall apply only to section paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

SECTION 4

This ordinance shall take effect upon its passage and publication and review according to law.



Source: LSA, NUGIN, and Monmouth County GIS. Revised: November 24, 2025

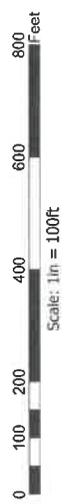
This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized or endorsed.

Proposed Affordable Housing Overlay Zone

Borough of Belmar

Monmouth County, New Jersey

LEON S. AVAKIAN, Inc.
Consulting Engineers



**Appendix D. State Route 35 Affordable Housing Overlay Zone
District**

ORDINANCE 2026-03

BOROUGH OF BELMAR - COUNTY OF MONMOUTH

ORDINANCE AMENDING CHAPTER 40, ARTICLE V ZONING DISTRICTS, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BELMAR

BE IT HEREBY ORDAINED by the Mayor and Council of the Borough of Belmar in the County of Monmouth, State of New Jersey that the Borough’s Land Development Ordinance at Chapter 40, Article V Zoning Districts, Sections 5.2 is hereby amended and Section 5.9 is hereby created by a new overlay zoning district along Route 35 within the Borough entitled “State Route 35 Affordable Housing Overlay Zone (SR35-AH). The purpose of the SR35-AH Zone would be to allow for the creation of a multi-family housing building with a 20% set-aside for affordable housing on Block 117, Lots 6, 7, 8, and 9.

Mixed Use Overlay (MU-O)

A. Purpose. The purpose of the SR35-AH Zone is to allow for the creation of a multi-family housing building with a 20% set-aside for affordable housing on Block 117, Lots 6, 7,8, and 9.

B. Permitted Principal Uses (Land and Building)

1. Multi-family residential building with a mandatory 20% set aside for affordable housing. All affordable housing units shall be provided in compliance with UHAC requirements.

C. Permitted Accessory Uses

- 1. Off-street parking and loading facilities**
- 2. Signs, conforming to the provisions of the development regulations**
- 3. Fences and walls**

D. Area and bulk requirements

Minimum Lot Area:	0.86 acres
Minimum Front Yard:	10 feet
Minimum Side Yard:	15 feet
Minimum Rear Yard:	15 feet
Maximum Building Height:	4 stories (48 feet)
Maximum Lot Coverage:	80%
Buffer to existing Residential Use or Zone:	10 ft.
Maximum Density:	60 units/ acre

E. Off -street parking and Loading requirements

1. All residential development shall comply with the Residential Site Improvement Standards for all residential development.

F. Design Criteria: In accordance with the Design Guidelines set forth within the Seaport Redevelopment Plan

SECTION 2

All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency.

SECTION 3

If any section, paragraph, subdivision, clause or provision of this ordinance is adjudged to be invalid, such adjudication shall apply only to section paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

SECTION 4

This ordinance shall take effect upon its passage and publication and review according to law.



Source: LSA, NUGIN, and Monmouth County GIS.
Revised: December 11, 2025

This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state-authorized or endorsed.

LEON S. AVAKIAN, Inc. Proposed Affordable Housing Overlay Zone

**Borough of Belmar
Monmouth County, New Jersey**

Consulting Engineers

**Appendix E. Affordable Housing and Development Fee
Ordinance**

THE FOLLOWING ORDINANCE WAS FINALLY ADOPTED
BY THE MAYOR AND COUNCIL OF THE BOROUGH OF
BELMAR ON THE 10th DAY OF March 2024

Opus Claudio

**BOROUGH OF BELMAR
COUNTY OF MONMOUTH
ORDINANCE #2026-02**

**AN ORDINANCE AMENDING CHAPTER 39 (AFFORDABLE HOUSING) OF THE
BOROUGH OF BELMAR CODE OF ORDINANCES TO ADDRESS THE
REQUIREMENTS OF THE FAIR HOUSING ACT THE UNIFORM HOUSING
AFFORDABILITY CONTROLS (UHAC) AND TO COMPLY WITH THE BOROUGH'S
ROUND FOUR AFFORDABLE HOUSING OBLIGATIONS**

WHEREAS, the Borough of Belmar (the "Borough") is obligated to provide a realistic opportunity for the creation of housing affordable to very low-, low-, and moderate-income households pursuant to the New Jersey Fair Housing Act and applicable constitutional requirements; and

WHEREAS, on March 20, 2024, the Fair Housing Act was amended by P.L.2024, c.2, including changes establishing updated Fourth Round compliance procedures and related State monitoring responsibilities; and

WHEREAS, the New Jersey Department of Community Affairs ("DCA") administers requirements applicable to municipal affordable housing compliance, including the reporting and monitoring framework reflected in N.J.A.C. 5:99 and related State guidance; and

WHEREAS, the Borough has established an Affordable Housing Trust Fund and desires to amend and restate its development fee ordinance to conform to P.L.2024, c.2, N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act; and

WHEREAS, the Borough's Planning Board adopted the Borough's Fourth Round Housing Element and Fair Share Plan ("HEFSP") as part of the Borough's Master Plan, identifying the strategies, mechanisms, and implementation measures by which the Borough will address its Fourth Round affordable housing obligations;

WHEREAS, the Borough Council has endorsed the HEFSP as the policy basis for the Borough's affordable housing implementation program, including the adoption and maintenance of implementing ordinances and procedures consistent with State law and applicable approvals;

WHEREAS, the Borough desires to amend and restate its affordable housing ordinance to implement the HEFSP and to ensure that standards for affordability controls, administration, monitoring, and enforcement are consistent with current State law and regulations and promote the long-term creation and preservation of affordability; and

WHEREAS, the Borough Council finds that adoption of this Ordinance will ensure development fees are collected, maintained, monitored, reported, and expended solely for eligible affordable housing purposes in accordance with a Court-approved Spending Plan and applicable law.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF BELMAR IN THE COUNTY OF MONMOUTH AND THE STATE OF NEW JERSEY AS FOLLOWS:

SECTION ONE: TITLE 19, AFFORDABLE HOUSING.

Title 39 of the Code of Ordinances is repealed and replaced with new Title 39 as follows:

A. 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 Belmar 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

THE FOLLOWING INFORMATION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.

requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100 percent affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to affirmative marketing and random selection procedures set forth in UHAC.

3. The Borough of Belmar 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 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 proposed for credit in the municipality's most recently adopted HEFSP shall comply with the 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.
 - d. To the extent this Ordinance does not expressly address a matter relating to the administration, affordability controls, affirmative marketing, income eligibility, pricing/rent setting, sales and rental procedures, or enforcement of affordable units, and except where inconsistent with applicable law, the Municipality's court-approved compliance mechanism, or the recorded affordability controls applicable to a specific development (including LIHTC regulatory agreements), the provisions of UHAC, as amended and supplemented, shall govern and are hereby incorporated by reference.
6. **Interpretation:** The provisions of the Mount Laurel doctrine; the Act; the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, LPS; the Affordable Housing Rules; the HMFA Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; and the municipality's Fourth Round HEFSP, as set forth in Subsection 5.a above shall supersede and take precedence over the provisions of this Chapter.
7. **Reservation of Rights:** Belmar Borough reserves the right at any time to add to, remove from, or modify any provision of this Chapter provided that such addition, removal or modification is not inconsistent with the Mount Laurel doctrine; the Act; the regulations promulgated pursuant thereto by the New Jersey Department of Community Affairs, LPS; the Affordable Housing Rules; the HMFA Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1 et seq.; or the municipality's Fourth Round HEFSP, as set forth in Subsection 5.a above.

B. 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 may be 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.

“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 that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. A supportive housing unit is intended to provide long-term, community-based housing for individuals with intellectual or developmental disabilities, as defined at N.J.S.A. 30:6D-25(b). Such units must be leased subject to the affordability controls established herein; remain 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) and the project’s Affirmative Marketing Program. A supportive housing unit 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. 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. Very-low-income units are a subset of low-income units.

“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.

C. 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.

D. Municipality-wide Mandatory Set-Aside

1. A development, other than single-family detached, providing a minimum of five new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six units per acre, is required to include an affordable housing set-aside of 20 percent.
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 and 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 of 20 percent 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. The developer may round the set-aside upward to construct a whole additional affordable unit; or
 - b. If the set-aside includes a fractional unit equal to 0.49 or less, 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 percent 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 percent 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.

E. 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.

F. New Construction Programs (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.)

- 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.A.C. 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 percent of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units.
 - c. Within rental developments, of the total number of affordable rental units, at least 13 percent, 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:
 - 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 percent, rounded down, of the total number of low- and moderate-income units.
 - iv. At least 30 percent of all low- and moderate-income units, rounded up shall be two-bedroom units.
 - v. At least 20 percent of all low- and moderate-income units, rounded up 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 five percent 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 percent 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 percent 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.

7. 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 percent affordable developments.
 - vi. The deed restriction for the extended control period shall be filed with the County Clerk.
8. 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.
9. 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. 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.

- ii. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
- iii. Occupancy shall not be restricted to youth under 18 years of age.
- iv. 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.
- v. 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, if applicable, approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
- vi. 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.
- vii. 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.
- viii. 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.
- ix. The sponsor/owner shall complete annual monitoring as directed by the MHL.

G. 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.

H. 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, as may be amended and supplemented.

I. 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, English-speaking ability, marital or familial status, gender, affectional or sexual orientation, disability, age (except for "housing for older persons" as defined at N.J.S.A. 10:5-1 et seq., and age-restricted units as permitted pursuant to 42 U.S.C. §§ 3601 et seq.), number of children, source of lawful income, or any other characteristic described in the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 through 50, 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 4 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 4 comprising Monmouth, Mercer and Ocean Counties.
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 should 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. 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 HUD-certified housing counselors or otherwise experienced entities approved by the Division providing counseling services 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 and may begin before construction commences. For owner-occupied units, affirmative marketing advertising and outreach activities must continue until all of the marketed units have been sold, except that paid advertising may cease when the number of applications received is at least three times the number of units to be sold. For rental units, affirmative marketing advertising and outreach activities must continue, as long as applications are being accepted, except that paid advertising may cease when the number of applications received is at least three times the number of units to be filled.

10. Applications must be accepted for no less than 45 days following the initial advertisement on the New Jersey Housing Resource Center, except for the resale of owner-occupied units, in which case, applications must be accepted for no less than 30 days.
 11. 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.
- J. 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.
- K. 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.
- L. 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.

M. 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.

N. 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.
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 percent (40 percent 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 percent (40 percent 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
- O. 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 percent 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).
- P. 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 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

percent 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.
- Q. 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 five percent 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.

R. 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 percent 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 percent 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 percent 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 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - 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.

S. 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 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.

T. 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 five (5) business 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.
- U. 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. Realistic 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.

V. 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 \$500 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 affordable 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 New Jersey Housing Resource Center 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.

W. 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 percent 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 percent 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 percent of the equalized assessed value on the first two units; and the specified higher percentage of 6 percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

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. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. 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 percent 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 percent 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 percent 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 percent development fee, unless otherwise exempted below.
- ii. The 2.5 percent 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 percent) 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 percent 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 percent or less of median income.
 - d. No more than 20 percent 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.

Repealer

All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Severability

If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

Effective Date

This ordinance shall take effect upon its passage and publication, as required by law.