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**Borough of Freehold  
Monmouth County  
Housing Element and Fair Share Plan**

**Round Three (2015-2025) and  
Round Four (2025-2035)**

Prepared For:



Borough of Freehold  
30 Mechanic Street  
Freehold, NJ 07728

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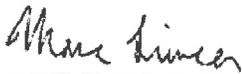
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## I. 2026 Amendment

Content replaced by revisions or that is otherwise no longer applicable is in ~~strikethrough~~, while new / revised content is in *green italics*.

*This Housing Element and Fair Share Plan ("HEFSP") was adopted by the Planning Board on June 25, 2025, and subsequently submitted to the Affordable Housing Dispute Resolution Program (the "Program") on June 26, 2025.*

*On August 26, 2025, the Fair Share Housing Center ("FSHC") filed a challenge to the Borough's HEFSP pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b).<sup>1</sup>*

*Thereafter, the Borough and FSHC agreed to amicably resolve the issues raised in the challenge through a settlement agreement which will be the subject of a Fairness and Compliance Hearing on March 12, 2026, and a consent order which, once executed, will be submitted to the Program and referred to the Mount Laurel judge in accordance with N.J.S.A. 52:27D-304.1(f)(2)(b) and Administrative Directive #14-24. See Appendix I and for a copy of the settlement agreement.*

*Accordingly, this Amendment is necessary to implement the terms of the settlement agreement. The changes include:*

- 1. Revisions to the summary of the Nestle Redevelopment Plan, which was amended to create an Affordable Housing Overlay Subdistrict that includes modified project parameters.*
- 2. Updates to appendices to reflect:
 
  - 1. The amended Nestle Redevelopment Plan; and*
  - 2. Amendments to / replacement of ordinances, resolutions, and other documentation required for inclusion in the HEFSP by N.J.S.A. 52:27D-310 and Administrative Directive #14-24, particularly pertaining to conformance with amendments adopted on December 15, 2025 to the New Jersey Administrative Code regarding the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26), Spending Plans (N.J.A.C. 5:99-2), Development Fees (N.J.A.C. 5:99-3).**
- 3. Otherwise bring documentation up-to-date with the latest information.*

<sup>1</sup> Case Number MON-L-02494-25

## II. Introduction

This Housing Element and Fair Share Plan will exhibit the Borough of Freehold's (herein the "Borough" or "Freehold") commitment to providing affordable housing within the municipality. On March 16, 2022, the Borough filed a Mount Laurel declaratory judgment action with the Superior Court of New Jersey, entitled In the Matter of the Application of the Borough of Freehold, Docket No. MON-L-0759-22, seeking a judgment that the Borough is in compliance with its constitutional obligations through the Third Round under the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (the "FHA") and Mount Laurel jurisprudence (the "Third Round DJ Action") and a Mount Laurel declaratory judgment action with the Superior Court of New Jersey, entitled In the Matter of the Application of the Borough of Freehold, Docket No. MON-L-0294-25, seeking a judgment that the Borough is in compliance with its constitutional obligations through the Fourth Round under the FHA and Mount Laurel jurisprudence (the "Fourth Round DJ Action" and, together with the Third Round DJ Action, the "DJ Actions"). This Plan is part of the settlement and resolution of the DJ Actions, and the Borough intends to consolidate this Housing Element and Fair Share Plan to serve as a joint compliance mechanism for both Round 3 and Round 4 of its affordable housing obligations.

As such, this document seeks to frame Freehold's efforts based on the current best knowledge of the affordable housing framework created by the State, applicable past rules established by the Council on Affordable Housing (COAH), and the requirements of P.L.2024, c.2<sup>2</sup> (the "Law" or "Amended Law") which governs municipal responsibilities concerning provisions of affordable housing in the Third and Fourth Round.

The Borough has a long history of proactively responding to new affordable housing legislation. Following adoption of the Fair Housing Act in 1985 (P.L. 1985, c. 222), the Borough adopted its 1988 Housing Plan Element to amend its prior, 1980 Plan. Based on the methodology established at the time and a Vacant Land Adjustment, the Borough addressed an adjusted Prospective Need Obligation of 92 and a Present Need Obligation of 51, the former being addressed through "Section 8" housing units. The latter, as part of a Regional Contribution Agreement with the Township of Freehold, was addressed through inspection, identification, and rehabilitation of 150 units.

To address the requirements of the latest Law, this Plan has four sections. The first section ("Introduction") includes a brief history of New Jersey Housing Policy. The second section ("Housing Element") includes a Demographic Analysis, Housing Inventory, Employment Analysis, and review of land uses and policies, as required by statute. The third section (Fair Share Plan – Round 3) summarizes the Borough's affordable housing obligations for 2015-2025 and its plan for complying with these obligations. The fourth section (Fair Share Plan– Round 4) summarizes the Borough's affordable housing obligations for 2025-2035 and its plan for complying with these obligations.

<sup>2</sup> [https://pub.njleg.state.nj.us/Bills/2024/PL24/2\\_.PDF](https://pub.njleg.state.nj.us/Bills/2024/PL24/2_.PDF)

## A. History of New Jersey Affordable Housing Policy

### 1975 – 1985 | Mount Laurel Doctrine and the Fair Housing Act

In 1975 the New Jersey Supreme Court decided *Southern Burlington County NAACP v. the Township of Mount Laurel*, more commonly referred to as “Mount Laurel I,” wherein it interpreted the New Jersey Constitution to create an affirmative obligation for developing municipalities to provide a “realistic opportunity for the construction of low- and moderate-income housing in their communities.” In 1983, the New Jersey Supreme Court expanded the obligation from only developing municipalities to all municipalities in a decision commonly referred to as “Mount Laurel II”. In addition, the Supreme Court required the establishment of each municipality’s fair share obligation and required each municipality, through its zoning, to provide a realistic opportunity for the construction of that established fair share obligation. Subject to several prerequisites, conditions and requirements, Mount Laurel II also created the “builder’s remedy” as a mechanism to enforce the doctrine in instances where a developer successfully demonstrated a municipality’s zoning failed to create the requisite realistic opportunity. Under such circumstances, a plaintiff may be entitled to have its site rezoned for an inclusionary development with an affordable set aside if the site is available, developable, approvable, and suitable for the proposed project and all other requirements for a successful builder’s remedy are met and all defenses defeated.

In 1985, in response to Mount Laurel II and the flood of litigation stemming from it, the Legislature adopted the Fair Housing Act (“FHA”) to discourage litigation and incentivize voluntary compliance (see N.J.S.A. 52-27D-303). The FHA established, among other things, the Council on Affordable Housing (“COAH”) as an administrative alternative to litigation and judicial intervention. COAH was charged with establishing various housing regions in the state, estimating regional affordable housing obligations, and adopting criteria and guidelines for the municipal determination of housing need as well as guidelines for satisfying those obligations. The FHA also linked municipal planning and zoning powers to the satisfaction of affordable housing obligations. Under the FHA, a municipal zoning ordinance is presumptively invalid if a municipality fails to adopt a housing element as part of its master plan or enacts zoning regulations that are inconsistent with their housing plan.

### 1987 – 2004 | Establishment and Administration of First Round and Second Round COAH Rules

After the adoption of the Fair Housing Act, COAH adopted procedural and substantive rules to effectuate the FHA’s legislative intent in both the First Round (1987-1993) (N.J.A.C 5:91 and 5:92) and Second Round (1993-1999) (N.J.A.C. 5:93). The Second Round substantive regulations (Chapter 93) superseded the First Round substantive regulations (Chapter 92) and recalculated the First Round obligations. Under COAH’s regulations, low-income households were defined as those with incomes no greater than 50 percent of the area median income (AMI), adjusted for household size, and moderate-income households were those with incomes no greater than 80

percent and no less than 50 percent of the median household income. AMI limits were calculated based upon housing regions as established by COAH.

#### 2004 – 2010 | Third Round Litigation and Revisions

In December 2004, COAH promulgated its Third Round “Growth Share” methodology, which adjusted prior round obligations and devised a new system for projecting future municipal housing obligations. Growth Share obligations were based upon municipal growth and the Third Round was defined as the period of 1999-2014. The initial Growth Share methodology required municipalities to provide one affordable housing unit for every eight market rate units and one affordable unit for every 25 jobs created. In January 2007, the Appellate Division invalidated the Growth Share Methodology and required COAH to revise its rules, which it did in May 2008 via the Third Round substantive regulations of Chapter 97.

The FHA was subsequently amended in July 2008. This round of amendments, among other things, eliminated Regional Contribution Agreements and reduced non-residential development fees. In September 2008, Executive Order #114 was which amended the COAH rules to ensure consistency with the Highlands Regional Master Plan.

#### 2010 – 2023 | COAH’s Noncompliance and Resumption of Court Responsibility

During this period, there was inaction and increased uncertainty in the realm of affordable housing.

After taking office Governor Chris Christie signed Executive Order No. 12, establishing the Housing Opportunity Task Force and charging them with a full review of the Fair Housing Act, COAH, and COAH’s regulatory structure. Ultimately, the task force recommended a model which included adjusted definitions of present and prospective need, a benchmark of 10 percent growth predicted by the State Planning Commission to guide obligations, and transferring of procedural responsibility from COAH to the Home Mortgage Finance Agency (HMFA).

Further complicating matters, in October 2010, the Appellate Division invalidated a substantial portion of COAH’s rules. Most notably, the Court invalidated the Third Round Growth Share methodology and ordered COAH to revise its rules in accordance with the decision. In addition, the Court prohibited certification of housing plans that rely upon municipally sponsored affordable housing projects without specified funding and required COAH to create an incentive structure for inclusionary developments.

In January 2011, the legislature passed S-1 / A-3447, which was subsequently vetoed. Then, in June Governor Christie issued a reorganization plan which transferred the administration of the State’s affordable housing program from COAH to the New Jersey Department of Community Affairs. Upon challenge by the Fair Share Housing Center, the Appellate Court invalidated Governor Christie’s Reorganization Plan in March 2012. The Supreme Court upheld this decision in July 2013.

In September 2013, the Supreme Court confirmed the invalidation of the previously adopted Third Round regulations, upholding that the methodology used for projecting housing needs in these rules was unconstitutional. In that ruling, the court established a February 2014 deadline for development and adoption of new COAH rules, which was eventually extended to November 2014. Significantly, no rules were adopted.

In March 2015, in the case entitled *In re: Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015)*, more commonly referred to as "Mount Laurel IV," the State Supreme Court determined that COAH was "moribund" and unable to carry out its duties as intended by the Fair Housing Act. The Court further held "that the courts may resume their role as the forum of first instance for evaluating municipal compliance with Mount Laurel obligations."

Thus, the Court designed a transitional process whereby municipalities could seek judicial approval of their HEFSPs. Those transitional procedures gave municipalities the choice whether to seek compliance voluntarily via a Declaratory Judgment (DJ) Action or to not file a DJ Action and risk being sued. During this period, and in the absence of COAH, many municipalities entered into court-mediated Settlement Agreements involving the Fair Share Housing Center.

2024 – Present | Adoption of P.L. 2024, c.2 and Fourth Round Methodology Changes and Department of Community Affairs

With the impending end of the Third Round in 2025, there was a push at the State level to implement new legislation that would reorganize the affordable housing process and end the transitional and court-oriented process initiated by Mount Laurel IV. The result of this effort was A-4 / S-50, which was signed into law by Governor Phil Murphy on March 20, 2024. This legislation created a framework to be used for the Fourth Round and beyond. In summary, the Law:

1. Abolishes the Council on Affordable Housing ("COAH") and transfers its duties to the DCA and the Administrative Office of the Courts ("AOC");
2. Enables the DCA to implement the judicial methodology provided by Judge Mary C. Jacobson, A.J.S.C. in her March 8, 2018 decision, *In re Application of Municipality of Princeton (the "Princeton Case")*, to calculate every municipality's affordable housing obligation for the Fourth Round;
3. Creates the Affordable Housing Dispute Resolution Program (the "Program") to oversee disputes and provide for mediation; and
4. Expands the availability of bonus credits, while eliminating the previously offered "rental bonus credit." Bonus credits are further described in this Housing Element and Fair Share Plan.
5. Modifies applicable data and calculations underlying the methodology for calculation of affordable housing obligations, eliminating the prior dependence of Courts and court-

appointed Special Adjudicators (formerly known as Special Court Masters) to deploy accepted methodologies to determine each municipality's affordable housing obligation.

6. Sets timeframes under which municipalities must act to preserve immunity from exclusionary zoning litigation.

Critically, the Amended Law requires that municipalities adopt a housing element and fair share plan no later than June 30, 2025 to maintain immunity from exclusionary zoning litigation.

## **B. Housing Element and Fair Share Plan Requirements**

### *Municipal Land Use Law ("MLUL") + Fair Housing Act ("FHA")*

The MLUL, through incorporation of the New Jersey FHA, requires municipalities to include a housing element in their master plans as a prerequisite to the zoning power. The principal purpose is to enumerate and provide the data, policies, and methods by which municipalities will meet housing needs, with particular attention to low- and moderate-income households.

Pursuant to Section 10 of P.L.1985, c.222 (C.52:27D-310) and as amended per P.L.2024, c.2,<sup>3</sup> as amended, the required contents of the housing element shall contain at least:

- a. *An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;*
- b. *A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;*
- c. *An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;*
- d. *An analysis of the existing and probable future employment characteristics of the municipality;*
- e. *A determination of the municipality's present and prospective fair share 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, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1);*
- f. *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-*

<sup>3</sup> <https://law.justia.com/codes/new-jersey/title-52/section-52-27d-310/> and [https://pub.njleg.state.nj.us/Bills/2024/PL24/2\\_.PDF](https://pub.njleg.state.nj.us/Bills/2024/PL24/2_.PDF)

*and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing; and*

- g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20).*
- h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and*
- i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.*

In addition to the statutory components of the Housing Element and Fair Share Plan detailed in 52:27D-310, [Administrative Directive #14-24](#),<sup>4</sup> which promulgated the procedures and guidelines for implementing the Affordable Housing Dispute Resolution Program; contains a section entitled "Required Elements of Housing Element and Fair Share Plan." In summary, the Directive requires four additional elements of the HEFSP to be included:

1. A site suitability analysis for any inclusionary zone and/or 100% affordable site
2. A concept plan for site development of any proposed inclusionary zone.
3. A detailed review of the credit worthiness of all existing units in the municipality.
4. All ordinances and resolutions required to implement the plan attached as an Appendix to the HEFSP.

However, it should be noted that the requirement to adopt all implementing ordinances to effectuate the HEFSP as set forth in the Fair Housing Act is March 15, 2026. Given this discrepancy of the dates, the statutory necessity of implementing ordinances to be reviewed by the Planning Board and deemed consistent with this adopted HEFSP, and the potential for challenges to the HEFSP as adopted, such ordinance amendments will be prepared following adoption of this plan element.

<sup>4</sup> [https://www.njcourts.gov/sites/default/files/administrative-directives/2024/12/dir\\_14\\_24.pdf](https://www.njcourts.gov/sites/default/files/administrative-directives/2024/12/dir_14_24.pdf)

### III. Housing Element: Municipal Summary

The Borough of Freehold is roughly 1.93 square miles in area and is located in Monmouth County. For regional and planning purposes, Freehold is located in Housing Region 4, a region that consists of Mercer, Monmouth, and Ocean counties.

In compiling the analysis for the Housing Element, this report utilizes the following data:

1. American Community Survey (“ACS”): The most up to date information is the ACS estimates, which are generated between the decennial censuses. ACS figures are based on data collected over a 5-year time period. The estimates represent the average characteristics of population and housing between 2018-2023 and DO NOT represent a single point in time. Comparisons will be made with the 2018-2023 ACS to show change over time.<sup>5</sup>
2. Decennial Census: Every ten years, the Census conducts detailed data collection to create an image that is as accurate as possible of the conditions throughout the country in that year. Data from the decennial census is used for comparison when equivalent ACS information is unavailable, as well as for longitudinal analysis.<sup>6</sup>
3. North Jersey Transportation Planning Authority (“NJTPA”): Every four years, the NJTPA updates its regional forecasts for population, households and employment as part of updating its long range transportation plan (LRTP), the region’s blueprint for transportation investment.<sup>7</sup>
4. State or Other Agency Sources: for select data types, State sources are used instead of the Census Bureau when equivalent Census data does not exist or the State data provides a more complete picture.

#### A. Housing Conditions

The analysis in this section shall satisfy Part A of P.L.1985, c.222 (C.52:27D-310), which requires:

- A) *“Inventory of 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, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards”*

<sup>5</sup> <https://data.census.gov/table>

<sup>6</sup> <https://data.census.gov/table?d=DEC%20Demographic%20Profile>

<sup>7</sup> <https://www.njtpa.org/NJTPA/media/Documents/Planning/Plans-Guidance/Planning%20for%202050/draft%20final/E-2050-Demographic-Forecasts.pdf>

### Housing Stock by Age and Condition

According to the 2023 ACS, there are an estimated 4,437 housing units in Freehold Borough which represented no increase since 2020. 46.4% of Freehold Borough's housing stock was built prior to 1960 and 90.3% prior to 1990, indicating roughly half of its housing stock is over 65 years old and most of it over 35 years old.

**Table 1: Year Structure Built**

	UNITS	PERCENT
Total housing units	4,448	-
Built 2020 or later	11*	0.0
Built 2010 to 2019	134	3.0
Built 2000 to 2009	131	3.0
Built 1990 to 1999	144	3.2
Built 1980 to 1989	636	14.3
Built 1970 to 1979	795	17.9
Built 1960 to 1969	518	11.7
Built 1950 to 1959	569	12.8
Built 1940 to 1949	263	5.9
Built 1939 or earlier	1,247	28.1

*Source: 5-Year American Community Survey, 2023, DP04*

*\*This value is derived from certificates of occupancy between 2020-2023, as specified in the NJDCA Construction Reporter database, and is included in the total sum of housing units.*

The table below details the condition of housing within Freehold Borough based on heating fuel, plumbing facilities and kitchen facilities, factors that help determine inadequate housing conditions in the Borough. According to the current ACS estimate, 158 housing units in Freehold Borough lacked one of these facilities, a significant increase from the 94 units lacking such facilities in 2018. The increase is predominately among units lacking heating fuel.

**Table 2: Housing Condition**

	2023	PERCENT	2018	PERCENT	PERCENT CHANGE
Occupied housing units lacking certain facilities	158	3.7	94	2.2	68.1
Lacking heating fuel	68	1.6	6	0.1	1,133.3
Lacking complete plumbing facilities	17	0.4	0	0.0	N/A
Lacking complete kitchen facilities	73	1.7	88	2.1	-17.0

*Source: 5-Year American Community Survey, 2018 & 2023, DP04*

### Housing Values and Costs

Since 2018, median home values in the Borough have increased by \$108,100 (36.8%). This change is accompanied by an increase in homes worth more than \$300,000 and a general decrease in homes worth less than \$300,000. Given the modest inventory of new housing stock and increases in inadequate housing conditions, this may suggest inflationary pressure in the housing market is a significant contributor to this trend, in addition to home improvements.

**Table 3: Value of Owner-Occupied Housing Units**

	2023	PERCENT	2018	PERCENT	PERCENT CHANGE
Total Owner-occupied units	2,143	-	1,954	-	-
Less than \$50,000	52	2.4	43	2.2	20.9
\$50,000 to \$99,999	15	0.7	6	0.3	150.0
\$100,000 to \$149,999	4	0.2	48	2.5	-91.7
\$150,000 to \$199,999	45	2.1	134	6.9	-66.4
\$200,000 to \$299,999	335	15.6	803	41.1	-58.3
\$300,000 to \$499,999	1253	58.5	858	43.9	46.0
\$500,000 to \$999,999	408	19.0	62	3.2	558.1
\$1,000,000 or more	31	1.4	0	0.0	N/A
Median (dollars)	\$401,900	(X)	\$293,800	(X)	36.8

*Source: 5-Year American Community Survey, 2018 & 2023, DP04*

The table below shows the housing expenditures for those who own and rent in Freehold. The general affordability standard is that no more than 30% of gross income should be allocated for housing costs.

A cost burden is the ratio of housing costs to household income. For renters, housing cost is the gross rent (lease rent plus utilities). For owners, housing cost is the monthly owner costs, which may include mortgage, utilities, association fees, insurance, and real estate taxes. The data below shows more than half of renters in Freehold Borough (56.3%) are cost burdened, while homeowners face less pressure from housing costs. 36.6% of owners with a mortgage are cost burdened, while 28.6% of owners without a mortgage are cost burdened.

**Table 4: Housing Cost Burden, 2023**  
(Monthly Costs as Percentage of Household Income)

RANGES	OWNER				RENTER	
	W/ MORTGAGE		W/O MORTGAGE		TOTAL	PERCENT
	TOTAL	PERCENT	TOTAL	PERCENT		
Less than 20%	323	25.7	573	65.6	355	17.7
20.0-24.9%	187	14.9	21	2.4	254	12.7
25.0-29.9%	287	22.8	28	3.2	266	13.3
30.0-34.9%	140	11.1	23	2.6	180	9.0
35.0% or more	321	25.5	227	26.0	947	47.3
Not Computed	0	(X)	13	(X)	125	(X)

Source: 5-Year American Community Survey, 2023, DP04

#### *Occupancy Characteristics and Type of Housing*

As of 2023, the Borough is comprised of a similar share of owner-occupied and renter-occupied households. A total of 48.3% of households are owners and 47.9% are renters, and 3.8% of the Borough's housing units are vacant. While rental unit inventory has remained relatively stable, owner-occupied units now make up a plurality of those in the Borough as over half of vacant units become occupied.

**Table 5: Housing Tenure and Occupancy**

	2023	PERCENT	2018	PERCENT	PERCENT CHANGE
Total	4,437	100	4,469	100	-0.7
Owner Occupied	2,143	48.3	1,954	47.6	9.7
Renter Occupied	2,127	47.9	2,154	52.4	-1.3
Vacant Units	167	3.8	361	8.1	-53.7

Source: 5-Year American Community Survey, 2018 & 2023, DP04

Housing units with more than one occupant per room are considered overcrowded. Overcrowded households in the Borough have reduced since 2018. While overcrowded conditions have declined modestly over the past five years, there has been a 68% increase in acute overcrowding above 1.5 occupants per room. This growing disparity in overcrowded conditions coincides with the hollowing out of the middle range of housing types in the Borough, as 5-19 unit buildings saw significant decreases in their share of the Borough's housing stock as significant numbers of single-family attached and 20+ multifamily units came online. Overcrowding conditions may be further exacerbated by a modest decrease in the total housing inventory in the Borough.

**Table 6: Occupants Per Room + Inadequate Units in Occupied Housing Units**

OCCUPANTS PER ROOM	2023	PERCENT	2018	PERCENT	PERCENT CHANGE
Total	4,270	100	4,108	100	3.9
1.00 or less	3,841	90.0	3,729	90.8	3.0
1.01 to 1.50	266	6.2	282	6.9	-5.7
1.51 or more	163	3.8	97	2.4	68.0

*Source: 5-Year American Community Survey, 2018 & 2023, DP04*

**Table 7: Housing Type and Size**

HOUSING UNITS	2023	PERCENT	2018	PERCENT	PERCENT CHANGE
Total housing units	4,437	100	4,469	100	-0.7
1-unit, detached	2,423	54.6	2,449	54.8	-1.1
1-unit, attached	365	8.2	271	6.1	34.7
2 units	334	7.5	346	7.7	-3.5
3 or 4 units	243	5.5	243	5.4	0.0
5 to 9 units	187	4.2	363	8.1	-48.5
10 to 19 units	10	0.2	120	2.7	-91.7
20 or more units	844	19.0	677	15.1	24.7
Mobile home	13	0.3	0	0.0	N/A
Boat, RV, van, etc.	18	0.4	0	0.0	N/A

*Source: 5-Year American Community Survey, 2018 & 2023, DP04*

**Table 8: Number of Bedrooms Per Unit**

ROOMS	2023 TOTAL	PERCENT	2018 TOTAL	PERCENT	PERCENT CHANGE
Total	4,437	100	4,469	100	-0.7
No Bedroom	216	4.9	245	5.5	-11.8
1 Bedroom	867	19.5	772	17.3	12.3
2 Bedrooms	939	21.2	1,217	27.2	-22.8
3 Bedrooms	1,710	38.5	1,503	33.6	13.8
4 Bedrooms	618	13.9	592	13.2	4.4
5 or more Bedrooms	87	2.0	140	3.1	-37.9

*Source: 5-Year American Community Survey, 2018 & 2023, DP04*

Since 2018, the bedroom typology of the Borough has increased in “family” sized (i.e. 3+ bedroom) units by 8.1%, despite a decrease in 5+ bedroom units, while smaller units decreased by 9.5%, despite growth in the share of 1-bedroom units.

Existing Low- and Moderate-Income Housing Units

Freehold Borough reviewed all property tax assessment records and information in the assessor's office, including but not limited to property record cards, to determine the number of existing low- and moderate-income housing units. Based on review of available records, there are 109 LMI units approved and/or constructed in the Borough. The Borough is following the applicable requirements regarding unit monitoring and reporting.

**B. Housing Projections**

The analysis in this section shall satisfy Part B of P.L.1985, c.222 (C.52:27D-310), which requires:

- B) “A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands.”

Projection of Housing Stock

Below is a general prediction by NJTPA of Freehold Borough’s household population growth to 13,075 people in 2050, an increase of 1,073. This 9.2% increase in households would require available units to accommodate and may be a predictive indicator of new projected housing stock.

**Table 9: Housing Unit Projection**

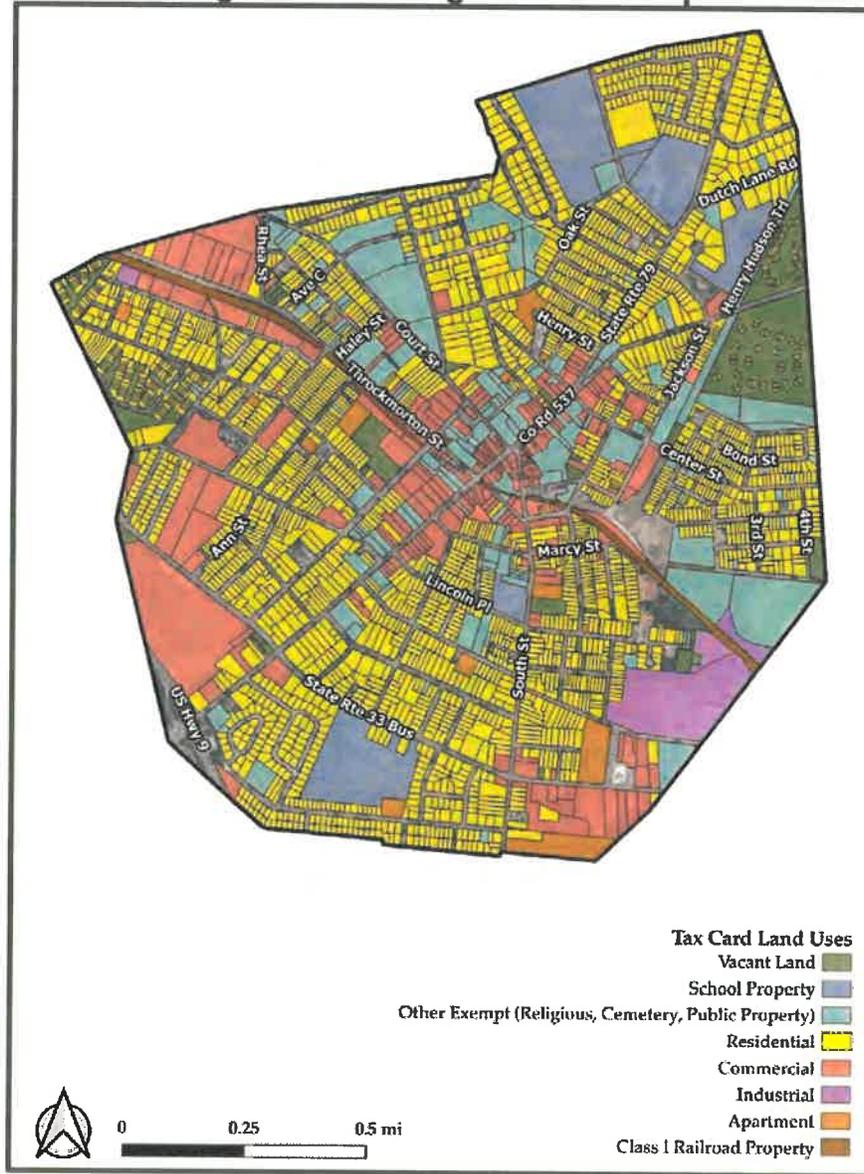
YEAR	POPULATION	ANNUALIZED % CHANGE
2015	12,002	-
2050 (Predicted)	13,075	0.2%

Source: [NJTPA, "Appendix E - 2050 Demographic Forecasts"](#)

Zoning regulations and existing capital infrastructure may help determine where growth is expected and where new housing units are likely to be developed in the future.

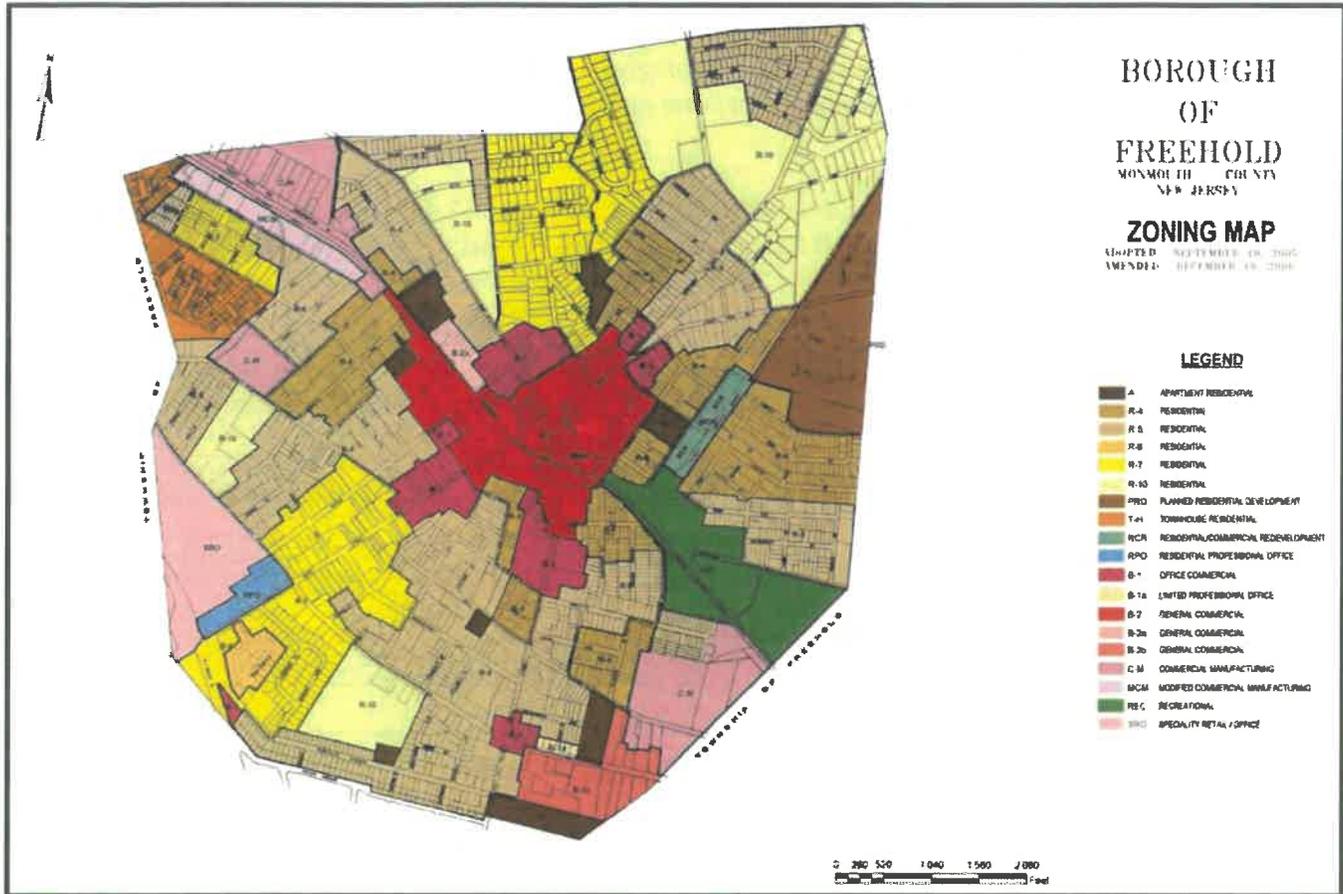
Freehold expects new developments to bear the cost that such development puts upon the existing infrastructure, including its sewer and water systems, road infrastructure, school facilities, and emergency services. This includes the addition of capacity necessitated by the new development, as well as associated maintenance costs. New development should not be a burden on the Borough’s infrastructure.

**Figure 1: Existing Land Use Map**



**Freehold Borough Land Use Map**

**Figure 2: Existing Zoning Map**



[Freehold Borough Zoning Map](#)

### C. Demographic Characteristics

The analysis in this section shall satisfy Part C of P.L.1985, c.222 (C.52:27D-310), which requires:

- C) *“An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age.”*

#### Population, General

The population estimate for Freehold Borough in 2023 was 12,430, which represents a decrease of 108 from the 2020 Census (-0.9%). Despite this trend, the NJTPA predicts Freehold’s population to grow to 13,075 people in 2050.

**Table 10: Historic Population Growth**

YEAR	POPULATION	CHANGE	% CHANGE
1940	6,952	N/A	0.8
1950	7,550	598	8.6
1960	9,140	1,590	21.1
1970	10,545	1,405	15.4
1980	10,020	-525	-5.0
1990	10,742	722	7.2
2000	10,976	234	2.2
2010	12,052	1,076	9.8
2020	12,538	486	4.0
2023	12,430	-108	-0.9
2050 (Predicted)	13,075	645	5.1

Source: [NJ State Data Center, New Jersey Population Trends 1790 to 2000](#), [US Census Bureau; NJTPA, "Appendix E - 2050 Demographic Forecasts"](#)

Population Composition by Age

The estimated current median age in Freehold Borough is 35.4, compared to 43.2 for Monmouth County and 40.1 for New Jersey.

**Table 11: Population by Age**

AGE RANGE	FREEHOLD BOROUGH	PERCENT	MONMOUTH COUNTY	PERCENT
Under 5 years	786	6.3	32,114	5.0
5 to 9 years	1,240	9.9	37,013	5.8
10 to 14 years	913	7.3	39,484	6.1
15 to 19 years	783	6.3	42,163	6.6
20 to 24 years	909	7.3	37,390	5.8
25 to 34 years	1,537	12.3	70,569	11.0
35 to 44 years	1,643	13.1	75,860	11.8
45 to 54 years	1,369	10.9	88,083	13.7
55 to 59 years	754	6.0	50,654	7.9
60 to 64 years	775	6.2	50,797	7.9
65 to 74 years	1,029	8.2	71,107	11.0
75 to 84 years	543	4.3	33,953	5.3
85 years and over	223	1.8	14,428	2.2
Median Age	35.4	(X)	43.2	(X)

*Source: 5-Year American Community Survey, 2023, DP05*

Households

According to the US Census Bureau's classification system, people either live in a household, housing unit, or in "group quarters." Two types of "households" exist: family and non-family. A "household" consists of one or more persons living and eating together separately from other persons who may be in the same building. A "family" is a household with two or more related persons living together in the same housing unit. For the purposes of this analysis, household data is used.

Freehold Borough saw housing unit / household growth less than County trends, while the Borough has larger average household sizes. The number of single-member households decreased by over one-third, following County-wide trends.

**Table 12: Population by Housing Type**

	FREEHOLD BOROUGH			MONMOUTH COUNTY		
	2018	2023	% CHANGE	2018	2023	% CHANGE
Total Housing Units	4,469	4,437	-0.7	262,157	271,056	3.4
Total Households	4,108	4,270	3.9	236,327	252,995	7.1
Average Household Size (Owner)	2.59	2.70	4.2	2.77	2.66	-4.1
Average Household Size (Renter)	3.13	3.12	0.3	2.12	2.09	-1.4
Householders living alone	1,088	673	-38.1	61,528	38,560	-37.3

*Source: 5-Year American Community Survey, 2018 & 2023, DP02, DP04*

Immigration

Foreign born residents make up 27.4% percent of Freehold Borough’s population, which is higher than County (13.8%) and State (23.5%) levels. More than half of Freehold Borough’s foreign-born residents are not U.S. citizens, comprising 15.1% of the overall Borough population, a larger share than that of Monmouth County (5.7%) and the State (10.2%).

**Table 13: Residents Place of Birth**

	FREEHOLD BOROUGH		MONMOUTH COUNTY		NEW JERSEY	
	COUNT	PERCENT	COUNT	PERCENT	COUNT	PERCENT
<b>Total</b>	12,504	100	642,799	100	9,267,014	100
Born in United States	8,496	67.9	545,192	84.8	6,849,548	73.9
Foreign Born	3,429	27.4	89,016	13.8	2,181,755	23.5
Foreign Born	3,429	100	89,016	100	2,181,755	100
Naturalized Citizen	1,541	44.9	52,318	58.8	1,241,100	56.9
Not a Citizen	1,888	55.1	36,698	41.2	940,655	43.1

*Source: 5-Year American Community Survey, 2023, DP02*

Income and Poverty Status

The median household income for Freehold Borough grew dramatically from 2018 to 2023, growing 45.5% and far outpacing the County (18.4%) and the State (22.1%).

**Table 14: Household Median Income**

	2023	2018	INCREASE	% INCREASE
Freehold Borough	82,183	56,466	25,717	45.5
Monmouth County	118,008	99,642	18,366	18.4
New Jersey	99,781	81,740	18,041	22.1

*Source: 5-Year American Community Survey, 2018 & 2023, S2503*

In Freehold Borough, 1,727 residents (14.3%) live below the poverty line, a 9.8% decrease since 2018. In this regard, the Borough had a similar trajectory to Monmouth County, which experienced an 11.9% decrease over the same period. However, the poverty rate in the Borough remains over double that across the County.

**Table 15: Poverty Status**

FREEHOLD BOROUGH	2023	PERCENT	2018	PERCENT	CHANGE
Total Persons*	12,089	100	11,789	100	-
Total Below Poverty	1,727	14.3	1,897	16.1	-9.8
MONMOUTH COUNTY	2023	PERCENT	2018	PERCENT	CHANGE
Total Persons*	637,243	100	617,480	100	-
Total Below Poverty	40,984	6.4	45,873	7.4	-11.9

*Source: 5-Year American Community Survey, 2018 & 2023, S1701*  
\*For whom poverty status is determined.

**D. Multigenerational Housing Continuity**

The analysis in this section shall satisfy Part G of P.L.1985, c.222 (C.52:27D-310), which requires:

- G) "An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c.273 (C.52:27D-329.20)."

On November 8, 2021, the Senate and General Assembly of the State of New Jersey adopted C.52:27D-329.20,<sup>8</sup> which establishes the "Multigenerational Family Housing Continuity

<sup>8</sup> <https://pub.njleg.gov/Bills/2020/AL21/273 .HTM>

Commission” for the purpose of conducting research, obtaining public input, and adopting recommendations on how to most effectively advance the goal of enhancing multigenerational family housing continuity, which can be defined broadly as the degree to which senior citizens are able to reside at the homes of their extended families.

In short, the bill requires a municipal housing plan element to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity, as expressed in the recommendations of the commission.

The municipality is committed to promoting intergenerational harmony through the provision of diverse housing options in a manner consistent with the regulation. As demonstrated in the above demographic and housing analysis, Freehold has responded to the needs of its generally younger population, increasing the quantity of owner-occupied and family housing units. To the benefit of residents across all life stages, Freehold enjoys its position as the Monmouth County seat, enjoying proximate access to a variety of public services – as well as access to regional services and amenities from half a dozen bus routes. Strategies proposed or already implemented include the creation of family housing. The municipality, in setting forth its compliance plan, is abiding by the limitations included in the statute.

### E. Employment Data

The analysis in this section shall satisfy Part D of P.L.1985, c.222 (C.52:27D-310), which requires:

- C) *“An analysis of the existing and probable future employment characteristics of the municipality.”*

Below is a general prediction by NJTPA of Freehold Borough’s employment forecast, which is expected to grow to 4,235 in 2050, an increase of 19.6%. Local housing options and regional mobility will be important to support these new jobs.

**Table 16: Employment Projection**

YEAR	LABOR FORCE	CHANGE	ANNUALIZED % CHANGE
2015	3,541	-	
2050 (Predicted)	4,235	694	0.5

Source: [NJTPA, "Appendix E - 2050 Demographic Forecasts"](#)

## IV. Fair Share Plan: Obligations and Compliance Plan for Round 3

The foregoing analysis was prepared for submission to the Superior Court on behalf of the Borough of Freehold in connection with the DJ Action and the New Jersey Supreme Court's March 10, 2015 decision In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV").

The Court's ruling created a judicial review process through which municipalities could secure approval of their Third Round plans by trial judges. The Court appointed judges to review declaratory judgment actions filed on the part of municipalities seeking a declaration that their Fair Share Plans, as may be supplemented, satisfy their constitutional obligation to plan and provide for their fair share of the region's affordable housing units.

### Fair Share Obligation

The affordable housing obligation consists of the following components: The Prior Round Obligation (1987-1999), the Prospective Need Obligation (1999-2015), the Gap Period Obligation (2015-2025), and the Indigenous Need or "Rehabilitation Obligation." Collectively, the Gap and the Prospective Need for 2015-2025 are referred to as the Round 3 obligation.

The figures that are presented in the fair share obligations below have been derived from the 2018 Jacobson methodology. As defined by both COAH and the Court, municipal housing need is divided into three components:

Prior Round Obligation: 188

Rehabilitation Obligation: 287

Gap and Prospective Need: 112

### Prior Round Obligation

COAH allocated to the Borough of Freehold a Prior Round Obligation of 188 credits for the period of 1987-1999, which was first determined in 1993 as part of Round Two. This obligation is addressed in the following table. As detailed in the following sections for the Third Round Prospective Need obligation, the Borough will apply credits from Third Round projects to address a Prior Round shortfall of 41 credits.

The Prior Round crediting regime is as follows:

- Habitat for Humanity

9 housing units have been the Borough at the following addresses (Blocks & Lots). Only one of those units was restricted for 30 years, so the Borough is claiming one credit:

- 91 Parker Street (Block 93, Lot 6)
- 2-7 E Street (Block 93, Lots 61-66)

- 108 Center Street (Block 69, Lot 3)
- 124 Center Street (Block 69, Lot 11)
- Supportive Housing / Group Homes
 

There are 6 existing group homes that the Borough is assigning to the Prior Round obligation. These homes contain a total of 20 bedrooms occupied by persons of low or very-low income. These 20 credits are supplemented by additional 20 bonus credits due to their status as rental units, giving Freehold 40 credits in total for these homes. These projects and credits are detailed in the below table.
- Rooming / Boarding Homes & Residential Health Care Facilities
 

As permitted for the Third Round, boarding homes and RHCs are a prior round crediting option, and the Borough is applying 79 credits and 27 bonus credits as identified in the below table from existing developments.

**Table 17: Prior Round Obligation**

PROJECT, ADDRESS (BLOCK, LOT)	UNITS / CREDITS	RENTAL BONUS CREDITS
Habitat for Humanity (Existing – See Above)	1	0
<b>Supportive Housing / Group Homes (Existing)</b>		
ARC of Monmouth, 93 E. Main Street (B48, L22)	6	6
Lincoln Place development, 17 Lincoln Place (B80, L11)	5	5
Monmouth Homes 2002, Inc, 6 Crestwood Drive (B3.03, L9)	3	3
Community Enterprises Corporation, 39 Broad Street, Unit 20 (B34, L30.42)	1	1
Community Enterprises Corporation, 35 Broad Street, Unit 14 (B34, L30.614)	1	1
Sherriff Ave Development Inc, 27 Sherriff Street (B41, L8.01)	4	4
<b>Rooming / Boarding Homes &amp; RHCs</b>		
33 Lockwood Realty, 31-33 Lockwood Avenue (B47, L17)	7	7
Richardson Rooming House, 30 Avenue A (B7, L2)	7	4
Tony’s Lodge, 113 Throckmorton Street (B37, L36)	16	16
Freehold Manor, 51 Broad Street (B34, L29)	20	0
83 Throckmorton Street (B37, L23)	5	0
27 Avenue C (B8, L8)	5	0
Golden Age Rest Home, 21 Hudson Street (B62, L27)	19	0
<b>Total Prior Round Credits</b>	<b>100</b>	<b>47</b>
<b>Units Transferred from Third Round</b>		<b>41</b>
<b>Total Prior Round Obligation</b>	<b>Required</b>	<b>Provided</b>

PROJECT, ADDRESS (BLOCK, LOT)	UNITS / CREDITS	RENTAL BONUS CREDITS
	188	188
Max. Senior Units (25% of Obligation)	47	0
Min. Rental Units (25% of Obligation)	47	47
Max. Bonus Credits (Not to Exceed Rental Min.)	47	47

*Present Need (Rehabilitation Share)*

COAH defines “indigenous need” as “deficient housing units occupied by low- and moderate-income households within a municipality and is a component of “present need” under N.J.A.C. 5:93-1.3. In the Borough of Freehold, the rehabilitation obligation through the end of Round 3 (i.e. June 30, 2025) has been determined to be 287. The Borough’s efforts to meet its Rehabilitation Share includes participation in the Monmouth County rehabilitation program and the allocation of funding for qualified rehabilitation projects in the Borough’s Spending Plan.

The Borough plans to address this obligation through the continuation of its municipal Rehabilitation Program, currently being administered by the Borough’s Administrative Agent. Attached to the Element as Appendix H is a copy of the Borough’s current Rehabilitation Program Manual, which will be updated by the Administrative Agent once new UHAC Regulations are proposed and adopted.

Additionally, the Borough participates in the Monmouth County Home repair program, which provides deferred payment loans to low- and moderate- income homeowners throughout Monmouth County – including the Borough of Freehold – under federal funding and parameters from the US Department of Housing and Urban Development. A 10-year zero interest loan in the amount of assistance required for the rehabilitation work will be made to the homeowner by the County Division of Planning’s Fair Housing Office. The Home Improvement Program will market the available funds to qualified residents and vet residents to ensure they qualify and manage the repairs. The program will primarily serve owner-occupied units and address homes with lack of heat, lack of hot water, roof leaks, dangerous electrical problems, broken pipes, problems with sanitary facilities, and other housing conditions that threaten the health, safety, or well-being of the household members per COAH rules (N.J.A.C. 5:93). All rehabilitated units shall remain affordable to low- and moderate-income households for a period of at least 10 years (the control period). For owner-occupied units, the control period is enforced with a recorded lien; and for renter-occupied units, the control period is enforced with a recorded deed restriction.

Gap and Prospective Need

*Consideration of Land Most Appropriate for Affordable Housing*

As part of this Fair Share Plan, the Borough has considered land that is appropriate for the construction of low- and moderate-income housing. The Borough has employed redevelopment tools and its mandatory set-aside through land use applications to provide affordable housing opportunities. These sites will meet the Borough’s Third Round Gap and Prospective Need of 112.

Aside from the projects identified in the Housing Obligation and Credits tables below, no property owner or developer has offered a site for inclusion in the Borough’s Housing Element and Fair Share Plan. The Borough believes that the mechanisms proposed in this document represent the best options for affordable housing in the Borough.

**Table 18: Third Round Prospective Need Obligation**

PROJECT, ADDRESS (BLOCK, LOT)	UNIT TYPE	UNITS / CREDITS	RENTAL BONUS CREDITS
Hometown Redevelopment 28-32 Broad Street, 51-61 Main Street (B35, L15-19, 23, 24, 26, 26.01, 26.02, 27-32)	Family Rental	60	30
200 Park Avenue (B117, L21)	Family Rental	9	4.5
2-6 Broad Street (B36, L5-7 & 9)	Family Rental	4	2
13 Broadway (B42, L10)	Supportive Needs	10	0
42 East Main Street (B62, L14)	Family	2	0
Total Third Round Credits		85	28 (Capped)
Credits Transferred to Between Rounds		-41 to Second Round +40 from Fourth Round	
Total Prior Round Obligation		<b>Required</b>	<b>Provided</b>
		112	112
Max. Non-Family Units (25% of Obligation)		28	10
Min. Family Units (50% of Obligation)		28	106
Max. Rental Bonus Credits (25% of Obligation)		28	28

### *Site Description and Suitability Analysis*

Municipalities shall designate sites that are available, suitable, developable and approvable, as defined in N.J.A.C. 5:93-1. As such, the criteria for crediting units must meet the following:

1. "Available site" – a site with clear title, free of encumbrances which preclude development for low- and moderate-income housing.
2. "Suitable site" – a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.
3. "Developable site" – a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable area wide water quality management plan (including the wastewater management plan) or is included in an amendment to the area wide water quality management plan submitted to and under review by DEP.
4. "Approvable site" – a site that may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low- and moderate-income housing.

**Table 19: Projects Description and Suitability Analysis, Third Round**

PROJECT	DESCRIPTION
<b>Hometown Redevelopment</b>	<p style="text-align: center;">Total Units: 400 Units Round Three LMI Units: 60 Units</p>
<i>Description of Availability</i>	<p>The site was designated an area in need of redevelopment with condemnation under criteria A, B, and D. Title nor other encumbrances were identified inhibiting redevelopment.</p>
<i>Description of Suitable</i>	<p>The site is unconstrained, has access to multiple streets, and is in a mixed-use area in the downtown core. The area is serviced by half a dozen NJ Transit bus routes at the adjacent Freehold Center bus terminal, in addition to proximate access to County and Borough services.</p>
<i>Description of Developable</i>	<p>The site is already serviced by municipal sewer and water infrastructure.</p>
<i>Description of Approvable</i>	<p>The Borough has adopted a redevelopment plan expressly to provide for this redevelopment, which is subject of an executed Redevelopment Agreement. Associated documents are included in Appendix E. <i>On February 2, 2026, the Borough Council adopted Resolution CR-2 permitting amendment to the Redevelopment Agreement (RDA) to cure inconsistencies with UHAC requirements. The resolution and amended RDA are included in Appendix E.</i></p>
<b>200 Park Avenue</b>	<p style="text-align: center;">Total Units: 52 Units Round Three LMI Units: 9 Units</p>
<i>Description of Availability</i>	<p>Site is owned by Applicant and free of encumbrances that would preclude affordable unit development.</p>
<i>Description of Suitable</i>	<p>Site has existing street access on Park Avenue in proximity to other residential and is in addition to proximity to downtown businesses, NJ Transit bus routes, and the Park Avenue Elementary School. No environmental features preclude development.</p>
<i>Description of Developable</i>	<p>The site is already serviced by municipal sewer and water infrastructure.</p>
<i>Description of Approvable</i>	<p>Application #PB-SP-2023-006 was approved by the Joint Land Use Board on September 27, 2023 (See Appendix E).</p>
<b>2-6 Broad Street</b>	<p style="text-align: center;">Total Units: 19 Units Round Three LMI Units: 4 Units</p>
<i>Description of Availability</i>	<p>The site was designated a non-condemnation area in need of redevelopment under criteria A, B, D, E, and H. Any issue of title is identified under criteria E is expressly sought to be resolved through redevelopment powers.</p>
<i>Description of Suitable</i>	<p>The site is unconstrained and is in a mixed-use area in the downtown core. The site is serviced by half a dozen NJ Transit bus routes at the</p>

PROJECT	DESCRIPTION
	nearby Freehold Center bus terminal, in addition to proximate access to County and Borough services.
<i>Description of Developable</i>	The site is already serviced by municipal sewer and water infrastructure.
<i>Description of Approvable</i>	<del>The Borough has adopted a redevelopment plan expressly to provide for this redevelopment, which is attached in Appendix E. The Borough is in the process of adopting a redevelopment plan expressly to provide for this redevelopment, which is scheduled for adoption on March 2, 2026 and attached in Appendix E.</del>
13 Broadway	Total Units: 10 Bedrooms Round Three LMI Units: 10 Bedrooms
<i>Description of Availability</i>	Site is owned and operated by Applicant and free of encumbrances that would preclude affordable unit development.
<i>Description of Suitable</i>	Site has existing street access on Broadway in proximity to other residential uses, as well as to downtown businesses, NJ Transit bus routes, and the Park Avenue Elementary School. No environmental features preclude development.
<i>Description of Developable</i>	The site is already serviced by municipal sewer and water infrastructure.
<i>Description of Approvable</i>	Application #PB-UV-2025-002 was approved by the Joint Land Use Board on May 28, 2025 as Class C Boarding House, which is defined as a Supportive Needs type of affordable housing under N.J.A.C. 5:97-4.3(c)1.i (See Appendix E). <i>Certification of Registration and License from the NJDCA are included in Appendix E.</i>
42 East Main Street	Total Units: 10 Units Round Three LMI Units: 2 Units
<i>Description of Availability</i>	Site is owned by Applicant and free of encumbrances that would preclude affordable unit development.
<i>Description of Suitable</i>	The site is unconstrained and is in a mixed-use area in the downtown core. The site is serviced by half a dozen NJ Transit bus routes at the nearby Freehold Center bus terminal, in addition to proximate access to County and Borough services.
<i>Description of Developable</i>	The site is already serviced by municipal sewer and water infrastructure.
<i>Description of Approvable</i>	Under the Center Core Rehabilitation Plan, the Applicant received approval from the Borough Council, acting as redevelopment entity, via Resolution No. 192-24 on September 3, 2024. <del>Further land use and zoning approvals shall follow as needed.</del>

*Additional Compliance Mechanisms*

- Development Fee Ordinance – Section 19.01.210 (adopted via Ordinance #2020/1 on February 3, 2020)

- Inclusionary Zoning Ordinance – Section 19.01.050.E (adopted via Ordinance #2020/1 on February 3, 2020), providing a 20% for-sale and 15% rental affordable housing set-aside requirement for any residential or mixed-use development with five or more housing units in the Borough.

## V. Fair Share Plan: Obligations and Compliance Plan for Round 4

### A. Introduction and Fourth Round Changes

As stated in the History of New Jersey Affordable Housing section of this Plan, New Jersey's Fourth Round methodology of calculating and fulfilling municipal obligations is set forth in the Law under a new system. The housing need obligations discussed herein consist of the following components: Prior Round Compliance; Indigenous Need, Present Need or "Rehabilitation Obligation;" and the "Prospective Need."

The figures that are presented in the fair share obligations below have been derived from were adopted by the Borough via Resolution 39-25 on January 21, 2025 (See Appendix C). Under the Resolution, the Borough Present Need or "Rehabilitation Obligation" is 270 credits, and the "Prospective Need" is 49 credits.

The purpose of this section of the Plan is to set forth the Borough's proposed approach to satisfying its Round 4 obligation.

Importantly, the Law sets forth opportunities for bonus credits. These credits include:

- One (1) bonus credit for special needs or permanent supportive housing;
- One (1) bonus credit for 100% affordable housing projects for which the host municipality has contributed towards the cost of the project, subject to certain minimum contribution requirements;
- One (1) bonus credit for market rate units that are converted to affordable units;
- One-half (0.5) bonus credit for ownership units created in a partnership sponsorship with a non-profit housing developer;
- One-half (0.5) bonus credit for units located within a one-half mile radius (or a one-mile radius for projects located in a Garden State Growth Zone) of NJ Transit or Port Authority rail, bus, or ferry stations, including all light rail stations;
- One-half (0.5) bonus credit for age-restricted units, subject to certain caps;
- One-half (0.5) bonus credit for each three-bedroom unit in excess of the three-bedroom requirements set forth in the Uniform Housing Affordability Controls;
- One-half (0.5) bonus credit for housing units constructed on previously developed land that was utilized for retail, office, or commercial space; and

- i. One-half (0.5) bonus credit for units whose affordability controls are extended for a new term of affordability;

Municipalities will also be restricted to only claim one type of bonus credit per affordable unit. Such bonus credits may only satisfy 25% of their Fourth Round obligation.

## **B. Present and Prospective Need Obligation (2025-2035)**

The analysis in this section shall satisfy Part E of P.L.1985, c.222 (C.52:27D-310), which requires:

- *E) "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, as established pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1)"*

### Present Need (Rehabilitation Share)

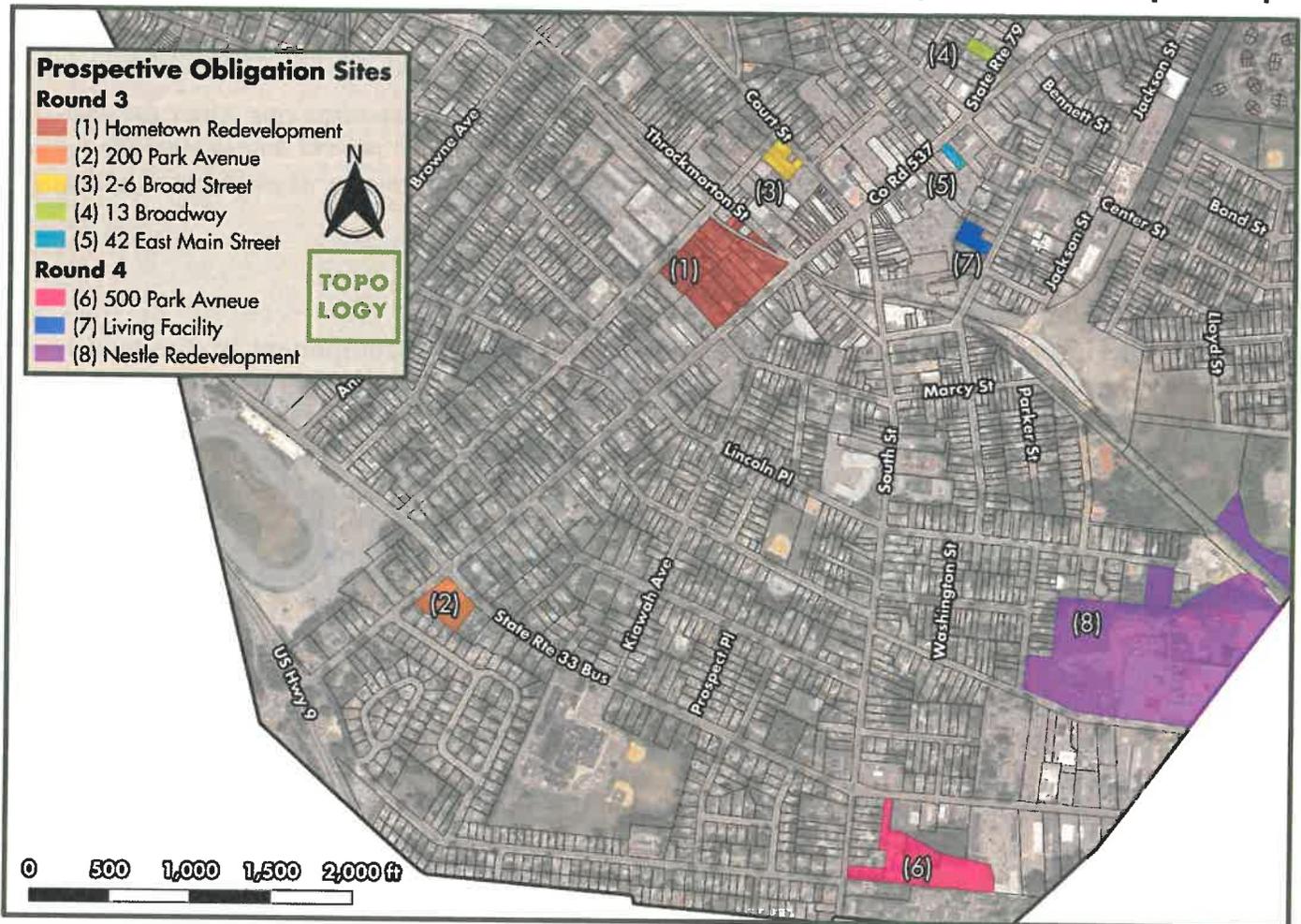
The Rehabilitation Share is described as "deficient housing units occupied by low- and moderate-income households within a municipality and is a component of "present need" under N.J.A.C. 5:93-1.3. In Freehold, the rehabilitation obligation through the end of the Fourth Round (i.e. July 2035) has been determined to be 270. The Borough plans to address this obligation through the continuation of its municipal Rehabilitation Program, currently being administered by the Borough's Administrative Agent. Attached to the Plan as Appendix H is a copy of the Borough's current Rehabilitation Program Manual, which will be updated by the Administrative Agent once new UHAC Regulations are proposed and adopted.

Additionally, the Borough participates in the Monmouth County Home repair program, which provides deferred payment loans to low- and moderate- income homeowners throughout Monmouth County – including the Borough of Freehold – under federal funding and parameters from the US Department of Housing and Urban Development. A 10-year zero interest loan in the amount of assistance required for the rehabilitation work will be made to the homeowner by the County Division of Planning's Fair Housing Office. The Home Improvement Program will market the available funds to qualified residents and vet residents to ensure they qualify and manage the repairs. The program will primarily serve owner-occupied units and address homes with lack of heat, lack of hot water, roof leaks, dangerous electrical problems, broken pipes, problems with sanitary facilities, and other housing conditions that threaten the health, safety, or well-being of the household members per COAH rules (N.J.A.C. 5:93). All rehabilitated units shall remain affordable to low- and moderate-income households for a period of at least 10 years (the control period). For owner-occupied units, the control period is enforced with a recorded lien; and for renter-occupied units, the control period is enforced with a recorded deed restriction.

Prospective Need Obligation

The Borough has a Fourth Round prospective need of 49. The Borough will satisfy this obligation of 49 through the following projects:

**Figure 3: Prospective Need Projects Maps**

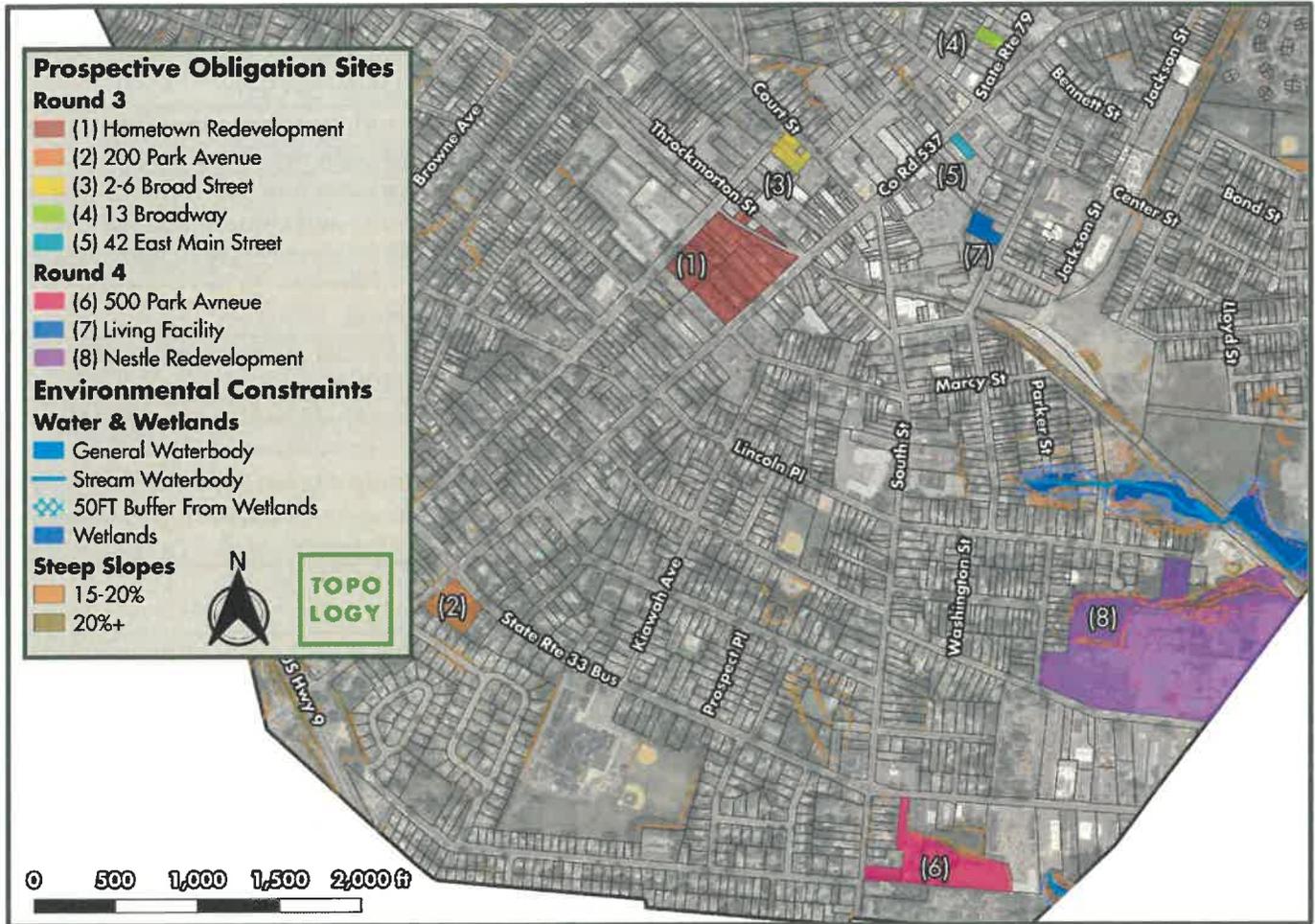


Prospective Need Projects Description and Suitability Analysis

Municipalities shall designate sites that are available, suitable, developable and approvable, as defined in N.J.A.C. 5:93-1. As such, the criteria for crediting units must meet the following:

1. "Available site" – a site with clear title, free of encumbrances which preclude development for low- and moderate-income housing.
2. "Suitable site" – a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.

Figure 4: Prospective Need Projects Map – Environmental Constraints



3. “Developable site” – a site that has access to appropriate water and sewer infrastructure, and is consistent with the applicable area wide water quality management plan (including the wastewater management plan) or is included in an amendment to the area wide water quality management plan submitted to and under review by DEP.
4. “Approvable site” – a site that may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. A site may be approvable although not currently zoned for low- and moderate-income housing.

**Table 20: Projects Description and Suitability Analysis, Fourth Round**

PROJECT	DESCRIPTION
500 Park Avenue	Total Units: 168 Units Round Four LMI Units: 28 Units
<i>Description of Availability</i>	Site is under common ownership and free of encumbrances that would preclude affordable unit development.
<i>Description of Suitable</i>	Site has existing street access on Park Avenue and South Street in proximity to residential, multifamily, and commercial uses; NJ Transit bus stops, and the Park Avenue Elementary School. Modest steep slopes on the periphery of the site do not preclude development.
<i>Description of Developable</i>	The site is already serviced by municipal sewer and water infrastructure.
<i>Description of Approvable</i>	<del>A redevelopment plan will be prepared for the site under the Borough-wide area in need of rehabilitation designation.</del> <i>The Borough is in the process of adopting a redevelopment plan for the site under the Borough-wide area in need of rehabilitation designation, scheduled for adoption on March 2, 2026 and attached in Appendix E.</i>
<b>Living Facility (21 Hudson Street)</b>	Total Units: 18 Bedrooms (Supportive) Round Four LMI Units: 18 Bedrooms
<i>Description of Availability</i>	Site is under common ownership and is free of encumbrances that would preclude affordable unit development.
<i>Description of Suitable</i>	The site is unconstrained and is in a residential area proximate to the downtown core. The site is serviced by half a dozen NJ Transit bus routes at the nearby Freehold Center bus terminal, in addition to proximate access to County and Borough services.
<i>Description of Developable</i>	The site is already serviced by municipal sewer and water infrastructure.
<i>Description of Approvable</i>	As a supportive needs community residence, the development is <del>subject to</del> <i>eligible for</i> treatment as a <del>single-family residential</del> use for the purposes of land use approvals pursuant to N.J.S.A. 40:55D-66.1.
<b>Nestle Redevelopment</b>	Total Units: <del>31</del> 155 Units Round Four LMI Units: 31 Units
<i>Description of Availability</i>	Site is under common ownership and is free of encumbrances of title that would preclude affordable unit development.
<i>Description of Suitable</i>	Site access is provided from several municipal roads. Steep slopes are limited to the periphery of the main portion. Groundwater contamination is present, remediation of which is an ongoing obligation of Nestle. The Borough will work with Nestle and/or a prospective redeveloper to identify unencumbered areas of the site or otherwise coordinate remediation to residential standards for those areas to be used for residential development.

PROJECT	DESCRIPTION
<i>Description of Developable</i>	The site is already serviced by municipal sewer and water infrastructure.
<i>Description of Approvable</i>	<p>The existing redevelopment plan will be amended to provide for the required 29 affordable units on the site.</p> <p><i>The Borough is in the process of adopting an amendment to the existing Redevelopment Plan, scheduled for adoption on March 2, 2026 and attached in Appendix E, to provide for a 155-unit inclusionary housing development in the Affordable Housing Overlay Subdistrict.</i></p>

Land Most Appropriate for Affordable Housing

The analysis in this section shall satisfy Part F of P.L.1985, c.222 (C.52:27D-310), which requires:

- *F) "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"*

As part of this Fair Share Plan, the Borough has considered land that is appropriate for the construction of low- and moderate-income housing. As noted above, the Borough can satisfy its prospective need through on-going projects, actively proceeding concept plans, and a forthcoming redevelopment plan. The Borough believes that the approach set forth in this document represents the best approach to satisfying the requirements of the Amended Law. While the Borough acknowledges that developers may express interest in proposing projects that include low- or moderate-income housing, the Borough’s position is that no additional projects are required to satisfy its prospective or present need. However, such additional projects that may come forward would provide further opportunities for affordable housing development in the Borough.

Notwithstanding this position, the sites discussed above are not the only areas in town where low- and moderate-income housing is permitted to be built. In addition the Third Round unmet need mechanism to permit downtown residential units in the B-2 Zoning District, the Borough already maintains several zoning districts throughout Freehold that permit a variety of multifamily developments. This approach, while grounded in recommendations and vision set forth by the municipality’s master plan, is also consistent with the findings set forth in the Law, namely that: “comprehensive planning in alignment with smart growth principles, and the State Development and Redevelopment Plan” is critical to meeting the housing needs of the State.

**Table 21: Fourth Round Prospective Obligation Compliance Summary**

PROJECT, ADDRESS (BLOCK, LOT)	OWNER-SHIP	UNITS	AH UNITS	AH TYPE	BONUS CREDITS	BONUS TYPE
500 Park Avenue (B110, L7.01, 8, & 8.01)	Rental	168	28	Family	14	TOD
Living Facility, 21 Hudson Street (B62, L26.01 & 27)	Rental	18	18	Permanent Supportive Housing	18	Permanent Supportive Housing
Nestle Redevelopment (B93, L1.02 & 50)	Rental	<del>31</del> 155	31	Family	15.5	RDV TOD
<b>Grand Total: 89 Credits Produced – 40 Credits Transferred to 3<sup>rd</sup> Round = 49 Credits</b>		<del>217</del> 344	77	N/A	12 (capped)	N/A
TOD = Transit-Oriented Development RDV = Nonresidential Redevelopment						

**Table 22: Mandatory Obligation Subsets**

Below is a table reviewing additional obligation requirement thresholds.

MANDATORY OBLIGATIONS	CITATION	# REQUIRED OF ACTUAL UNITS*	PROPOSED
Very Low-Income Units (13% Minimum)  <i>Shall count towards the minimum 50 percent of the housing units required to be made available for occupancy by low-income households to address a municipality's prospective need obligation.</i>	<a href="#">52:27D-329.1</a>	75	75
Family VLI Units (50% Minimum of VLI Units)	<a href="#">52:27D-329.1</a>	43	43
Low-Income Units (50% Minimum)  <i>Conversely, the maximum of Moderate-Income Units shall not exceed 50%.</i>	<a href="#">52:27D-329.1</a>	25 16	25 16
Family Units (50% Minimum)	<a href="#">52:27D-311.l</a>	25 16	59
Rental Units (25% Minimum)	<a href="#">52:27D-311.l</a>	13 9	77
Family Rental Units (50% Minimum of Rental Units)	<a href="#">52:27D-311.k.5</a>	7 5	59
Age-restricted units (30% Maximum)	<a href="#">52:27D-302.q</a>	14 10	0
Transitional Housing (10% Maximum of Total Credits)	<a href="#">52:27D-311.e</a>	4	0
Age-Restricted Housing Bonus Credit (10% Maximum of Age-Restricted Units)	<a href="#">52:27D-311.k.4</a>	N/A No Age-Restricted Units	
<p><i>*Except where otherwise noted, actual units do not count bonus credits. In other words, to address the adjusted Prospective Need of 49 credits with bonus credits of 0.5 credits / unit, 33 units are required (33 + 0.5 * 33 = 49.5, 49.5 &gt; 13).</i></p> <p><i>Note: Maximum bonus credits shall not exceed 25% of Prospective Need per NJSA 52:27D-311.k.</i></p> <p><i>Note: Proposed values in italics are targets based on required units and will be enforced throughout the Fourth Round as part of site plan review and approval.</i></p>			

## **VI. Appendices**

- A. Spending Plan
- B. Affirmative Marketing Plan
- C. Regulatory Resolutions (Adopting Obligation Number)
- D. Affordable Housing Ordinance and Development Fee Ordinance
- E. Prospective Obligation Plans & Compliance Mechanisms
- F. Draft Resolution of intent to fund cost of municipality's rehabilitation program
- G. Copies of resolutions appointing Administrative Agent(s) Municipal Affordable Housing Liaison
- H. Borough Home Improvement Program – Policies and Procedures Manual
- I. Draft Settlement Agreement and Consent Order between the Borough of Freehold and the Fair Share Housing Center

NOTE: Draft documentation included herein is subject to modification prior to adoption.

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## Appendix A – Spending Plan

~~NOTE: Freehold Borough will update its spending plan when the final forthcoming amendments to UHAC have been adopted.~~

**Borough of Freehold: Affordable Housing Trust Fund Spending Plan**

Prepared: February 25, 2026

**INTRODUCTION**

The Borough of Freehold, Monmouth County has prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the amended Fair Housing Act (N.J.S.A. 52:27D-301), and N.J.A.C. 5:99. A development fee ordinance creating a dedicated revenue source for affordable housing will be implemented and will be applied after the adoption and endorsement of the Housing Plan Element and Fair Share Plan by the Borough Planning Board and governing body.

**1. REVENUES FOR CERTIFICATION PERIOD**

The Borough initially established its Affordable Housing Trust Fund on January 1, 2025, and has collected \$10,655.88 as of January 23, 2026. All development fees, funds from the sale of units with extinguished controls, any other type of permissible revenue from applicable projects or programs, and interest generated by the fees will be deposited in a separate interest-bearing affordable housing trust fund for the purposes of affordable housing. These funds shall be spent in accordance with applicable affordable housing regulations as described in the sections that follow.

To calculate a projection of revenue anticipated during the Fourth-Round compliance period (2025 – 2035), the Borough of Freehold considered the following:

**(a) Development fees:**

- 1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
- 2. All projects currently before the planning board for development approvals that may apply for building permits and certificates of occupancy; and
- 3. Future development that is likely to occur based on historical rates of development. This estimate was derived from NJDCA monthly data on housing units and the square footage of non-residential space issued Certificates of Occupancy (COs) between January 2019



**2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS**

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

**(a) Collection of development fee revenues:**

Collection of development fee revenues shall be consistent with the Borough of Freehold development fee ordinance for both residential and non-residential developments in accordance with Department of Community of Affairs rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

Pursuant to a development approval by the Board having jurisdiction, the municipal clerk will notify the construction official of the approval. At the time of construction permit application, the construction official will notify the tax assessor and request an initial calculation of the equalized assessed value (EAV) of the proposed development and the resulting fee to be posted. One-half of the fee will be due at the time of issuance of the first building permit. For non-residential development only, the developer will be provided a copy of Form N – RDF “State of New Jersey Non-Residential Development Certification/Exemption”. This form will be used by the tax assessor to verify exemptions and to prepare estimated and final assessments.

At the time of request for the final inspection, the construction official will notify the tax assessor and request confirmation of, or modification of, the initial (EAV) as the case may be. The final (EAV) will be provided to the developer within ten (10) days of the request for final inspection. Payment of the fee will then become a condition of issuance of the certificate of occupancy.

**(b) Distribution of development fee revenues:**

Any requisition for affordability assistance, administrative costs (routine expenditures), or affordable housing development (significant expenditures) to the Finance Department recommending the expenditure of development fee revenues in this Spending Plan must be approved by the governing body. The Finance Department shall review the request for consistency with the Spending Plan. Once a request is approved for consistency by the Finance Department, the request is presented to the governing body for approval. After receiving governing body approval, the funds may be disbursed, subject to completion of any other compliance steps that may be required as per the Fair Housing Act (N.J.S.A. 52:27D-301) and N.J.A.C. 5:99.

**3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS**

**(a) Housing Rehabilitation Program:**

The Borough has a combined Third and Fourth Round Housing Rehabilitation (Present Need) obligation of 557 units. A total of \$113,648 is anticipated to become available to fund the local Housing Rehabilitation Program, which is anticipated to enable the rehabilitation of 6 units. If more funding becomes available during the Fourth Round, the Borough intends to rehabilitate additional units. The Borough will also participate in the Monmouth County Home Improvement Program and actively seek to generate applicant participation in the County's program in order to enable additional units to be rehabilitated. With respect to any additional funds received by the Borough beyond the amounts projected herein, any additional unforeseen funds may be allocated to provide additional Housing Rehabilitation Units on an emergency basis where the approval of this Spending Plan by the Borough and the State shall enable the Borough to utilize additional unforeseen funds for Housing Rehabilitation units without the need to seek additional approval from the State. Any funding remaining from prior RCA funds the Borough received shall be expended under the Borough's existing agreements for those funds apart from this Spending Plan.

**(b) Affordability Assistance (N.J.A.C. 5:99-2.5 (a) and (b)**

Freehold Borough will dedicate up to 30% of the available balance of AHTF funds to help very low, low and moderate-income households acquire funding to secure income restricted affordable housing within the Borough. Such payments shall be consistent with the Borough's Affordability Assistance Program Policies and Procedures Manual. The Borough intends to adopt an Affordability Assistance Manual by Resolution by March 15, 2026.

The proposed allocation of Affordability Assistance is reflected in Table 2 below:

<b>TABLE 2</b>		
<b>MINIMUM AFFORDABILITY ASSISTANCE</b>		
Actual Development Fees & Interest through 12/31/2025		\$10,656
Development Fees Projected 1/1/2026 through 12/31/2035	+	\$215,000
Interest Projected 1/1/2026 through 12/31/2035	+	\$1,377
Less Affordability Assistance Expenditures through 12/31/2025	-	\$0
<b>Total</b>	<b>=</b>	<b>\$227,033</b>
<b>Proposed Affordability Assistance Allocation</b>	<b>X .30</b>	<b>\$68,110</b>

Development Fee Spending Plan - Borough of Freehold

**(c) Administrative Expenses (N.J.A.C. 5:97-8.9)**

The municipality may use affordable housing trust fund revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and statutory administrative assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis based on actual revenues.

**Table 3: Administrative Expense Calculation**

Actual development fees with interest through 12/31/2025			\$ 10,656
Development Fees & Interest Projected 2026-2035	+	\$	226,377
Payments In Lieu of construction and other deposits through 12/31/2025	+		0
Less RCA Expenditures through 12/31/2025	-		0
Total	=	\$	226,377
Calculate 20%	X .20 =	\$	45,275
Less Administrative Expenditures Through 12/31/2025	-	\$	0-
Projected Maximum Available for Admin Expenses 1/1/2025 through 12/31/2035	=	\$	45,275

The Borough estimates that up to **\$45,275** may be available for administrative fees through 2035. Projected administrative expenditures, subject to the 20 percent cap, may include fees from professional consultants such as professional planners, administrative agents, attorneys and others in connection with the implementation of the affordable housing programs set forth in this Spending Plan.

**4. EXPENDITURE SCHEDULE**

The Borough of Freehold intends to use affordable housing trust fund revenues as set forth in the Housing Element and Fair Share Plan and is summarized below. Upon approval by the Program, the municipality acknowledges that the expenditures of funds contemplated herein shall constitute the “commitment” for expenditure required pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period contemplated therein commencing in accordance with the provisions of In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff’d 442 N.J. Super. 563). Where applicable, the funding schedule below parallels the proposed strategies presented thus far by the municipality and is summarized as follows.

**Table 4. Projected Expenditure Schedule 2026-2035**

Programs	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	Total
Housing Rehabilitation Program	\$25,000	\$25,000	\$25,000	\$25,000	\$13,648	\$0	\$0	\$0	\$0	\$0	\$113,648
Affordability Assistance	\$6,811	\$6,811	\$6,811	\$6,811	\$6,811	\$6,811	\$6,811	\$6,811	\$6,811	\$6,811	\$68,110
Administration	\$4,528	\$4,528	\$4,528	\$4,528	\$4,528	\$4,528	\$4,528	\$4,528	\$4,528	\$4,523	\$45,275
<b>Total</b>	\$36,339	\$36,339	\$36,339	\$36,339	\$24,987	\$11,339	\$11,339	\$11,339	\$11,339	\$11,334	\$227,033

**5. 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. The municipality acknowledges that the actual amount of the Development Fees collected may be less than what is projected in this spending plan for a variety of reasons, including, but not limited to: (a) a moratorium on collection of fees may be imposed by law; and (b) the actual amount of development in the municipality may be less than what is anticipated. Should there be a shortfall of funds; the municipality agrees that in no event shall it utilize more than 20% of the Development Fees collected for administration and the municipality agrees to adopt a resolution of intent to fund bonds if necessary to cover any shortfall.

The municipality intends to expend all current and future revenues toward the mechanisms as described in this Spending Plan. In the event of an excess of funds, these would be dedicated toward supplementing any programs or projects within the regulatory limits as described herein. The municipality reserves the right to use the remainder first toward emerging mechanisms and for additional assistance where needed. Should there be a surplus beyond emerging mechanisms, et. al., the municipality reserves the right to use the remainder toward Round 5, which will be addressed by an adopted Round 5 Spending Plan in a timeframe that will satisfy the requirements of N.J.S.A. 52:27D-329.2 and -329.3. The municipality reserves the right to submit an updated spending plan as needed.

**6. EXPEDITED APPROVAL OF EXPENDITURES FOR EMERGENT OPPORTUNITIES TO CREATE AFFORDABLE HOUSING**

As per N.J.A.C. 5-99-4.1, (a) through (d), the City “may request approval from the Division to expend excess affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan.” Emergent housing opportunities are defined in the above-referenced regulations as well as the procedures for obtaining consent and certification of the units. The Borough reserves the right to divert to such funds for emergent opportunities.

**7. SUMMARY**

The Borough of Freehold intends to spend Affordable Housing Trust Fund revenues pursuant to applicable affordable housing regulations and consistent with the housing programs outlined in the Housing Element and Fair Share Plan. The Borough has a zero starting balance of January 1, 2025, and anticipates **\$227,033** in revenues, including interest, through December 31, 2035. The municipality will dedicate **\$113,648** toward the Housing Rehabilitation Program, **\$68,110** for affordability assistance and **\$45,275** for administrative costs. Total expenditures are anticipated to be **\$227,033**.

**Table 5. Spending Plan Summary**

Balance as of December 31, 2025	\$0
<b>Projected Revenue 2025-2035</b>	<b>\$227,033</b>
Development Fees	\$225,629
Other Funds	\$0
Interest	\$1,404
<b>Total Revenue</b>	<b>\$227,033</b>
<b>Expenditures</b>	
Housing Rehabilitation Program	\$150,000
Affordability Assistance	\$31,626
Administration	\$45,406
<b>Total Project Expenditures</b>	<b>\$227,033</b>
<b>Remaining Balance</b>	<b>\$0</b>

## **Appendix B - Affirmative Marketing Plan**

~~NOTE: The current Freehold Borough Affirmative Marketing Plan is inconsistent with current UHAC regulations but was approved for the Third Round. The Affirmative Marketing Plan will be updated when the final UHAC amendments have been adopted.~~

## AFFIRMATIVE FAIR HOUSING MARKETING PLAN For Affordable Housing in Freehold Borough, NJ REGION 4

### I. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number  Acuity Consulting Services, LLC 8 Gentry Drive, Long Valley, NJ 07853 551-296-7770		1b. Development or Program Name, Address  [TBD] <b>Freehold Borough, NJ</b>	
1c.  Number of Affordable Units: [TBD] Number of Rental Units: [TBD] Number of For-Sale Units: [TBD]	1d. Price or Rental Range  From: [TBD] To: [TBD]	1c.  Number of Affordable Units: [TBD] Number of Rental Units: [TBD] Number of For-Sale Units: [TBD]	
1f.  <input type="checkbox"/> Age Restricted [TBD] <input type="checkbox"/> Non-Age Restricted [TBD]	1g. Approximate Starting Dates  Advertising: [TBD] Occupancy: [TBD]		
1h. County  Mercer, <b>Monmouth</b> , Ocean		1i. Census Tract(s): [TBD]	
1j. Managing/Sales Agent's Name, Address, Phone Number  [TBD]			
1k. Application Fees (if any): [TBD]			

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

### II. RANDOM SELECTION

2. Describe the random selection process that will be used once applications are received.  <p><b>Initial Randomization:</b> Applicants are selected at random before income-eligibility is determined, regardless of household size or desired number of bedrooms. The process is as follows:</p> <ul style="list-style-type: none"> <li>• After advertising is implemented, applications are accepted for 60 days.</li> <li>• At the end of the period, sealed applications are selected one-by-one through a lottery (unless fewer applications are received than the number of available units, then all eligible households will be placed in a unit).</li> <li>• An applicant pool is created by listing applicants in the order selected.</li> <li>• Applications are reviewed for income-eligibility. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information.</li> <li>• Eligible households are matched to available units based upon the number of bedrooms needed (and any other special requirements, such as the need for an accessible unit).</li> <li>• If there are sufficient names remaining in the pool to fulfill re-rental needs anticipated over the next two years, the applicant pool shall be closed; however, if insufficient applicants remain on the list to cover the subsequent two years, the list may be kept open.</li> <li>• When the applicant pool is close to being depleted, the Administrative Agent will re-open the pool and conduct a new random selection process after fulfilling the affirmative marketing requirements. The new applicant pool will be added to the remaining list of initial applicants.</li> <li>• A Regional Preference for COAH Region 4 is required in accordance with the municipal ordinance.</li> </ul>
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**III. MARKETING**

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

- White (non-Hispanic)
  Black (non-Hispanic)
  Hispanic
- American Indian or Alaskan Native
  Asian or Pacific Islander
  Other group:

- 3b. **HOUSING RESOURCE CENTER** ([www.njhousing.gov](http://www.njhousing.gov)) A free, online listing of affordable housing **X**
- Affordable Housing.com ([Affordablehousing.com](http://Affordablehousing.com)) Affordable housing online search site **X**
- NJ 2-1-1 ([nj211.org](http://nj211.org)) New Jersey's comprehensive information and referral organization **X**
- Borough of Freehold website (<https://www.freeholdboroughnj.gov>) **X**

3c. Commercial Media (required) (Check all that applies)

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
<b>TARGETS PARTIAL HOUSING REGION 4</b>			
<b>Daily Newspaper</b>			
<input checked="" type="checkbox"/>	One publication during the first week of marketing	Trenton Times	Mercer
<input type="checkbox"/>		Trentonian	Mercer
<input type="checkbox"/>		Asbury Park Press	Monmouth, Ocean
<input type="checkbox"/>		Ocean County Observer	Ocean
<b>Weekly Newspaper</b>			
<input type="checkbox"/>		Ewing Observer	Mercer
<input type="checkbox"/>		Hopewell Valley News	Mercer
<input type="checkbox"/>		Lawrence Ledger	Mercer
<input type="checkbox"/>		Pennington Post	Mercer
<input type="checkbox"/>		Princeton Town Topics	Mercer
<input type="checkbox"/>		Tempo Mercer	Mercer
<input type="checkbox"/>		Trenton Downtowner	Mercer
<input type="checkbox"/>		Windsor Heights Herald	Mercer
<input type="checkbox"/>		West Windsor-Plainsboro News	Mercer, Middlesex
<input type="checkbox"/>		Princeton Packet	Mercer, Middlesex, Somerset
<input type="checkbox"/>		Messenger-Press	Mercer, Monmouth, Ocean
<input type="checkbox"/>		Woodbridge Sentinel	Middlesex
<input type="checkbox"/>		Atlanticville	Monmouth
<input type="checkbox"/>		Coaster	Monmouth

<input type="checkbox"/>		Courier	Monmouth
<input type="checkbox"/>		Examiner	Monmouth
<input type="checkbox"/>		Hub, The	Monmouth
<input type="checkbox"/>		Independent, The	Monmouth
<input type="checkbox"/>		News Transcript	Monmouth
<input type="checkbox"/>		Two River Times	Monmouth
<input type="checkbox"/>		Coast Star, The	Monmouth, Ocean
<input type="checkbox"/>		Beach Haven Times	Ocean
<input type="checkbox"/>		Beacon, The	Ocean
<input type="checkbox"/>		Berkeley Times	Ocean
<input type="checkbox"/>		Brick Bulletin	Ocean
<input type="checkbox"/>		Brick Times	Ocean
<input type="checkbox"/>		Jackson Times	Ocean
<input type="checkbox"/>		Lacey Beacon	Ocean
<input type="checkbox"/>		Manchester Times	Ocean
<input type="checkbox"/>		New Egypt Press	Ocean
<input type="checkbox"/>		Ocean County Journal	Ocean
<input type="checkbox"/>		Ocean Star, The	Ocean
<input type="checkbox"/>		Tri-Town News	Ocean
<input type="checkbox"/>		Tuckerton Beacon	Ocean
<input type="checkbox"/>		Atlantic Highlands Herald	Monmouth

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL TV STATION(S)	CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
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**TARGETS ENTIRE HOUSING REGION 4**

<input type="checkbox"/>		2 WCBS-TV CBS Broadcasting Inc.	
<input type="checkbox"/>		4 WNBC NBC Telemundo License Co. (General Electric)	
<input type="checkbox"/>		5 WNYW Fox Television Stations, Inc. (News Corp.)	
<input type="checkbox"/>		7 WABC-TV American Broadcasting Companies, Inc (Walt Disney)	
<input type="checkbox"/>		9 WWOR-TV Fox Television Stations, Inc. (News Corp.)	

<input type="checkbox"/>		10 WCAU NBC Telemundo License Co. (General Electric)	
<input type="checkbox"/>		11 WPIX WPIX, Inc. (Tribune)	
<input type="checkbox"/>		13 WNET Educational Broadcasting Corporation	
<input type="checkbox"/>		58 WNJB New Jersey Public Broadcasting Authority	
<b>TARGETS PARTIAL HOUSING REGION 4</b>			
<input type="checkbox"/>		25 W25AW WZBN TV, Inc.	Mercer
<input type="checkbox"/>		39 WLVT-TV Lehigh Valley Public Telecommunications Corp.	Mercer
<input type="checkbox"/>		60 WBPH-TV Sonshine Family Television Corp	Mercer
<input type="checkbox"/>		63 WMBC-TV Mountain Broadcasting Corp.	Mercer
<input type="checkbox"/>		69 WFMZ-TV Maranatha Broadcasting Company, Inc.	Mercer
<input type="checkbox"/>		41 WXTV WXTV License Partnership, G.P. (Univision Communications Inc.)	Mercer, Monmouth
<input type="checkbox"/>		3 KYW-TV CBS Broadcasting Inc.	Mercer, Ocean
<input type="checkbox"/>		6 WPVI-TV American Broadcasting Companies, Inc (Walt Disney)	Mercer, Ocean
<input type="checkbox"/>		12 WHYI-TV WHYY, Inc.	Mercer, Ocean
<input type="checkbox"/>		17 WPHL-TV Tribune Company	Mercer, Ocean
<input type="checkbox"/>		23 WNJS New Jersey Public Broadcasting Authority	Mercer, Ocean
<input type="checkbox"/>		29 WTXF-TV Fox Television Stations, Inc. (News Corp.)	Mercer, Ocean
<input type="checkbox"/>		35 WYBE Independence Public Media Of Philadelphia, Inc.	Mercer, Ocean
<input type="checkbox"/>		48 WGTW-TV Trinity Broadcasting Network	Mercer, Ocean
<input type="checkbox"/>		52 WNJT New Jersey Public Broadcasting Authority	Mercer, Ocean
<input type="checkbox"/>		57 WPSG CBS Broadcasting Inc.	Mercer, Ocean
<input type="checkbox"/>		61 WPPX Paxson Communications License Company, LLC	Mercer, Ocean
<input type="checkbox"/>		65 WUVP-TV Univision Communications Inc.	Mercer, Ocean
<input type="checkbox"/>		25 WNYE-TV New York City Dept. Of Info Technology & Telecommunications	Monmouth
<input type="checkbox"/>		31 WPXN-TV Paxson Communications License Company, LLC	Monmouth
<input type="checkbox"/>		47 WNJU NBC Telemundo License Co. (General Electric)	Monmouth
<input type="checkbox"/>		50 WNJN New Jersey Public Broadcasting Authority	Monmouth
<input type="checkbox"/>		68 WFUT-TV Univision New York LLC	Monmouth, Ocean (Spanish)

<input type="checkbox"/>		62 WWSI Hispanic Broadcasters of Philadelphia, LLC	Ocean
<b>TARGETS PARTIAL HOUSING REGION 4</b>			
	<b>DURATION &amp; FREQUENCY OF OUTREACH</b>	<b>NAMES OF CABLE PROVIDER(S)</b>	<b>BROADCAST AREA</b>
<input type="checkbox"/>		Cablevision of Hamilton	Partial Mercer, Monmouth
<input type="checkbox"/>		Comcast of Central NJ	Partial Mercer, Monmouth
<input type="checkbox"/>		Patriot Media & Communications, CNJ	Partial Mercer
<input type="checkbox"/>		Cablevision of Monmouth, Raritan Valley	Partial Monmouth
<input type="checkbox"/>		Comcast of Mercer County, Southeast Pennsylvania	Partial Middlesex
<input type="checkbox"/>		Comcast of Monmouth County	Partial Monmouth, Ocean
<input type="checkbox"/>		Comcast of Garden State, Long Beach Island, Ocean County, Toms River	Partial Ocean
<b>TARGETS ENTIRE HOUSING REGION 4</b>			
	<b>DURATION &amp; FREQUENCY OF OUTREACH</b>	<b>NAMES OF REGIONAL RADIO STATION(S)</b>	<b>BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE</b>
<b>AM</b>			
<input type="checkbox"/>		WWJZ 640	
<input type="checkbox"/>		WOR 710	
<input type="checkbox"/>		WABC 770	
<input type="checkbox"/>		WCBS 880	
<input type="checkbox"/>		WBBR 1130	
<input type="checkbox"/>		WPST 94.5	
<b>FM</b>			
<input type="checkbox"/>		WKXW-FM 101.5	
<input type="checkbox"/>		WPRB 103.3	
<b>TARGETS PARTIAL HOUSING REGION 4</b>			
<b>AM</b>			
<input type="checkbox"/>		WFIL 560	Mercer, Monmouth
<input type="checkbox"/>		WMCA 570	Monmouth, Ocean
<input type="checkbox"/>		WFAN 660	Mercer, Monmouth
<input type="checkbox"/>		WNYC 820	Mercer, Monmouth

<input type="checkbox"/>		WWBD 860	Mercer
<input type="checkbox"/>		WPHY 920	Mercer
<input type="checkbox"/>		WNTP 990	Mercer
<input type="checkbox"/>		WCHR 1040	Mercer
<input type="checkbox"/>		WOBM 1160	Monmouth, Ocean
<input type="checkbox"/>		WWTR 1170	Mercer
<input type="checkbox"/>		WPHT 1210	Mercer, Monmouth
<input type="checkbox"/>		WBUD 1260	Mercer, Monmouth
<input type="checkbox"/>		WIMG 1300	Mercer
<input type="checkbox"/>		WADB 1310	Monmouth, Ocean
<input type="checkbox"/>		WHTG 1410	Monmouth
<input type="checkbox"/>		WCTC 1450	Mercer, Monmouth
<input type="checkbox"/>		WBCB 1490	Mercer
<input type="checkbox"/>		WTTM 1680	Mercer, Monmouth
FM			
<input type="checkbox"/>		WNJT-FM 88.1	Mercer
<input type="checkbox"/>		WWFM 89.1	Mercer, Monmouth
<input type="checkbox"/>		WRDR 89.7	Monmouth, Ocean
<input type="checkbox"/>		WRTI 90.1	Mercer
<input type="checkbox"/>		WBJB-FM 90.5	Monmouth
<input type="checkbox"/>		WWNJ 91.1	Ocean
<input type="checkbox"/>		WTSR 91.3	Mercer
<input type="checkbox"/>		WBGD 91.9	Ocean
<input type="checkbox"/>		WFNY-FM 92.3	Mercer, Monmouth
<input type="checkbox"/>		WXTU 92.5	Mercer
<input type="checkbox"/>		WOBM-FM 92.7	Ocean
<input type="checkbox"/>		WPAT-FM 93.1	Mercer, Monmouth
<input type="checkbox"/>		WMMR 93.3	Mercer
<input type="checkbox"/>		WNYC-FM 93.9	Mercer, Monmouth
<input type="checkbox"/>		WYSP 94.1	Mercer

<input type="checkbox"/>		WJLK-FM 94.3	Monmouth, Ocean
<input type="checkbox"/>		WFME 94.7	Mercer, Monmouth
<input type="checkbox"/>		WZZO 95.1	Mercer
<input type="checkbox"/>		WPLJ 95.5	Mercer, Monmouth
<input type="checkbox"/>		WBEN-FM 95.7	Mercer
<input type="checkbox"/>		WRAT 95.9	Monmouth, Ocean
<input type="checkbox"/>		WCTO 96.1	Mercer
<input type="checkbox"/>		WQXR-FM 96.3	Mercer, Monmouth
<input type="checkbox"/>		WRDW-FM 96.5	Mercer
<input type="checkbox"/>		WQHT 97.1	Mercer, Monmouth
<input type="checkbox"/>		WSKQ-FM 97.9	Mercer, Monmouth
<input type="checkbox"/>		WOGI 98.1	Mercer
<input type="checkbox"/>		WMGQ 98.3	Mercer, Monmouth
<input type="checkbox"/>		WRKS 98.7	Mercer, Monmouth
<input type="checkbox"/>		WUSL 98.9	Mercer, Monmouth
<input type="checkbox"/>		WAWZ 99.1	Mercer, Monmouth
<input type="checkbox"/>		WBAI 99.5	Mercer, Monmouth
<input type="checkbox"/>		WJRZ-FM 100.1	Ocean
<input type="checkbox"/>		WHTZ 100.3	Mercer, Monmouth
<input type="checkbox"/>		WCBS-FM 101.1	Mercer, Monmouth
<input type="checkbox"/>		WQCD 101.9	Mercer, Monmouth
<input type="checkbox"/>		WIOQ 102.1	Mercer
<input type="checkbox"/>		WNEW 102.7	Mercer, Monmouth
<input type="checkbox"/>		WMGK 102.9	Mercer
<input type="checkbox"/>		WKTU 103.5	Mercer, Monmouth
<input type="checkbox"/>		WAXQ 104.3	Mercer, Monmouth
<input type="checkbox"/>		WWPR-FM 105.1	Mercer, Monmouth
<input type="checkbox"/>		WDAS-FM 105.3	Mercer, Monmouth
<input type="checkbox"/>		WCHR-FM 105.7	Ocean
<input type="checkbox"/>		WJJZ 106.1	Mercer, Monmouth

<input type="checkbox"/>		WHTG-FM 106.3	Monmouth, Ocean
<input type="checkbox"/>		WLTW 106.7	Mercer, Monmouth
<input type="checkbox"/>		WKDN 106.9	Mercer
<input type="checkbox"/>		WWZY 107.1	Monmouth, Ocean
<input type="checkbox"/>		WBLS 107.5	Mercer, Monmouth
<input type="checkbox"/>		WWPH 107.9	Mercer

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters) (Check all that applies)

	NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
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**TARGETS ENTIRE HOUSING REGION 4**

Weekly

<input checked="" type="checkbox"/>	One publication during the first week of marketing	Nuestra Comunidad	Central/South Jersey	Spanish-Language
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**TARGETS PARTIAL HOUSING REGION 4**

Weekly

<input type="checkbox"/>		New Jersey Jewish News	Northern and Central New Jersey	Jewish
<input type="checkbox"/>		El Hispano	Camden and Trenton areas	Spanish-Language
<input type="checkbox"/>		Ukrainian Weekly	New Jersey	Ukrainian community

3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies)

DURATION & FREQUENCY OF OUTREACH	NAME OF EMPLOYER/COMPANY	LOCATION
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**Mercer County**

<input type="checkbox"/>		Mercer County Board of Education	1075 Old Trenton Rd, Trenton, NJ
<input type="checkbox"/>		Medical Center at Princeton	253 Witherspoon St, Princeton, NJ
<input type="checkbox"/>		Bristol-Myers Squibb	100 Nassau Park Blvd, Princeton, NJ and 820 Bear Tavern Rd, Trenton, NJ
<input type="checkbox"/>		St. Lawrence Rehabilitation Center	2381 Lawrenceville Rd, Lawrenceville, NJ
<input type="checkbox"/>		McGraw-Hill	120 Windsor Center Dr, East Windsor, NJ
<input type="checkbox"/>		Conair Corporation	150 Milford Rd, Hightstown, NJ
<input type="checkbox"/>		Shiseido America, Inc.	366 Princeton Hightstown Rd, East Windsor, NJ
<input type="checkbox"/>		NJ Manufacturers Insurance Company	1001 Grand St S, Hammonton, NJ
<input type="checkbox"/>		Homasote	932 Lower Ferry Rd, Trenton, NJ

<input type="checkbox"/>		Robert Wood Johnson University Hospital	1 Hamilton Health Pl, Trenton, NJ
<input type="checkbox"/>		Congoleum Corp.	3500 Quakerbridge Rd, Mercerville, NJ
<input type="checkbox"/>		Coca-Cola Foods	480 Mercer St, Hightstown, NJ
<input type="checkbox"/>		Peddie School	111 Armellino Ct, Hightstown, NJ
<input type="checkbox"/>		Dana Communications	2 E Broad St, Hopewell, NJ
<input type="checkbox"/>		Merrill Lynch	410 Scotch Rd, Hopewell, NJ
<input type="checkbox"/>		Janssen Pharmaceutical	1125 Trenton Harbourton Rd, Titusville, NJ
<input type="checkbox"/>		St. Francis Medical Center	601 Hamilton Avenue Trenton NJ 08629-1986
<input type="checkbox"/>		The Trenton Times	500 Perry St, Trenton, NJ
<input type="checkbox"/>		Gaum. Inc.	1080 US Highway 130, Robbinsville, NJ

**Monmouth County**

<input type="checkbox"/>		Meridian Health System	1350 Campus Parkway Neptune
<input type="checkbox"/>		US Army Communications Electronics Command Fort Monmouth	CECOM Bldg 901 Murphy drive Fort Monmouth
<input type="checkbox"/>		County of Monmouth Hall of Records	1 East Main Street Freehold
<input type="checkbox"/>		Central State Healthcare Systems	West Main Street Freehold
<input type="checkbox"/>		Monmouth Medical Center	300 Second Ave Long Branch
<input type="checkbox"/>		Asbury Park Press	3601 Route 66 Neptune, NJ
<input type="checkbox"/>		Food Circus Super Markets, Inc.	835 Highway 35 PO BOX 278 Middletown, NJ
<input type="checkbox"/>		Monmouth University	Cedar Ave West Long Branch
<input type="checkbox"/>		Naval Weapons stations Earle	State Highway 34 Colts Neck, NJ
<input type="checkbox"/>		Norkus Enterprises, Inc.	505 Richmond Ave. Point Pleasant, NJ
<input type="checkbox"/>		Horizon Blue Cross Blue Shield	1427 Wyckoff Road Farmingdale, NJ

**Ocean County**

<input type="checkbox"/>		Saint Barnabas Health Care System	300 2nd Ave Long Branch, NJ 07740
<input type="checkbox"/>		Six Flags Theme Parks Inc	Route 537 Jackson, NJ 08527
<input type="checkbox"/>		Meridian Health Care System	415 Jack Martin Blvd, Brick, NJ
<input type="checkbox"/>		Southern Ocean County Hospital	1140 Route 72 West, Manahawkin, NJ
<input type="checkbox"/>		Jenkinsons	300 Ocean Ave Pt. Pleasant Beach, NJ 08742

3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post

advertisements and distribute flyers regarding available affordable housing)			
Name of Group/Organization	Outreach Area	Racial/Ethnic Identification of Readers/Audience	Duration & Frequency of Outreach
Fair Share Housing Center	Statewide	Various	Project flyer and applications links provided, per each organization's policy
New Jersey State Conference of the NAACP	Statewide	African American	
Latino Action Network	Statewide	Latino/Hispanic American	
Supportive Housing Association	Statewide	People with disabilities	
African Support Services of New Jersey	Statewide	African Immigrants and Refugees	
NAACP Metuchen Edison Piscataway Area Branch	Portion of Region 4	African American	
HISPA	Portion of Region 4	Latino/Hispanic American	
The ARC of Monmouth	Portion of Region 4	People with disabilities	
Local Continuum of Care, if applicable	Portion of Region 4	Households in need of Supportive Housing	
Community Affairs and Resource Center (CARC)	Monmouth County	Latino/Hispanic American Women	
Neighborhood Connections to Health	Freehold Borough	Various	

3g. Transit Stops  
 Project flyers posted at transit (bus and/or train/light rail) stops within ¼ mile of the development or elsewhere in the housing region.

3h. Social Media Platforms, as applicable			
	DURATION & FREQUENCY OF OUTREACH	NAME OF PLATFORM	WEBSITE URL
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

**IV. APPLICATIONS\***

\* As applications are online, *flyers* directing individuals to applications will be available at locations below

Applications for affordable housing for the above units will be available at the following locations:	
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that applies)	
BUILDING	LOCATION
X Mercer County Library Headquarters	2751 Brunswick Pike, Lawrenceville, NJ 08648
X Monmouth County Headquarters Library	125 Symmes Drive, Manalapan, NJ 07726
X Ocean County Library	101 Washington Street, Toms River, NJ 08753
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)	
Freehold Borough Municipal Building, 39 Mechanic St., Freehold, NJ 07728, contact person as determined	
Freehold Borough website, freeholdboroughnj.gov, contact person as determined	
Freehold Public Library, 28-1/2 E. Main St., Freehold, NJ 07728, contact person as determined	
4c. Sales/Rental Office for units (if applicable) [TBD]	

**VI. ADDITIONAL PROJECT INFORMATION**

[TBD]

**V. CERTIFICATIONS AND ENDORSEMENTS**

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the Municipality's substantive certification/Final Judgement of Compliance and Repose.

Peter Van den Kooy, PP, AICP

Name (Type or Print)

Vice President of Acuity Consulting Services, LLC

Title/Municipality



Signature

Date: 2/1/2026

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## Appendix C – Regulatory Resolutions (Adopting Obligation Number)



**WHEREAS**, *N.J.S.A. 52:27D-304.1(f)* provides that the Borough is required to determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established at *N.J.S.A. 52:27D-304.2* and *N.J.S.A. 52:27D-304.3* and adopt a housing element and fair share plan based on this determination (as may be adjusted by the Affordable Housing Dispute Resolution Program (the “Program”) in accordance with the Act); and

**WHEREAS**, for the Fourth Round of affordable housing obligations, this determination of present and prospective fair share obligation is required to be made by binding resolution no later than January 31, 2025; and

**WHEREAS**, the Borough accepts the DCA present and prospective need obligations of 270 units and 49 units, respectively, for the Borough as calculated in the Report and wishes to adopt these calculations as the determination of the Borough’s Fourth Round affordable housing obligation, subject to any vacant land and/or durational adjustment it may seek as part of the Housing Element and Fair Share Plan it subsequently submits in accordance with the Act; and

**WHEREAS**, notwithstanding the foregoing, the Act’s future is uncertain at this stage due to ongoing litigation, and accordingly, the Borough also reserves its right to review and revise its Fourth Round affordable housing obligation calculations in the event the Act should be amended or overturned; and

**WHEREAS**, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

**WHEREAS**, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the Act shall file an action in the form of a declaratory judgment complaint . . . . in the county in which the municipality is located . . . . within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner”; and

**WHEREAS**, the Borough seeks a certification of compliance with the Act and, therefore, directs its Affordable Housing Counsel to file a declaratory judgment action with the Program within 48 hours of the adoption of this Resolution in Monmouth County.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and the Council of the Borough of Freehold, County of Monmouth, State of New Jersey as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The Borough accepts and adopts the DCA present and prospective need obligations of 270 units and 49 units, respectively for the Borough as calculated in the Report and adopts these calculations as the determination of its Fourth Round affordable housing obligation, subject to any vacant land and/or durational adjustment it may

seek as part of the Housing Element and Fair Share Plan it subsequently submits in accordance with the Act.

3. The Borough reserves its right to review and revise its Fourth Round affordable housing obligation calculations in the event the Act should be overturned or amended.
4. The Borough's Affordable Housing Counsel shall file a declaratory judgment action with the Program no later than 48 hours following adoption of this Resolution, in accordance with the requirements of the Act. A certified copy of this Resolution shall be included with such filing.
5. A copy of this Resolution shall be posted on Borough's website.
6. This Resolution will take effect immediately.

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## **Appendix D – Affordable Housing and Development Fee Ordinance**

**BOROUGH OF FREEHOLD  
COUNTY OF MONMOUTH  
ORDINANCE #2026/XX**

**AN ORDINANCE AMENDING TITLE 19 (AFFORDABLE HOUSING) OF THE  
BOROUGH OF FREEHOLD 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 THREE AND ROUND FOUR AFFORDABLE HOUSING OBLIGATIONS**

WHEREAS, the Borough of Freehold (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 FREEHOLD IN THE COUNTY OF MONMOUTH AND THE STATE OF NEW  
JERSEY AS FOLLOWS:**

**SECTION ONE: TITLE 19, AFFORDABLE HOUSING.**

Title 19 of the Code of Ordinances is repealed and replaced with new Title 19 as follows:

**19.01.010 Affordable Housing.****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 Freehold consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
2. This Ordinance is intended to ensure that very low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100 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 Freehold 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. o 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: Freehold 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 affordable housing 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 affordability 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.AC 5:80-26.13(e).
  5. Low/moderate split and bedroom distribution.
    - a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of Affordable housing units, the extra unit shall be a Low-income unit.

- b. In each Affordable housing development, at least 50 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 5 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% 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.), or 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 Mercer, Monmouth, 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.
  - a. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of 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);
  - b. 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 5 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% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.17, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - a. The household currently pays more than 35 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 35percent (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 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 five hundred dollars (\$500) per day 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