

Amended Housing Plan Element and Fair Share Plan



Borough of Monmouth Beach 4th Round 2026

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Introduction

The Borough of Monmouth Beach is a well-established coastal community located in northeastern Monmouth County, New Jersey. Covering approximately 1.1 square miles, Monmouth Beach is bordered by the Atlantic Ocean to the east, the Shrewsbury River to the west, and the municipalities of Sea Bright to the north and Long Branch to the south.

The Borough has prepared this Housing Plan Element and Fair Share Plan (“HEFSP”) in accordance with the requirements set forth in the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq., as amended by A4/S50 (Senate Bill No. 50) (hereinafter “Amended FHA”), including the methodology and procedures established for the Fourth Round of affordable housing obligations. In response to the requirements of the Amended FHA and the creation of a new quasi-administrative and legal procedure for processing municipal affordable housing plans, the Administrative Office of the Courts issued Directive #14-24 (“AOC Directive #14-24”), which also creates requirements for the filing of municipal HEFSP’s with the Affordable Housing Dispute Resolution Program (“the Program”) by the June 30, 2025 statewide deadline.

While the Amended FHA does not require municipalities to adopt a Fair Share Plan, doing so provides protection from exclusionary zoning litigation, including builder’s remedy lawsuits. Similarly, the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) does not mandate a Housing Plan Element, but it is a prerequisite for adopting or amending zoning ordinances. Together, the FHA and MLUL require that any adopted Housing Element address the municipality’s present and prospective housing needs, with particular attention to low- and moderate-income housing. In accordance with the Fair Housing Act (N.J.S.A. 52:27D-310), as implemented through the Fourth Round methodology and procedures established in A4/S50 (P.L. 2024, c. ___), the Housing Element shall include at minimum the following components:

1. 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. In conducting this inventory, the municipality shall have access, on a confidential basis, to all necessary property tax assessment records and information in the assessor's office, including but not limited to property record cards.
2. A projection of the municipality’s housing stock for the next ten years, including the probable future construction of low- and moderate-income housing, taking into account construction permits issued, approved applications for development, and anticipated residential development of lands.
3. An analysis of the municipality’s demographic characteristics, including but not limited to household size, income level, and age.
4. An analysis of the existing and projected employment characteristics within the municipality.
5. A determination of the municipality’s present and prospective fair share obligation for low- and moderate-income housing, and an assessment of its capacity to accommodate those housing needs, in accordance with the methodologies outlined in A4/S50.

6. A consideration of lands and structures most appropriate for the development, conversion, or rehabilitation of low- and moderate-income housing, including consideration of sites owned by or offered by developers committed to providing affordable housing.
7. A map of all sites designated for the production of low- and moderate-income housing and a listing that includes the owner, acreage, lot, and block for each site.
8. The location and capacity of existing and proposed water and sewer lines and facilities relevant to the designated housing sites.
9. Copies of applications or approvals required for amendments or consistency determinations with applicable area-wide water quality management plans, including wastewater management plans.
10. A copy of the most recently adopted master plan, and where required, the immediately preceding adopted master plan.
11. For each designated site, a copy of the New Jersey Freshwater Wetlands maps where available. If unavailable, appropriate copies of the National Wetlands Inventory maps provided by the U.S. Fish and Wildlife Service shall be submitted.
12. A copy of the appropriate United States Geological Survey (USGS) topographic quadrangle maps for each designated site.
13. Any other documentation reasonably necessary to support review and evaluation of the Housing Element under the standards applicable to the Fourth Round.

The Borough of Monmouth Beach has a history of engaging in housing to meet its constitutional obligation to provide for its fair share of affordable housing. In 2006 and 2008 the Borough adopted a Housing Element and Fair Share Plan (“Plan”) in accordance with Procedural Rules (N.J.A.C. 5:96) and Substantive Rules (N.J.A.C. 5:97) promulgated by the Council on Affordable Housing (COAH). Further, a Spending Plan was adopted on July 23, 2013. The Plan did not receive substantive certification for the Third Round. In response to the court-based process following COAH’s dissolution, the Borough filed a Declaratory Judgment action with the Superior Court of New Jersey (Docket No. MON-L-2538-15) on July 7, 2015. Temporary immunity from exclusionary zoning litigation was granted shortly thereafter.

On March 28, 2018, the Borough entered into a Settlement Agreement with Fair Share Housing Center. The Court held a Fairness Hearing on September 20, 2018 and the Court entered an Order of Fairness and Preliminary Compliance on November 15, 2018 approving the Settlement Agreement finding it fair and reasonable adequately protecting the interests of low and moderate-income households. The Borough adopted its 3rd round Housing Plan Element and Fair Share Plan on February 19, 2019, and received its Final Judgement of Compliance and Repose on June 18, 2019 providing protection from builder’s remedy litigation through July 1, 2025.

With this plan, the Borough of Monmouth Beach continues to demonstrate its commitment to balancing responsible land use planning with its constitutional obligation to provide housing opportunities for low- and moderate-income households. The updated Fourth Round Housing Plan builds on this history and establishes a foundation for continued compliance and community well-being.

Inventory of Housing Stock

Age of Housing Stock

The majority of the Borough's housing stock was constructed between 1960 and 1990, when approximately 70% of the Borough's housing stock was constructed, with peak housing construction occurring between 1970 and 1979 (617 units). Since 2010, only 142 housing units have been constructed. This is parallel to Monmouth County, when 73% of its housing stock was constructed, with few units built since 2010 (17,169).

Table 1 - Housing Characteristics

Time of Construction	Monmouth Beach		Monmouth County	
	Number of Units	Percent of Units	Number of Units	Percent of Units
Prior to 1939	123	6.5%	36,494	13.5%
1940 to 1949	21	1.1%	11,268	4.2%
1950 to 1959	117	6.2%	33,268	12.3%
1960 to 1969	282	15.0%	37,659	14.0%
1970 to 1979	617	32.7%	35,579	13.2%
1980 to 1989	390	20.7%	42,506	15.8%
1990 to 1999	126	6.7%	30,407	11.3%
2000 to 2009	66	3.5%	25,378	9.4%
2010 to 2019	113	6.0%	15,661	5.8%
2020 or later	29	1.5%	1,508	0.6%
Total	1,884	100%	269,728	100%

Source: DP-04, 2023 American Community Survey 5-year Estimates

Condition of Housing Stock

This plan utilizes the 2023 American Community Survey 5-Year Estimates, where available, to estimate the number of substandard housing units in Monmouth Beach that are occupied by low- and moderate-income households. ACS data considers the following factors to estimate the number of substandard housing units:

- Persons per room: 1.01 or more persons per room is an index of overcrowding.
- Plumbing facilities: Inadequate plumbing facilities are indicated by either a lack of exclusive use of plumbing facilities or incomplete plumbing facilities.
- Kitchen facilities: Inadequate facilities are indicated by shared use of a kitchen or the lack of a sink with piped water, a stove or a refrigerator.

Using the above indicators, the table below shows the number of substandard occupied housing in the Borough of Monmouth Beach.

Table 2 Condition of Housing Stock				
	Monmouth Beach		Monmouth County	
	Total	Percentage	Total	Percentage
Number of Persons per Room				
1.01 or more	0	0.0%	4,305	1.7%
Plumbing Facilities				
Units Lacking Complete Plumbing Facilities	0	0.0%	394	0.2%
Kitchen Equipment				
Lacking Complete Kitchen Facilities	0	0.0%	1,931	0.8%
Source: DP-04, 2023 American Community Survey 5-year Estimates				

The 2023 ACS indicators presented were utilized to estimate the presence of substandard housing within Monmouth Beach. As shown in Table 2, no units meet the New Jersey Department of Community Affairs (DCA) criteria for deficient housing, which includes units that are overcrowded, lack complete plumbing or kitchen facilities, or were built more than 50 years ago. In accordance with the methodology outlined in A4/S50 and implemented by the DCA, this figure is used directly to calculate present need.

Purchase or Rental Value of Housing Stock

According to the 2023 ACS, the median value of housing in Monmouth Beach was \$918,100. The median value of housing in Monmouth County was \$566,500. Most of the homes in Monmouth Beach were in the \$1 million or more value range while in Monmouth County the value range was \$500,000-\$999,999. Table 3 shows the percentage of housing units in each value category.

Table 3 Value of Owner-Occupied Units				
Value	Monmouth Beach		Monmouth County	
	Units	Percentage	Units	Percentage
Less than \$50,000	11	0.9%	3,202	1.7%
\$50,000 to \$99,999	9	0.7%	2,703	1.4%
\$100,000 to \$149,999	0	0.0%	1,760	0.9%
\$150,000 to \$199,999	20	1.6%	2,797	1.5%
\$200,000 to \$299,999	24	2.0%	12,780	6.8%
\$300,000 to \$499,999	160	13.1%	55,119	29.2%
\$500,000 to \$999,999	473	38.7%	88,909	47.1%
\$1,000,000 or more	524	42.9%	21,308	11.3%
Total	1,221	100%	188,578	100%
Median (dollars)	\$918,100		\$566,500	

Source: DP-04, 2023 American Community Survey 5-year Estimates

For rental units, the median gross rent was \$2,169 in Monmouth Borough. Of the 239 occupied rental units listed, approximately 68.6% of the Borough's rental units were identified in the \$2,000-\$2,499 category. Conversely, approximately 27.2% of the County's rental units were identified in the \$1,500-\$1,999 category.

Table 4 Cost of Rent				
Occupied Units Paying Rent	Monmouth Beach		Monmouth County	
	Units	Percentage	Units	Percentage
Less than \$500	9	3.8%	5,269	8.5%
\$500-\$999	7	2.9%	3,538	5.7%
\$1,000-\$1,499	9	3.8%	13,808	22.2%
\$1,500-\$1,999	39	16.3%	16,914	27.2%
\$2,000-\$2,499	164	68.6%	10,923	17.5%
\$2,500-\$2,999	0	0.0%	5,781	9.3%
\$3,000 or more	11	4.6%	6,034	9.7%
No Rent Paid	43	-	2,347	-
Total Occupied Units Paying Rent	239	100%	62,267	100%
Median (dollars)	\$2,169		\$1,752	

Source: DP-04, 2023 American Community Survey 5-year Estimates

Occupancy Characteristics and Types of Housing Units

Out of the 1,884 total housing units in the Borough, 1,503 were occupied (79.7 percent). Of those occupied housing units in the Borough, 1,221 (81.2 percent) were owner-occupied and 282 (18.8 percent) were renter-occupied. Monmouth Borough has a lower percentage of occupied housing units compared to Monmouth County (79.7% versus 92.7%, respectively) yet has a higher percentage of owner-occupied units (81.2% versus 69.9%).

Table 5a Owner Occupied/Rentals and Total Occupied Units				
	Monmouth Beach		Monmouth County	
	Total	Percentage	Total	Percentage
Housing Units				
Total Number of Housing Units	1,884	100%	269,728	100%
Occupied Units				
Total Number of Occupied Housing Units	1,503	79.7%	250,195	92.7%
Owner-Occupied				
Total Number of Owner-Occupied Housing Units	1,221	81.2%	188,578	69.9%
Renter-Occupied				
Total Number of Renter-Occupied Housing Units	282	18.8%	61,617	22.8%

Source: DP-04, 2023 American Community Survey 5-year Estimates

The 2023 ACS indicated that there were 1,884 housing units in Monmouth Beach, which is shown in Table 5b. Single family detached units consist of approximately 50 percent of the Borough’s housing stock. The second largest category was larger buildings with 20 units or more at 27.2%. For Monmouth County over 75% of the units were in 1-unit detached (66.1%) and 1-unit detached (9.5%) structures, with fewer units in buildings of 20 units or more (9.1%).

Table 5b Housing Units				
Units in Structure	Monmouth Beach		Monmouth County	
	Numbers in Structure	Percentage	Numbers in Structure	Percentage
1 - Unit Detached	888	47.1%	178,168	66.1%
1 - Unit Attached	219	11.6%	25,506	9.5%
2 Units	37	2.0%	7,557	2.8%
3 or 4 Units	72	3.8%	9,824	3.6%
5 to 9 Units	73	3.9%	9,961	3.7%
10 to 19 Units	82	4.4%	11,157	4.1%
20 Units or more	513	27.2%	24,502	9.1%
Mobile Home	0	0.0%	3,027	1.1%
Other	0	0.0%	26	0.0%
Total	1,884	100%	269,728	100%

Source: DP-04, 2023 American Community Survey 5-year Estimates

Units Affordable to Low- and Moderate-Income Households

Low-income households are defined as those earning less than or equal to 50 percent of a regional median income. Moderate income households earn more than 50 percent of regional median income, but less than 80 percent of regional median income. Formerly issued by COAH, the Affordable Housing Professionals of New Jersey (AHPNJ) publish annual income limits, which define low- and moderate-income limits based on household size from one (1) occupant up to eight (8) persons per household. Housing units are to be priced to be affordable to households who could reasonably be expected to live within the housing units. For example, the current Affordable Housing rules require that an efficiency unit be affordable to a household of one (1) as shown below in Table 6.

Table 6 2024 AHPNJ Income Limits for Monmouth County				
	1 Person	2 Person	3 Person	4 Person
Median Income	\$91,038	\$104,043	\$117,048	\$130,054
Moderate (80% of Median)	\$72,830	\$83,234	\$93,639	\$104,043
Low (50% of Median)	\$45,519	\$52,022	\$58,524	\$65,027
Very Low (30% of Median)	\$27,311	\$31,213	\$35,115	\$39,016

Source: AHPNJ 2024 Affordable Housing Regional Income Limits by Household Size

To be considered affordable, an owner-occupied household should not pay more than 28 percent of its gross income on principal, interest, taxes and insurance, subsequent to a minimum down payment of 5 percent. A rental unit is deemed affordable if a household pays no more than 30 percent of its gross income on rent and utilities. The following table displays the number of homeowners and renters who are paying more than 30% of their gross income on mortgage and rent payments.

The majority of Borough’s owner-occupied households contributed more than 20% of their household income towards housing costs. The second largest category represented households that had housing costs that exceeded 30% of their household income, which represented approximately 36.2%. By contrast, approximately 50% of the Borough’s households residing in rental units contributed more than 30% of their income towards housing costs, highlighting a continued affordability challenge for a segment of the population, particularly in the context of rising coastal property values and rents.

Table 7a Monmouth Beach Housing Costs as a Percentage of Household Income in Owner-Occupied Units		
Percentage of Income	Number	Percentage
Less than 20%	243	43.5%
20% to 29%	113	20.2%
30% or more	202	36.2%
Total	558	100%
Not computed	0	(X)

Source: DP-04, 2023 American Community Survey 5-year Estimates

**Table 7b
Monmouth Beach Monthly Costs as Percentage of Household Income in Rental Units**

Percentage of Income	Number	Percentage
Less than 15%	79	33.1%
15% to 19.9%	24	10.0%
20% to 24.9%	0	0.0%
25% to 29.9%	14	5.9%
30% to 34.9%	61	25.5%
35% or more	61	25.5%
Total	239	100%
Not computed	43	(X)

Source: DP-04, 2023 American Community Survey 5-year Estimates

Projected Housing Stock

Between 2013 and 2024, Monmouth Borough issued building permits for 208 housing units. During the same time period, the Borough also issued permits to demolish 68 units, which is shown below in Table 8.

**Table 8
Dwelling Units Authorized**

Year	Residential Building Permits Issued	Residential Demolitions	Total Added
2013	25	23	2
2014	50	30	20
2015	11	0	11
2016	1	2	-1
2017	25	2	23
2018	28	2	26
2019	8	0	8
2020	15	0	15
2021	13	0	13
2022	20	1	19
2023	9	5	4
2024	3	3	0
Total	208	68	140

Source: New Jersey Department of Community Affairs, Division of Codes and Standards

Municipality’s Demographic Characteristics

Monmouth Beach experienced rapid growth between 1950 and 1980, quadrupling in population, from 806 persons to 3,318. Conversely, In recent decades there have been several periods of decrease since 1990. The data from the North Jersey Transportation Authority indicated that the Borough will experience population growth between 2015 and 2050, although its population slightly declined between 2015 and 2020. The table below summarizes the Borough’s population trends since 1950.

Table 9 Monmouth Beach Population Characteristics 1950-2020			
Year	Population	Population Increase	Percentage Increase
1950	806	-	-
1960	1,363	557	69.1%
1970	2,042	679	49.8%
1980	3,318	1,276	62.5%
1990	3,303	-15	-0.5%
2000	3,595	292	8.8%
2010	3,279	-316	-8.8%
2015	3,270*	-9	-0.3%
2020	3,174	-96	-0.3%

Sources: US Census

The median age in Monmouth Beach (58.3 years) is much greater than the median age of Monmouth County (43.2 years) as shown below in table 10. The Borough’s median age also increased over a ten-year period between 2013 and 2023. The table shows that the Borough’s largest two age cohorts were identified as 45 to 64 and over 65, making up 70% of the population, respectively; while for the County it was the 45 to 65 age cohort.

Table 10 Population Comparison by Age				
Age	Monmouth Beach		Monmouth County	
	2013	2023	2013	2023
Under 5	0.5%	1.5%	5.4%	5.0%
5 to 19	21%	12.1%	20.5%	18.5%
20 to 24	2.4%	4.1%	5.5%	5.8%
25 to 44	19.2%	12.5%	23.6%	22.8%
45 to 64	38.4%	39.2%	30.7%	29.5%
Over 65	18.4%	30.6%	14.2%	18.5%
Total	3,280	3,201	629,735	643,615
Median Age	49.5	58.3	41.7	43.2

Source: DP-05, 2023 American Community Survey 5-year Estimates

The 2023 ACS indicated that Monmouth Beach’s median income was \$140,074, which was 12.4% higher than Monmouth County’s median income of \$122,727. Approximately 60% of the Borough’s households earned an income of more than \$100,000, which also resembled the County’s income distribution among the higher income levels. A distribution of households by income for Monmouth Beach and Monmouth County are presented below in table 11.

Table 11 Households by Income		
Income Level	Monmouth Beach	Monmouth County
Less than \$10,000	1.7%	3.3%
\$10,000-\$14,999	1.4%	2.1%
\$15,000-\$24,999	2.8%	4.3%
\$25,000-\$34,999	0.5%	4.3%
\$35,000-\$49,999	3.3%	7.0%
\$50,000-\$74,999	9.6%	10.1%
\$75,000-\$99,999	19.5%	10.2%
\$100,000-\$149,999	14.7%	17.6%
\$150,000-\$199,999	12.2%	13.6%
\$200,000 or more	34.3%	27.7%
Median Household Income	\$140,074	\$122,727
Source: DP-03, 2023 American Community Survey 5-year Estimates		

The 2023 ACS indicated that there were 1,503 households in the Borough. Approximately 54% of the Borough’s households were classified as married-couple households. The second largest household type was identified as female householder, no spouse and partner present, which represented 30% of the Borough’s total households. The Borough largely resembled the County’s household composition data. See table 12.

Table 12 Household by Type				
Household Type	Monmouth Beach		Monmouth County	
	Number	Percentage	Number	Percentage
Total Occupied Households	1,503	100%	250,195	100%
Married-couple Households	819	54.5%	137,739	55%
Cohabiting couple family	59	3.9%	14,433	5.8%
Female householder, no spouse and partner present	451	30%	61,578	24.6%
> Female householder living alone	375	25%	39,531	15.8%
Male householder, no spouse and partner present	174	11.6%	36,805	14.7%
> Male householder living alone	160	10.6%	27,058	10.8%
Source: DP-02, 2023 American Community Survey 5-year Estimates				

Employment Characteristics

Of the 1,699 employed residents, approximately 75% work in the private sector. The second largest category is represented by self-employed workers

Table 13 Classification of Workers		
Class	Number	Percentage
Private Wage and Salary	1,300	76.5%
Government Workers	171	10.1%
Self Employed	228	13.4%
Unpaid Family Workers	0	0.0%
Total	1,699	100%

Source: DP-03, 2023 American Community Survey 5-year Estimates

Monmouth Beach workers are employed in a broad array of economic sectors. The highest concentration of workers are employed in the educational, health, and social services; finance, insurance & real estate; and professional, scientific, management, administrative, and waste management services employment sectors. The Borough's workforce sector data is shown below in Table 14.

Table 14 Workforce by Sector		
Sector	Number of Employees	Percentage of Workforce
Agriculture, Forestry, Fishing and Hunting, and Mining	0	0.0%
Construction	37	2.2%
Manufacturing	176	10.4%
Wholesale trade	47	2.8%
Retail Trade	44	2.6%
Transportation and Warehousing, and Utilities	101	5.9%
Information	87	5.1%
Finance, Insurance & Real Estate	294	17.3%
Professional, Scientific, Management, Administrative, and Waste Management Services	274	16.1%
Educational, Health, and Social Services	416	24.5%
Arts, Entertainment, Recreation, Accommodation and Food Services	137	8.1%
Other Services	26	1.5%
Public Administration	80	3.5%
Total	1,699	100%

Source: DP-03, 2023 American Community Survey 5-year Estimates

The workforce occupation characteristics in Monmouth Beach were compared to those of Monmouth County. As indicated in Table 15, the occupation categories of the Borough's residents closely resemble those residing in Monmouth County. The Borough maintains a higher percentage

of workers in the manufacturing; finance, insurance & real estate; and arts, entertainment, recreation, accommodation and food services occupation sectors than the County’s overall totals. Conversely, the County has a higher percentage of workers in the construction; retail trade; and other services occupation sectors. Table 15 reflects the Borough’s and County’s occupational characteristics.

Table 15 Occupation Characteristics		
Sector	Monmouth Beach (Percentage)	Monmouth County (Percentage)
Agriculture, Forestry, Fishing and Hunting, and Mining	0.0%	0.4%
Construction	2.2%	7.0%
Manufacturing	10.4%	6.2%
Wholesale trade	2.8%	2.5%
Retail Trade	2.6%	10.5%
Transportation and Warehousing, and Utilities	5.9%	4.4%
Information	5.1%	3.2%
Finance, Insurance & Real Estate	17.3%	10.3%
Professional, Scientific, Management, Administrative, and Waste Management Services	16.1%	15.5%
Educational, Health, and Social Services	24.5%	24.4%
Arts, Entertainment, Recreation, Accommodation and Food Services	8.1%	7.7%
Other Services	1.5%	3.7%
Public Administration	3.5%	4.3%
Total	100%	100%
Source: DP-03, 2023 American Community Survey 5-year Estimates		

In addition, in order to understand what implications this employment data has for the Borough and understand what the employment field and area trends are for Monmouth Beach and Monmouth County, the New Jersey Department of Labor (NJDOLE) has prepared projections, which analyze the expected increase or decrease in a particular employment sector by the year 2032. This data has been summarized and is illustrated within table 16.

Table 16 Monmouth County Projected Employment				
Industry	2022 Actual Employment	2032 Projected Employment	Numeric Change	Outlook
Accommodation and Food Services	28,730	30,658	1,928	Growing
Administrative and Support and Waste Management and Remediation Services	14,649	15,433	784	Growing
Arts, Entertainment and Recreation	8,128	9,705	1,577	Growing
Construction	16,240	16,902	662	Stable
Educational Services	25,814	27,353	1,539	Growing
Finance and Insurance	10,969	11,066	97	Stable
Government	14,368	15,136	768	Growing
Health Care and Social Assistance	51,218	57,748	6,530	Growing
Information	6,064	6,962	898	Growing
Management of Companies and Enterprises	4,148	4,781	633	Growing
Manufacturing	9,680	10,254	574	Growing
Other Services (except Government)	14,162	15,452	1,290	Growing
Professional, Scientific, and Technical Services	21,827	22,672	845	Stable
Real Estate and Rental and Leasing	4,151	4,317	166	Stable
Retail Trade	36,446	36,689	243	Stable
Transportation and Warehousing	6,077	7,084	1,007	Growing
Utilities	1,840	2,154	314	Growing
Wholesale Trade	8,895	9,207	312	Stable
Total (All Industries)	302,140	323,526	21,386	Growing
Source: New Jersey Department of Labor and Workforce Development				

As indicated above, it is projected that in 2032 the County's employment sectors will increase or remain stable in all of the industries. Overall, the economy will grow by 21,386 jobs. Health care and social assistance, accommodation and food services, and arts, entertainment, and recreation are projected to have the largest growth increase during the 2022-2032 time period. Almost a third of the jobs are projected to grow in health care and social assistance alone.

Analyses

Vacant Land Analysis

The Borough of Monmouth Beach conducted a comprehensive Vacant Land Analysis (VLA) to assess its realistic development potential and identify land available to meet its affordable housing obligations. This assessment reviewed tax records, zoning designations, and physical site constraints such as wetlands, flood zones, and parcel size thresholds. All parcels listed in the ROSI (Recreation and Open Space Inventory) were excluded from the VLA due to their dedication for public recreation, natural preservation, or open space use. These include major beachfront areas and active recreational spaces such as Griffin Park. These lands are not available for development due to their designation and use restrictions and therefore do not contribute to the Borough's developable acreage. Furthermore, parcels that were identified as vacant and developable at the prior VLA for the 3rd round were similarly excluded, as they would be "double counted" during this 4th Round VLA.

The Borough identified a number of parcels coded as vacant or underutilized in the MOD IV Tax Assessment data, as well as a consideration of lands that were most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to or rehabilitation for such housing. Upon further inspection, nearly all of these sites were determined to be unsuitable for development due to severe environmental constraints or insufficient lot size. Many properties were less than 0.83 acres and/or fell within regulated areas under DEP and FEMA jurisdiction. As such, they were excluded from the analysis of developable land. None of the reviewed parcels met the minimum threshold to support development at 6 units per acre, even under optimal assumptions, and no sites yielded any unconstrained acreage. Based on the results of the VLA, the Borough of Monmouth Beach's total Realistic Development Potential (RDP) is 0 units. See Exhibit A.

Analysis of Multigenerational Family Continuity

The 2024 FHA requires 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). The Commission has the primary goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity.

A review of the Borough's ordinances indicates that there are no ordinances that would specifically create a detraction from meeting the Commission's goal of enabling senior citizens to reside at the homes of their extended families. Notable characteristics of the Borough's housing stock, which promote multigenerational family continuity include the presence of many large homes and

residential structures that contain three or more bedrooms, and a variety of housing stock in terms of for-sale and rental units in the form of single-family and multi-family units. In addition, Monmouth Beach's affordable housing ordinance requires at least 20% of all affordable housing units within inclusionary developments to be three-bedroom units.

Analysis of consistency with the State Development and Redevelopment Plan

The Borough's Fourth Round Housing Element and Fair Share Plan is consistent with the 2001 State Development and Redevelopment Plan (SDRP) as the approved and proposed projects outlined in the Fair Share Plan provide ample opportunity for the construction of affordable housing. Most of Monmouth Beach is designated as Metropolitan Planning Area (PA1). Pursuant to the SDRP, PA1 is the preferred location for redevelopment and compact growth. The development of dense, affordable housing in PA1 is consistent with the overall State Development and Redevelopment Plan goal to direct redevelopment and growth into existing "centers" where infrastructure can support the development and services such as open space, retail shopping, public transportation, schools are within walking distance. Adequate sewer and water capacity are available for development.

Additional areas of the Borough to the north are designated as Planning Area 5B Environmentally Sensitive Barrier Island. Pursuant to the SDRP, housing in PA5B areas should "Provide for housing choices through redevelopment, new construction, rehabilitation, and adaptive reuse. Preserve the existing housing stock through maintenance, rehabilitation and flexible regulation."

The development of limited but targeted affordable housing in PA1 is consistent with the overall State Development and Redevelopment Plan goal to direct redevelopment and growth into existing "centers" where infrastructure can support the development and services such as open space, retail shopping, public transportation, schools are within walking distance. Adequate sewer and water capacity are available for development identified in this plan in Monmouth Beach. Monmouth Beach is located within CAFRA, and all development applications that are subject to CAFRA regulations and processes must abide by the Coastal Zone Management Rules.

Fair Share Plan

Satisfaction of Rehabilitation Obligation

PRESENT NEED (REHABILITATION OBLIGATION) - 0

Monmouth Beach does not have a present need obligation.

Satisfaction of Prior Round Obligation

PRIOR ROUND (1987-1999) - 70 UNITS

The Borough has a Prior Round obligation of 70 units. As agreed to in the Court approved March 28, 2018 settlement agreement with Fair Share Housing Center, the Borough combined its prior round obligation with its Third Round obligation and applied a vacant land adjustment to bring its entire realistic development potential to a total of 7 units, with a remaining unmet need of 186 units.

Satisfaction of the 3rd Round Obligation

THIRD ROUND OBLIGATION (1999-2025) – 123 UNITS

The Borough has a Third Round obligation of 123 units. Per the Court approved settlement agreement with Fair Share Housing Center, the Borough combined its prior round obligation with its Third round obligation and applied a vacant land adjustment to bring its entire realistic development potential to a total of 7 units, with a remaining unmet need of 186 units. The Borough proposed to meet its combined prior round and 3rd round obligation with a market to affordable program. The Borough has completed one (1) unit at 37 Wharfside Drive. The deed restriction for 37 Wharfside Drive is included in the Appendix.

TABLE 17 – Third Round Realistic Development Potential Compliance Mechanisms

Compliance Mechanism	Rental or Sale	Family or Age Restricted	Units	Bonus Credits	Total Credits
Market to Affordable Program (proposed)	Rental	Family	4	1	5
37 Wharfside (completed)	Rental	Family	1	1	2
Total			5	2	7

3rd Round Unmet Need

The difference between the Borough’s Third Round Prospective Need number and its RDP obligation is what is known as Unmet Need. Whereas the RDP obligation must be affirmatively addressed by the Borough (as outlined above), Unmet Need is more aspirational. Pursuant to the Borough’s Third Round Court approved Settlement Agreement with FSHC, Monmouth Beach had a Third Round Unmet Need of 186 units. The compliance mechanisms that the Borough identified in its Third Round plan are detailed below.

Affordable Housing Overlay Zone

The Borough adopted an affordable overlay over sixteen (16) properties in the existing B (Business-Retail) Zone District, including Lots 32 and 33 in Block 26, Lots 19, 20.01, and 21.01 in Block 27, and Lots 26 and 29-38 in Block 45. These parcels are located along Beach Road, Riverdale Avenue, and Robbin Street. The overlay provides for residential units above ground floor commercial uses, with 20 percent (20%) of the total units in a for-sale project and fifteen percent (15%) of the total units in a rental project required to be affordable. A copy of the ordinance can be found in the Appendix.

Borough-Wide Set-Aside Ordinance

The Borough has adopted an ordinance mandating an affordable set-aside for multifamily residential developments of five (5) units or more. The set-aside for rental projects shall be fifteen percent (15%) and the set-aside for for-sale developments shall be twenty percent (20%). A copy of the ordinance can be found in the Appendix.

Satisfaction of the Fourth Round Obligation

FOURTH ROUND OBLIGATION – 47

DCA determined that the obligation for Monmouth Beach for the Fourth Round is 47 units, which was accepted by the Borough in its binding resolution. As noted previously in this document, Monmouth Beach has applied a vacant land adjustment to this obligation, which establishes a new RDP of 0 units. However, new Fourth round legislation at A4/S50 requires that any municipality that receives an adjustment of its prospective need obligations for the fourth round based on a lack of vacant land shall as part of the process of adopting and implementing its housing element and fair share plan identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted, if possible, and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so. Twenty-five percent of the prospective need obligation that has been adjusted is 12 housing units. The Borough will apply additional market to affordable units and its Affordable Housing Overlay Zone to address the 12 unit prospective need obligation.

Market-to-Affordable Program

In addition to the program it has already committed to, the Borough intends to partner with a non-profit organization to create for-sale affordable housing units that it will write-down the cost for an income qualified affordable buyer. Per the January 6, 2026 Mediation Agreement between the Borough and Fair Share Housing, Monmouth Beach will purchase one 1-bedroom unit and one 2-bedroom unit at the Wharfside development. If the Borough is able to partner with a non-profit developer to create the units, an additional .5 bonus credit for each unit will be applied for a total of 3 credits against the prospective need obligation.

Wharfside Overlay Zone

The Borough shall adopt the Wharfside Drive Affordable Housing Overlay zone, which will allow for inclusionary affordable housing development for sale or rental housing, at a maximum density of 20 units per acre. The overlay zone will apply to Block 13, Lot 9.01 and all units created via the overlay will be subject to N.J.A.C. 5:80-26.1 et. Seq.

TABLE 18 – Fourth Round Realistic Development Potential Compliance Mechanisms

Compliance Mechanism	Rental or Sale	Supportive/ Special Needs	Family or Age Restricted	Units	Bonus Credits	Total Credits
Market to Affordable	Sale	-	Family	2	TBD	TBD
Wharfside Overlay Zone	Either	-	Family	TBD	TBD	TBD
Affordable Housing Overlay Zone	Either	-	Family	9		9
TOTAL				TBD	TBD	TBD

Category	Required	Provided
Total Credits	12	12
Family Units	6	11
Family Rental Units	3	3
Very Low-Income Units	2	2
Very Low-Income Family Units	1	1
Age Restricted Cap	3	0
Bonus Credits	4	TBD

Fourth Round Unmet Need

Following the application of the vacant land adjustment, Monmouth Beach has an Unmet Need of 35 units. The Borough will apply its affordable housing overlays and municipal set-aside ordinance to address the Unmet Need obligation. Combining the Prior Round, Third Round, and Fourth Round Unmet Needs, Monmouth Beach has a total Unmet Need of 221 units.

Cost Generation

The Borough of Monmouth Beach will focus on complying with N.J.A.C. 5:93-10 regarding ensuring the elimination of unnecessary cost generating features from municipal land use ordinances. The municipality will eliminate development standards that are not essential to protecting the public welfare and will expedite (“fast track”) approvals/denials on inclusionary development applications. The Borough will cooperate with developers of inclusionary developments in scheduling preapplication meetings, and municipal boards shall schedule regular and special monthly meetings (as needed) and provide ample time at those meetings to consider the merits of the inclusionary development application.

Appendix A – Vacant Land Assessment Maps & Tables

BLOCK	LOT	ADDRESS (LIMITED CONTIGUOUS COMMON OWNER)	TAX CLASS	OWNER ADDRESS	OWNER ADDRESS	sqMeters	Acres (Total)	Constraint	Unconstrained Acres
56	1	S CHERRY AVENUE	1	8 CHERRY AVENUE	MONMOUTH BEACH, NJ	61,423	0.02	Under 0.83 Acres	0
56	4	CHERRY STREET	1	83 COLUMBIA AVENUE	LONG BRANCH, NJ	77,245	0.02	Under 0.83 Acres	0
45.01	24	JOHNSON STREET	1	231 STONEHURST BLVD	FREEHOLD, NJ	89,206	0.02	Under 0.83 Acres	0
21	8	39 SEAVIEW AVENUE	1	7 BEACH ROAD	MONMOUTH BEACH, NJ	100,472	0.02	Under 0.83 Acres	0
10	7	5 ICE HOUSE ROAD	1	P.O. BOX 35	MONMOUTH BEACH, NJ	119,451	0.03	Under 0.83 Acres	0
28.01	1	THE CIRCLE	15C	18 WILLOW AVENUE	MONMOUTH BEACH, NJ	201,544	0.05	Under 0.83 Acres (Not contiguous with other 18 Willow Ave owned lots)	0
2	27.02	3A RIVERVIEW ROAD	1	3 RIVERVIEW ROAD	MONMOUTH BEACH, NJ	245,805	0.06	Under 0.83 Acres	0
45	67	WOOLLEY STREET	1	53 RIVERDALE AVENUE	MONMOUTH BEACH, NJ	253,898	0.06	Under 0.83 Acres	0
45	95	ROBBINS STREET	1	8 WILLOW AVENUE	MONMOUTH BEACH, NJ	288,796	0.07	Under 0.83 Acres	0
30	43	NORTH OF 62 MONMOUTH PKWY	15C	18 WILLOW AVENUE	MONMOUTH BEACH, NJ	300,676	0.07	Under 0.83 Acres (Not contiguous with other 18 Willow Ave owned lots)	0
44	161	1 DREW COURT	1	1500 LAWRENCE AVE. CN7807	OCEAN, NJ	339,768	0.08	Under 0.83 Acres	0
44	160	RIVERDALE AVENUE	1	30 RIVERDALE AVENUE	MONMOUTH BEACH, NJ	349,739	0.09	Under 0.83 Acres	0
61	26	W WILLOW AVENUE	1	3 WASHINGTON PARK	MAPLEWOOD, NJ	353,932	0.09	Under 0.83 Acres	0
31.03	42	3 COLUMBUS DRIVE	15C	18 WILLOW AVENUE	MONMOUTH BEACH, NJ	445,236	0.11	Under 0.83 Acres (Not contiguous with other 18 Willow Ave owned lots)	0
28	159.01	8 NAVESINK DRIVE	15C	18 WILLOW AVENUE	MONMOUTH BEACH, NJ	453,31	0.11	Under 0.83 Acres (Not contiguous with other 18 Willow Ave owned lots)	0
15	11.01	85 SEAVIEW AVENUE	1	68 WHITE STREET, SUITE 2	RED BANK, NJ	516,03	0.13	Under 0.83 Acres	0
35	18.01	11 SHREWSBURY DRIVE	1	274 1/2 NEW YORK AVENUE	JERSEY CITY, NJ	517,984	0.13	Under 0.83 Acres	0
35	43.01	SHREWSBURY DRIVE	1	1075 ROUTE 34 - SUITE G	ABERDEEN, NJ	563,073	0.14	Under 0.83 Acres	0
59	7	JESSICA PLACE	1	46 VALENTINE STREET	MONMOUTH BEACH, NJ	599,703	0.15	Under 0.83 Acres (Not contiguous with other 46 Valentine owned Lot 8.01)	0
40	87.13	27 HIGHLAND AVENUE	15C	18 WILLOW AVENUE	MONMOUTH BEACH, NJ	676,407	0.17	Under 0.83 Acres (Not contiguous with other 18 Willow Ave owned lots)	0
38	17.01	7 WESLEY STREET	1	9 WESLEY STREET	MONMOUTH BEACH, NJ	676,867	0.17	Under 0.83 Acres	0
43	27	TOCCI AVENUE	1	4GAIL DRIVE	MONMOUTH BEACH, NJ	707,339	0.17	Under 0.83 Acres	0
31	17	4 BAYONNE AVENUE	1	6 BAYONNE AVENUE	MONMOUTH BEACH, NJ	728,677	0.18	Under 0.83 Acres	0
40	67	23 HIGHLAND AVENUE	1	23 HIGHLAND AVENUE	MONMOUTH BEACH, NJ	864,475	0.21	Under 0.83 Acres	0
31.03	9.01	39 COLUMBUS DRIVE	1	91 LINDEN AVENUE	JERSEY CITY, NJ	943,986	0.23	Under 0.83 Acres	0
43	29	TOCCI & RIVER FRONT	1	4 GAIL DRIVE	MONMOUTH BEACH, NJ	984,271	0.24	Under 0.83 Acres	0
40	100	HIGHLAND AVENUE	1	40 HIGHLAND AVENUE	MONMOUTH BEACH, NJ	1015,24	0.25	Under 0.83 Acres	0
59	8.01	JESSICA PLACE	1	46 VALENTINE STREET	MONMOUTH BEACH, NJ	1031,584	0.25	Under 0.83 Acres (Not contiguous with other 46 Valentine owned Lot 7)	0
40	66	HIGHLAND AVENUE	1	49 MEADOW AVENUE	MONMOUTH BEACH, NJ	1046,096	0.26	Under 0.83 Acres	0
2	2.01	OCEAN AVE WEST SIDE	1	110 PALMER PLACE	LEONIA, NJ	1143,446	0.28	Under 0.83 Acres	0
45	90.01	11 ROBBINS STREET	1	2 WILLOW AVENUE	MONMOUTH BEACH, NJ	1215,558	0.30	Under 0.83 Acres	0
58	1	36 VALENTINE STREET	1	19 VALENTINE STREET	MONMOUTH BEACH, NJ	1233,888	0.30	Under 0.83 Acres	0
45.02	37.01	13 ANDERSON STREET	1	13 ANDERSON STREET	MONMOUTH BEACH, NJ	1398,673	0.35	Under 0.83 Acres	0
2	27	5 RIVERVIEW ROAD	1	11 LEIGHTON AVE	RED BANK, NJ	1433,601	0.35	Under 0.83 Acres	0
18.01	7	CORNER SEAVIEW & COTTAGE	15C	18 WILLOW AVENUE	MONMOUTH BEACH, NJ	1486,285	0.37	Under 0.83 Acres (Not contiguous with other 18 Willow Ave owned lots)	0
31.05	19	BAYONNE AVENUE	1	% SGRD - 1 PATRICIA CT	MONMOUTH BEACH, NJ	1577,839	0.39	Under 0.83 Acres	0
17	4.02	84 OCEAN AVENUE	1	136 ST. JOSEPH DRIVE	STERLING, NJ	1585,955	0.39	Under 0.83 Acres	0
19	5	9 CLUB CIRCLE	1	9 CLUB CIRCLE	MONMOUTH BEACH, NJ	2108,415	0.52	Under 0.83 Acres	0
47	2	56 OCEAN AVENUE	1	83 RIVERVIEW AVENUE	CLIFSIDE, NJ	2262,476	0.56	Under 0.83 Acres	0
31.05	15	BAYONNE AVENUE	1	PO BOX 4087	LONG BRANCH, NJ	2658,364	0.66	Under 0.83 Acres	0
48.01	9.14	37 OCEAN AVENUE	1	37 OCEAN AVENUE	MONMOUTH BEACH, NJ	2760,202	0.68	Under 0.83 Acres	0
19	10	50 SEAVIEW AVENUE	1	50 SEAVIEW AVENUE	MONMOUTH BEACH, NJ	3062,479	0.76	Under 0.83 Acres	0
61	16.01	JESSICA PLACE	1	46 VALENTINE STREET	MONMOUTH BEACH, NJ	3276,447	0.81	Under 0.83 Acres (Not contiguous with other 46 Valentine owned Lots)	0
45.03	36	CORNER SEAVIEW/VALENTINE	15C	18 WILLOW AVENUE	MONMOUTH BEACH, NJ	3747,487	0.93	100% within wetlands / FEMA flood zone / stream	0
52	17	C R R RIGHT OF WAY	1	3401 ROUTE 66	NEPTUNE, NJ	3990,473	0.99	100% within wetlands / FEMA flood zone. Narrow along residential rears.	0
40	64.01	RIVERFRONT	1	574 PATTEN AVENUE	LONG BRANCH, NJ	4222,972	1.04	100% within wetlands / FEMA flood zone	0

BLOCK	LOT	ADDRESS (LIMITED CONTIGUOUS COMMON OWNER)	TAX CLASS	OWNER ADDRESS	OWNER ADDRESS	SQ/Meters	Acres (Total)	Constraint	Unconstrained Acres
50	14	3 OCEAN AVENUE	1	3 OCEAN AVENUE	MONMOUTH BEACH, NJ	4276.12	1.06	Majority of the lot is actually beach/sand land fronting ocean / wetlands with a buffer. Remainder is small frontage on road next to other single family properties.	0.23
61	15	7 CHERRY AVENUE	1	7 CHERRY AVENUE	MONMOUTH BEACH, NJ	6823.352	1.69	100% within wetlands / FEMA flood zone / stream	0
53	15.01	CHARLOTTE PLACE	1	4 HANLEY COURT	BRICK, NJ	9771.212	2.41	100% within wetlands / FEMA flood zone / stream	0
40	95	MEADOW AVENUE	1	7 RED TAIL CIRCLE	DENVER, PA	12180.471	3.01	100% within wetlands / FEMA flood zone	0
Total Eligible Land Area (acres)									0
RDP									0

Vacant Land Adjustment Map

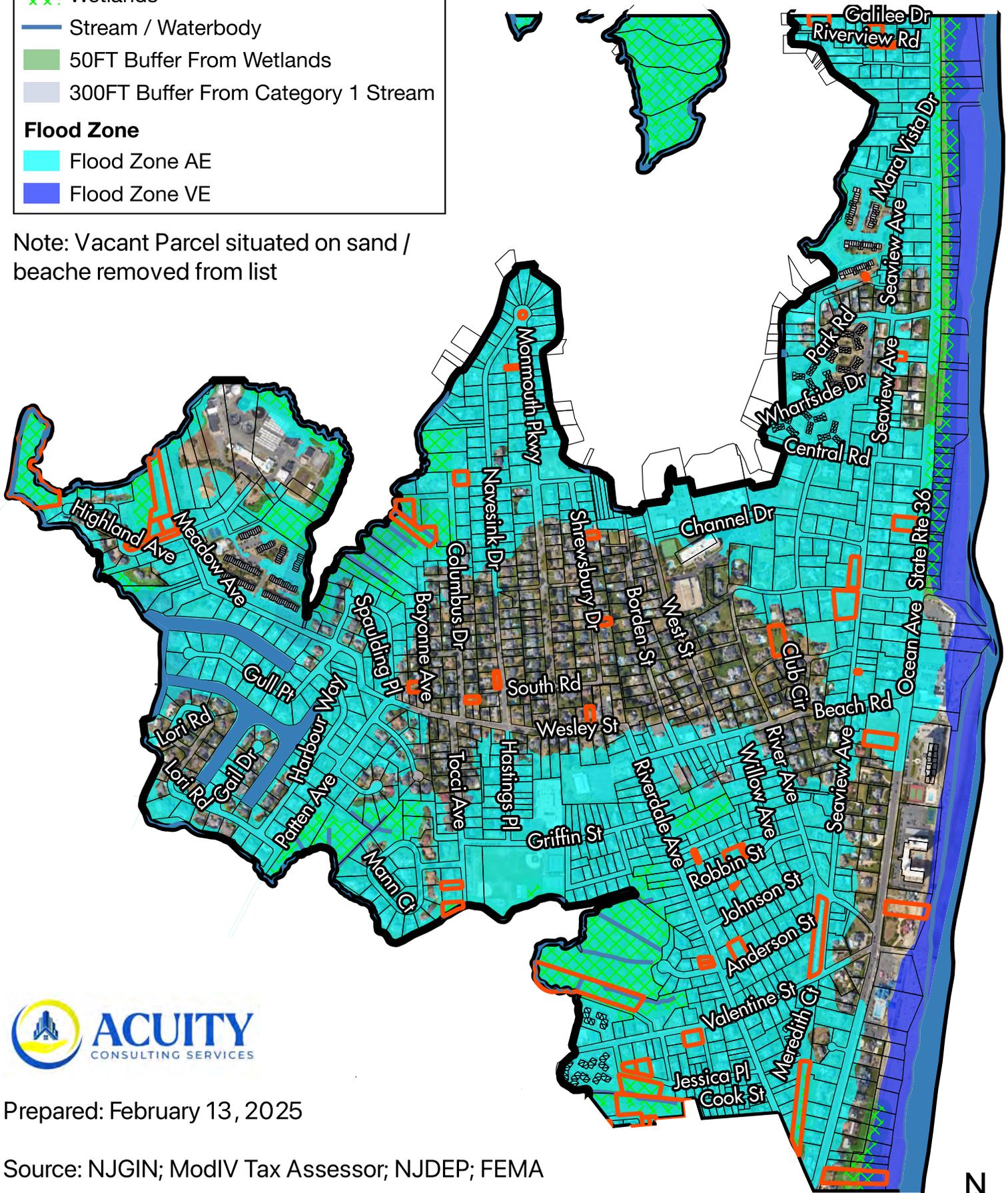
Borough of Monmouth Beach

-  Tax Parcel
-  Vacant Parcel
-  Municipal Boundary
-  Wetlands
-  Stream / Waterbody
-  50FT Buffer From Wetlands
-  300FT Buffer From Category 1 Stream

Flood Zone

-  Flood Zone AE
-  Flood Zone VE

Note: Vacant Parcel situated on sand / beach removed from list



Prepared: February 13, 2025

Source: NJGIN; ModIV Tax Assessor; NJDEP; FEMA

0 0.25 0.5 0.75 1 mi



Land Use Map

Borough of Monmouth Beach

□ Tax Parcel

▭ Municipal Boundary

Land Use

Recreational

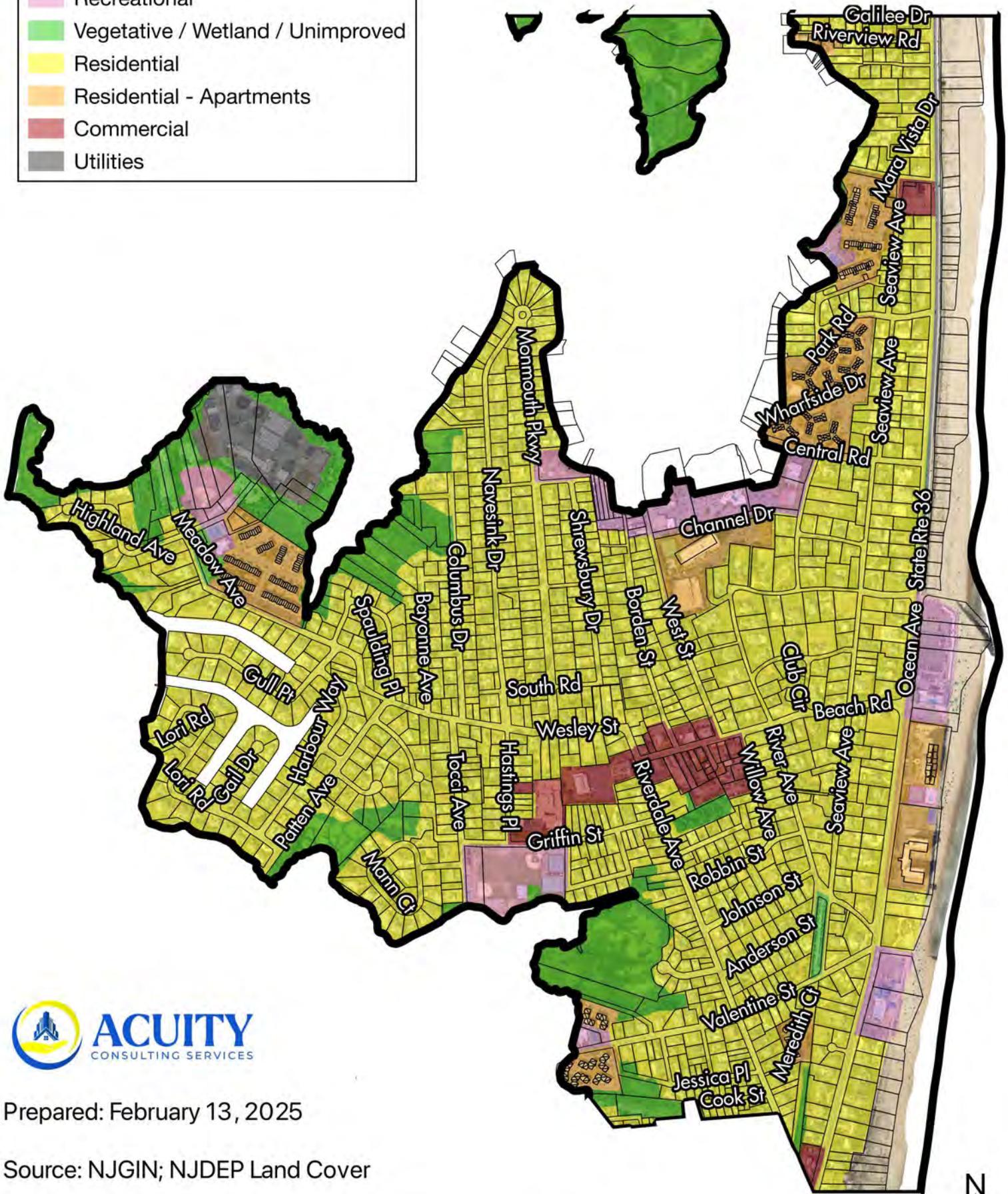
Vegetative / Wetland / Unimproved

Residential

Residential - Apartments

Commercial

Utilities



Prepared: February 13, 2025

Source: NJGIN; NJDEP Land Cover

0 0.25 0.5 0.75 1 mi



Appendix B – Binding Resolution Adopting DCA’s 4th Round Obligation

Resolution #R-39-25

RESOLUTION OF THE BOROUGH OF MONMOUTH BEACH, COUNTY OF MONMOUTH COMMITTING TO ITS FOURTH ROUND PRESENT NEED AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Borough of Monmouth Beach, County of Monmouth, State of New Jersey, (hereinafter, "Borough" or "Monmouth Beach") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations and in fact obtained a Final Round Three Judgment of Compliance and Repose on July 18, 2019 from the Court in the matter captioned In the Matter of the Application of the Borough of Monmouth Beach, County of Monmouth, Superior Court of New Jersey, Law Division, Docket No. MON-L-2538-15 thereby immunizing the Borough from builder remedy litigation until July 1, 2025 (the "Third Round Litigation"); and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act") establishing the statutory calculation of the state-wide fair share obligation for the Fourth Round of affordable housing for the time period 2025-2035; and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to provide its calculation of every municipality's Fourth Round fair share affordable housing obligations based upon the criteria on the Amended FHA and the DCA issued a report on October 18, 2024 (the "DCA Report") wherein it supplied its calculation of the fair share affordable housing obligation for all municipalities, including the Borough of Monmouth Beach; and

WHEREAS, the DCA Report calculated Monmouth Beach's Fourth Round fair share obligations as follows: Present Need (Rehabilitation) Obligation of zero and a Fourth Round Prospective Need (New Construction) Obligation of 47; and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing ("COAH") unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A 52:27D-31(m)); and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey and empowers municipalities to secure vacant land adjustments, durational adjustments, and other adjustments to its Prospective Need obligation; and

WHEREAS, the Court approved a Vacant Land Adjustment in the Third Round Litigation thereby substantially reducing the Borough's Prospective Need obligation through the establishment of a Realistic Development Potential; and

WHEREAS, the Borough intends to accept its Present Need Obligation of zero units and a Fourth Round Prospective Need obligation of 47 units as reported by the DCA in its October 18, 2025 Report subject to various other rights; and

WHEREAS, in accordance with N.J.S.A 52:27D-311 of the Amended Act, the Borough invokes its right to a vacant land adjustment, which will result in a reduction to the new construction portion of its fair share obligation; and

WHEREAS, substantial legislative and legal activity has occurred and is ongoing since the enactment of the Amended FHA that warrants the reservation of certain rights to avoid any claim that the Borough has waived them; and

WHEREAS, a number of municipalities, initiated by the Borough of Montvale, have filed suit (MER-L-1778-24) seeking to stay the implementation of the Amended FHA for a number of legal reasons and have also challenged the newly implemented NJHMFA regulations amending the Housing Affordability Control rules (the "Municipal Legal Challenge") and at the time of this Resolution, the outcome of the Municipal Legal Challenge is uncertain; and

WHEREAS, the Amended FHA obligates municipalities to adopt a binding resolution as to its Fourth-Round affordable housing obligations by no later than January 31, 2025 or lose immunity from builder's remedy litigation ; and

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24 dated December 13, 2024 and pursuant to that Directive, a municipality seeking a certification of compliance with the Act is required to file a legal action in the form of a declaratory judgment complaint within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, the Mayor and Borough Council believes it is in the best interest of the Borough to declare its Fourth-Round affordable housing obligation in accordance with the Act and direct its affordable housing counsel to file a declaratory judgment action within 48 hours of the adoption of this resolution in order to retain immunity from builder's remedy litigation; and

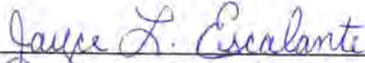
NOW, THEREFORE, BE IT RESOLVED on this 14th day of January, 2025 by the Governing Body of the Borough of Monmouth Beach, County of Monmouth, State of New Jersey, as follows:

1. The preamble of this resolution is incorporated into the operative clauses of this resolution as if set forth in full.
2. The Borough of Monmouth Beach commits to a Fourth Round Present Need ("Rehabilitation") Obligation of zero units and a Prospective Need "(New Construction)" obligation of 47 units subject to all reservations of all rights, which specifically include, without limitation, the following:
 - a. The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted in accordance with COAH regulations;
 - b. The right to adjust its fair share obligation in the event of any future legislation that adjusts the fair share obligations that the DCA reported on October 18, 2024;
 - c. The right to adjust its fair share obligations based upon any ruling in the Montvale Litigation or any other litigation; and

- d. The right to adjust its fair share obligations in the event of a third-party challenge to the fair share obligations and the Borough of Monmouth Beach response thereto.
3. The Borough hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint within 48 hours after adoption this resolution attaching this resolution.
4. The Borough also hereby authorizes its Affordable Housing Counsel to file this resolution with the Program or any other such entity as may be determined to be appropriate.
5. This resolution shall take effect immediately, according to law.

Certification

The foregoing is a true copy of a resolution passed by the Governing Body of the Borough of Monmouth Beach at a meeting held on January 22, 2025.



Joyce L. Escalante, RMC
Municipal Clerk
Borough of Monmouth Beach

Appendix C – Copy of Deed Restriction for 37 Wharfside Drive

Deed Restriction

DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY WITH RESTRICTIONS ON RESALE AND REFINANCING

THIS DEED RESTRICTION, entered into as of this the 17th day of April, 2019, by and between the Borough of Monmouth Beach, a municipal corporation of the State of New Jersey with offices at 18 Willow Avenue, Monmouth Beach, New Jersey, 07750 acting as the Administrative Agent of the Borough of Monmouth Beach (the "Administrative Agent") and the Borough of Monmouth Beach, a municipal corporation of the State of New Jersey New Jersey having offices at 18 Willow Avenue, Monmouth Beach, New Jersey, 07750 the owner (the "Owner") of a residential moderate-income rental unit (the "Project"):

WITNESSETH

Article 1. Consideration

In consideration of having received a judgment of repose and compliance from the Superior Court of New Jersey and as part of its Court approved affordable housing compliance plan, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the "Property").

Article 2. Description of Property

The Property consists of all of the land, and a portion of the improvements thereon, that is located in the municipality of Monmouth Beach, County of Monmouth, State of New Jersey, and described more specifically as Block No.13 Lot No.2.13 , and known by the street address 37 Wharfside Drive, #37, Bldg. #2

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), for the Property, commencing upon the earlier of the date hereof or the date on which the first certified household occupies the unit, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, the Property shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the Property is located, the Borough of Monmouth Beach, elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years (the "Control Period"); provided, however, that:

- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq.*, the “Uniform Controls”).
- B. The Property shall be used solely for the purpose of providing a rental dwelling unit for moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent.
- C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent.
- D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
- E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Borough of Monmouth Beach and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

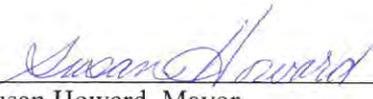
- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent and the Borough of Monmouth Beach shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

Borough of Monmouth Beach

BY: 
Susan Howard, Mayor

Borough of Monmouth Beach

BY: 
Susan Howard, Mayor

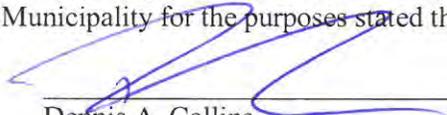
APPROVED BY: **Borough of Monmouth Beach**

BY: 
Susan Howard, Mayor

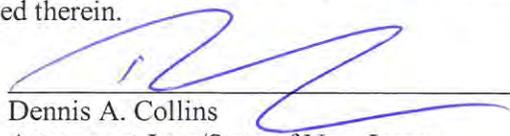
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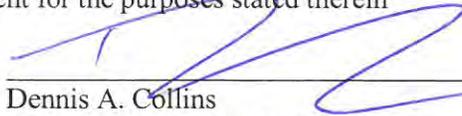
On this the 17th day of April 2019 before me came Susan Howard to me known and known to me to be the Administrative Agent for the Borough of Monmouth Beach, who states that (s)he has signed said Agreement on behalf of said Municipality for the purposes stated therein.


Dennis A. Collins
Attorney at Law/State of New Jersey

On this the 17th day of April 2019 before me came Susan Howard to me known and known to me to be the Mayor of Monmouth Beach, the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.


Dennis A. Collins
Attorney at Law/State of New Jersey

On this the 17th day of April 2019 before me came Susan Howard known and known to me to be Mayor of Monmouth Beach the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein


Dennis A. Collins
Attorney at Law/State of New Jersey

Appendix D – Affordable Housing Ordinance (Including Overlay and Municipality-Wide Set-Aside Subsections)

ARTICLE 30-10

Affordable Housing

[Amended by Ord. No. O-94-06, 10/10/2006; 2-26-2019 by Ord. No. O-01-19]

30-10.1. Affordable housing obligation.

- A. This article is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. This article shall apply except where inconsistent with applicable law.
- B. The Borough of Monmouth Beach Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Fair Share Plan has been adopted by the Planning Board and endorsed by the governing body. The Fair Share Plan describes how the Borough of Monmouth Beach shall address its fair share for low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Borough and Fair Share Housing Center (FSHC).
- C. This article implements the Borough's Fair Share Plan, addresses the requirements of the Court and the terms of the settlement agreement, and also implements a Borough-wide requirement that all new multi-family residential development of five or more units shall have mandatory affordable housing set aside for low- and moderate-income units, subject to certain enumerated conditions.
- D. The Borough of Monmouth Beach shall track the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at the Municipal Building located 18 Willow Avenue, Monmouth Beach, 07750.

30-10.2. Definitions.

The following words and terms, when used in this article, shall have the meanings given in this section:

ACCESSORY APARTMENT — A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

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

ADAPTABLE — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT — The entity responsible for the administration of affordable units in accordance with this article, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

AFFIRMATIVE MARKETING — A regional marketing strategy designed to attract buyers and/ or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE — The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE — A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

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

AFFORDABLE HOUSING DEVELOPMENT — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or structure that provides for-sale or rental dwelling units for low- and moderate-income households within a residential use, structure, supportive or special needs dwelling, or residential component of a mixed-use development in accordance with the requirements of the Borough of Monmouth Beach's affordable housing ordinances and Housing Element and Fair Share Plan.

AFFORDABLE HOUSING PROGRAM(S) — Any mechanism in a municipal fair share plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT — A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

AGE-RESTRICTED UNIT — A housing unit designed to meet the needs of and exclusively for the residents of an age-restricted segment of the population such that; 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% 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 the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

AGENCY — The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

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

CERTIFIED HOUSEHOLD — A household that has been certified by an administrative agent as a low-income household or moderate-income household.

COAH — The New Jersey Council on Affordable Housing established under the Fair Housing Act of 1985.

CONSTRUCTION — New construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under 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.).

DCA — The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT — 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 — The Department of Community Affairs of the State of New Jersey that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

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

DEVELOPMENT — The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use 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 N.J.S.A. 40:55D-1 et seq.

DEVELOPMENT FEE — Money paid for an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH rules and regulations pursuant to N.J.A.C. 5:93-8, Development Fees.

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current State equalization ratio for the Borough. Estimates at the time of building permit may be obtained by the Borough Tax Assessor utilizing estimates for construction cost. Final equalized assessed value shall be determined at project completion by the Borough Assessor.

INCLUSIONARY DEVELOPMENT — A development containing both affordable units and market rate units. Inclusionary developments that have five or more units must have a minimum of 20% set aside for affordable units if it is for sale and a minimum of 15% set aside for rentals. This term includes, but is not necessarily limited to; new construction, the conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

JUDGMENT OF COMPLIANCE — A determination issued by the Superior Court approving the Borough's affordable housing plan to satisfy its fair share obligation.

LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 50% or less of the median household income.

LOW-INCOME UNIT — A restricted unit that is affordable to a low-income household.

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

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

MEDIAN INCOME — The median income by household size for the applicable county, as

adopted annually by the Department.

MIXED-USE DEVELOPMENT — A structure or building that encompasses two or more different land uses, which shall be a retail or commercial component and a residential component, whereby any commercial use must be on the ground floor of said building or structure and the upper levels of the structure shall be the residential component and shall provide low- and moderate-income units, for-sale or rental, in accordance with the requirements of the Borough of Monmouth Beach's affordable housing ordinances and Housing Element and Fair Share Plan.

MODERATE-INCOME HOUSEHOLD — A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

MODERATE-INCOME UNIT — A restricted unit that is affordable to a moderate-income household.

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

NONRESIDENTIAL DEVELOPMENT —

- A. 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 promulgated to effectuate the State Uniform Construction Code Act, P.L. 1975. c. (N.J.S.A. 52:27D-119 et seq.), including any subsequent amendments or revisions thereto;
- B. Hotels, motels, vacation timeshares, and child-care facilities; and
- C. 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, P.L. 1986, c. 103 (N.J.S.A. 52:27D-330 et seq.).

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

REGIONAL ASSET LIMIT — The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by the Department's adopted regional income limits published annually by the Department.

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

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

RESTRICTED UNIT — A dwelling unit, whether a rental unit or ownership unit, that is subject to

the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

UHAC — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY-LOW-INCOME HOUSEHOLD — A household with a total gross annual household income equal to 30% or less of the median household income.

VERY-LOW-INCOME UNIT — A restricted unit that is affordable to a very-low-income household.

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

30-10.3. Affordable housing programs.

The Borough of Monmouth Beach will use the following mechanisms to satisfy its affordable housing obligations:

A. Percentage of mandatory set asides for all future residential developments.

1. If the Borough permits the construction of multifamily residential developments, the Borough shall require that an appropriate percentage of the residential units be set aside for low- and moderate-income households. This requirement shall apply beginning with the effective date of this article to any multifamily development, including the residential portion of a mixed-use development, which consists of five or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough's Planning or Zoning Board, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation. For inclusionary projects in which the low and moderate units are to be offered for sale, the appropriate set-aside percentage is 20%; for projects in which the low- and moderate-income units are to be offered for rent, the appropriate set-aside percentage is 15%. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
2. This requirement does not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more.
3. Furthermore, this section shall not apply to developments containing four or fewer dwelling units. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five or more.

B. Phasing. Inclusionary developments shall be subject to the following schedule, except where an alternate phasing schedule has been incorporated into a development or redevelopment

agreement:

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

- C. Fractional Units. If 20% of the total number of units in a development results in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site. Example: An eight-unit development requiring an affordable housing set-aside of 1.6 units is proposed. The developer is required to provide two on-site affordable units.
- D. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- E. Off-site construction. The standards for constructing affordable units off-site shall be in accordance with the Borough's recommendations, provided that at least the same number of affordable units are provided, at least half of the affordable units are available to families, and not more than 25% are age-restricted, and the affordable units provided are otherwise consistent with the terms of the settlement agreement.
- F. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

30-10.4. New construction.

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

- A. Low/moderate split and bedroom distribution of affordable housing units.
1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units. If there is only one affordable unit, it must be a low-income unit.
 3. The Borough Housing Element and Fair Share Plan requires that 13% of all affordable units approved or constructed since July 17, 2008, in the Borough shall be designated as very-low-income households at 30% of the median income, with at least 50% of all very-low-income units being available to families. While this requirement applies to the

entirety of the Borough's affordable housing percentage and it may not be imposed on each project individually, its application to each project will be evaluated on a case-by-case basis and may be imposed as a requirement of a newly constructed development.

4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - a. The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - b. At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - c. At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - d. The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

B. Accessibility requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - a. An adaptable toilet and bathing facility on the first floor;
 - b. An adaptable kitchen on the first floor;
 - c. An interior accessible route of travel on the first floor;
 - d. An interior accessible route of travel shall not be required between stories within an individual unit;
 - e. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - f. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough of Monmouth Beach has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible;
 - (1) 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.
 - (2) To this end, the builder of restricted units shall deposit funds within the Borough's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with

adaptable entrances.

- (3) The funds deposited under Subsection B, above, shall be used by the Borough of Monmouth Beach for the sole purpose of making the adaptable entrance of any 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.
- (4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough.
- (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's affordable housing trust fund where the funds shall be deposited into the affordable housing trust fund and appropriately earmarked.
- (6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

C. Maximum rents and sales prices.

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC utilizing the regional income limits established by the New Jersey Department of Community Affairs (DCA) or other agency as required by the Court.
2. The maximum rent for restricted rental units within each affordable development and the average rent for restricted low- and moderate-income units shall be calculated in accordance with UHAC regulations.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
4. The maximum sales price of restricted ownership units within each affordable development shall be calculated in accordance with UHAC regulations, and each affordable development must achieve an affordability average which shall be calculated in accordance with UHAC regulations. Moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted-living facilities, the following standards shall be used:

- a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one-and-one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four-and-one-half person household;
and
 - e. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one-and-one-half person household;
and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
 7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
 8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
 9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
 10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.
 11. Utilities. 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 approved by DCA for its

Section 8 program.

30-10.5. Occupancy standards.

- A. 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:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sexes with separate bedrooms; and
 - 3. Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

30-10.6. Control periods for restricted ownership units and enforcement mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this article until the Borough of Monmouth Beach elects to release the unit from such requirements; however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- D. At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the requirements of this article, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the construction official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.
- G. At the time of the first nonexempt sale following a thirty-year interval from the date of the issuance of the initial certificate of occupancy, the Borough shall have the right of first

refusal to purchase a restricted ownership unit at the maximum restricted price in accordance with UHAC regulations at N.J.A.C. 5:80-26.5, If the Borough does not exercise its right to purchase the restricted unit, the unit may be sold at fair market value and the proceeds retained by the owner, subject to the owner's repayment of the recapture lien to the Borough as defined in N.J.A.C. 5:80-26.5.

30-10.7. Price restrictions for restricted ownership units, homeowner association fees and resale prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

30-10.8. Buyer income eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

30-10.9. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the Administrative Agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a

restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C. 5:80-26.6(b).

30-10.10. Control periods for restricted rental units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article until the Borough of Monmouth Beach elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. Deeds of all real property that includes restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Ocean. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a certificate of occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this article despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

30-10.11. Price restrictions for rental units; leases.

- A. 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 provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this article.

30-10.12. Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

1. Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a 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. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection B1 through 5, above with the Administrative Agent, who shall counsel the household on budgeting.

30-10.13. Affirmative marketing requirements.

- A. Affirmative marketing shall be established and maintained in accordance with the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.
- B. The affirmative marketing plan shall be a part of the Fair Share Plan and shall be referenced by ordinance.
- C. The Borough of Monmouth Beach shall adopt by resolution an affirmative marketing plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- D. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national

origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 4 and covers the period of deed restriction.

- E. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 4.
- F. The Administrative Agent designated by the Borough of Monmouth Beach shall assure the affirmative marketing of all affordable units consistent with the affirmative marketing plan for the municipality.
- G. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- H. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough.

30-10.14. Administration.

- A. The position of Municipal Housing Liaison (MHL) for the Borough of Monmouth Beach is established by this article. The Borough shall make the actual appointment of the MHL by means of a resolution.
 - 1. The MHL must be either a full-time or part-time employee of Monmouth Beach.
 - 2. The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.
 - 3. The MHL must meet all the requirements for qualifications, including initial and periodic training.
 - 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Monmouth Beach, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - a. Serving as the municipality's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 - b. The implementation of the affirmative marketing plan and affordability controls.
 - c. When applicable, supervising any contracting administrative agent.

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- d. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
 - e. Compiling, verifying and submitting annual reports as required;
 - f. Coordinating meetings with affordable housing providers and administrative agents, as applicable; and
 - g. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).
- B. The Borough of Monmouth Beach shall designate by resolution of the Borough Committee, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:91, N.J.A.C. 5:93 and UHAC.
- C. An operating manual shall be provided by the Administrative Agent(s) and shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- D. Duties and responsibilities of Administrative Agent.
1. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes;
 - a. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ);
 - b. Affirmative marketing;
 - c. Household certification;
 - d. Affordability controls;
 - e. Records retention;
 - f. Resale and re-rental;
 - g. Processing requests from unit owners; and
 - h. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 2. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- E. The Administrative Agent shall also implement the rehabilitation program, affordability assistance program, and any other affordable housing programs required within the spending plan and adopted Housing Plan Element and Fair Share Plan.

30-10.15. Enforcement of affordable housing regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, 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.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is 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:
 - a. A fine of not more than \$10,000 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - b. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Monmouth Beach Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - c. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 2. The municipality may file a court action in the Superior Court seeking a judgment, 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- and moderate-income unit.
- C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- D. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if

any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions governing affordable housing units until such time as title is conveyed from the owner.

30-10.16. Mandatory affordable housing development fees. [Amended 9-19-2023 by Ord. No. O-08-23; 12-17-2024 by Ord. No. O-17-24]

- A. Purpose. The purpose of the mandatory affordable housing development fee regulations is to provide revenues with which to fund rehabilitation of housing units in Monmouth Beach occupied by low- and moderate-income households, to construct housing for low- and

moderate-income families in the Borough and/or to fund other programs for low- and moderate-income housing in order for the Borough of Monmouth Beach to meet its responsibility for providing affordable housing pursuant to Mount Laurel II and the Fair Housing Act. The funds collected pursuant to this subsection shall be used exclusively for the production of low- and moderate-income housing and to offset municipal expenses in developing and administering the program(s) under which low- and moderate-income housing shall be produced to meet the fair share need to the Borough. No funds shall be expended except as permitted by N.J.A.C. 5:93-8.15 or other approval of the Court. The purpose of these provisions is to establish standards for the collection, maintenance and expenditure of development fees pursuant to COAH's rules as interpreted by the Court. This section shall be interpreted within the framework of COAH's rules on development fees as interpreted by the Court.

- B. Affordable housing development fees collected shall be used for the sole purpose of providing low- and moderate-income housing. In *Holmdel Builder's Assn. v. Holmdel Borough*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and the State Constitution subject to the New Jersey Council on Affordable Housing development rules as interpreted by the Court.
- C. Affordable housing development fees shall be paid by all developers other than developers of exempt developments and affordable inclusionary housing developments and shall consist of monies paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules as interpreted by the Court.
- D. Fees based on equalized assessed value. Fees shall be based on the equalized assessed value which shall be the value of a property determined by the Borough Tax Assessor through a process designed to ensure that all property in the Borough is assessed at the same assessment ratio or ratios required by law. Estimates at the time of building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Borough Tax Assessor.
 - 1. Residential development.
 - a. Residential fees. Within applicable residential zoning districts of the Borough of Monmouth Beach, developers shall pay a development fee of 1.5% of the equalized assessed value of any residential development provided no increase in density is permitted.
 - b. Fee for "d" variance. If a variance is granted pursuant to N.J.S.A. 40:55D-70d ("d" variance) then the additional residential units realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6.0% rather than the development fee of 1.5%. However, if the zoning on a site has changed during the two-year period, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two years preceding the filing of the "d" variance application.
 - c. Fifty percent of the development fee shall be collected by the Construction Office at the time of issuance of the building permit. The remaining portion shall be

collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of the issuance of the building permit and that determined at issuance of the certificate of occupancy.

2. Nonresidential fees.

- a. Within applicable zoning districts of the Borough of Monmouth Beach, developers shall pay a fee of 2.5% of equalized assessed value for nonresidential development.
- b. If a "d" variance is granted, then the additional floor area ratio (FAR) realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6.0% rather than the development fee of 2.5%. However, if the rezoning on a site has changed during the two-year period, the base FAR for the purposes of calculating the bonus development fees shall be the highest permitted by right during the two years preceding the filing of the "d" variance application.

E. Eligible exaction, ineligible exaction and exemptions.

1. Development fees may be collected for the following types of development:

- a. New and existing commercial, office, industrial or other nonresidential structure that is expanded or undergoes a more intense use. The development fee that may be collected shall be calculated on the increase in the equalized assessed value of the improved structure.
 - b. New residential structures and conversions of existing residential structures to increase the number of housing units within the structure.
2. The Borough shall not reduce densities from pre-existing levels and then require developers to pay development fees in exchange for an increased density.
 3. Developments that have received preliminary or final approval prior to the imposition of a development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.
 4. Developers that convert any portion of an existing residential structure to a nonresidential use shall pay a development fee. The development fee shall be based on the increase in the equalized assessed value of the converted structure.
 5. The Borough exempts the following types of development from the imposition of development fees:
 - a. Nonprofit organizations which have received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Borough Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges.
 - b. Federal, State, County and local governments.

- c. Public utilities under the jurisdiction of the New Jersey Board of Public Utilities to the extent that the construction for which approval is sought is of a facility which shall house equipment only and not to be occupied by any employees.
- d. Developers of low and moderate income housing units provided that the required minimum percentage of residential units in the development are affordable units in accordance with applicable COAH regulations establishing minimum set-asides for low and moderate sales and rental housing.
- e. Where affordable housing units are required to be constructed and where the developer has been authorized to pay a development fee in lieu of building the affordable housing units, developers shall pay a fee equal to the cost of subsidizing the affordable housing units that are not built.
- f. Public uses.
- g. Public uses including public educational and cultural facilities and outdoor and indoor recreational facilities.
- h. Residential and nonresidential construction permits. A residential construction permit which involves construction costs of \$50,000 or less and nonresidential construction permits which involve construction costs of \$20,000 or less shall be exempt from paying development fees.
- i. New residential construction to replace a residential structure destroyed by fire or natural hazards, provided that said construction does not increase the floor area or density of the previously existing structure. If an increase in floor area or density is proposed, development fees shall be calculated in accordance with § 30-10.16D(1) above.
- j. New nonresidential construction to replace a nonresidential structure destroyed by fire or natural hazards, provided that said construction does not increase the floor area or development intensity of the previously existing structure. If an increase in floor area or development intensity is proposed, development fees shall be calculated in accordance with Subsection 30-10.16D2 above.
- k. Exemptions as listed in N.J.S.A. 40:55D-8.4.

30-10.17. Use of funds.

The Borough shall use revenues collected in the affordable housing trust fund in accordance with N.J.A.C. 5:93-8.16.

30-10.18. Monitoring and reporting requirements.

The Borough shall submit a monitoring report to the Court as set forth in its settlement agreement with Fair Share Housing Center.

30-10.19. Spending plan.

The Borough shall submit to the Court a spending plan for the development fees collected by it prior to the expiration of its judgment of compliance. Plans to spend development fees shall consist of the following information:

- A. A projection of revenues anticipated from imposing fees on development, based on historic activity;
- B. A description of the administrative mechanism that the Borough will use to collect and distribute revenues;
- C. A description of the anticipated use of all development fees pursuant to N.J.A.C. 5:93-8.16;
- D. A schedule for the expenditure of all development fees and payments in lieu of constructing affordable housing units on site;
- E. A schedule for the creation or rehabilitation of housing units;
- F. In the event the Borough envisions being responsible for public sector or nonprofit construction of housing, a pro-forma statement of the anticipated costs and revenues associated with the development; and
- G. The manner through which the Borough will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan.

30-10.20. Affordable Housing Overlay Zone.

- A. Purpose. The purpose of the Affordable Housing Overlay Zone is to provide an opportunity to develop affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, in conformance with the requirements of the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.) and applicable rules governing the development of affordable housing as established by the Court or other appropriate entity. The sites herein are included in the Housing Element and Fair Share Plan of the Borough of Monmouth Beach and are intended to address the Borough's fair share obligation. Permitted and conditional uses within the designated overlay zone shall include all permitted and conditional uses in the underlying zoning district in which the overlay zone is located. In addition, this overlay zone establishes mixed-use affordable housing development as a permitted use in accordance with the provisions of this section.
- B. The following parcels or tracts are designated as part of the Affordable Housing Overlay Zone:

Block	Lots	Location
26	32.01-32.07	27 Beach Road
	33	29 Beach Road
27	19	37 Beach Road

Block	Lots	Location
	20.01	35 Beach Road
	21.01	33 Beach Road
45	26	2 Willow Avenue
	29	30 Beach Road
	30	32 Beach Road
	31	34 Beach Road
	32	36 Beach Road
	33	73 Riverdale Avenue
	34	69 Riverdale Avenue
	35	65 Riverdale Avenue
	36	63 Riverdale Avenue
	37	Riverdale Avenue
	38	59 Riverdale Avenue

C. Principal permitted uses.

1. All uses permitted within the zoning district in which the overlay zone is located.
2. Inclusionary affordable housing development for sale or rental housing as part of a mixed-use development containing ground floor commercial space. Residential use is not permitted on the ground floor. The bedroom mix of affordable units shall be subject to the required bedroom mix of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (UHAC). A minimum of one affordable housing unit shall be required to be located within any mixed-use commercial/residential development.

D. Permitted accessory uses.

1. Signs in accordance with the standards of Section 30-8.27.
2. Fences and walls in accordance with the standards of Section 30-5.31.
3. Common facilities and amenities serving the residents of affordable housing developments including:
 - a. Swimming pools in accordance with the standards of Section 30-8.22.
 - b. Other on-site recreational facilities, common walkways, sitting areas and gardens, and other similar uses.

E. Area, yard and building requirements. The requirements for mixed-use inclusionary development in the Affordable Housing Overlay Zone shall be as follows:

1. Minimum lot area: 9,000 square feet.

2. Minimum lot width: 100 feet.
 3. Minimum lot depth: 100 feet.
 4. Minimum front setback: 25 feet, except that no building shall be nearer the street than the average alignment of existing buildings within 200 feet of each side of the lot and within the same block.
 5. Minimum rear setback: 30 feet.
 6. Minimum side setback: 10 feet.
 7. Maximum lot coverage by building:
 - a. The total lot coverage for buildings shall not exceed 40% of the lot area.
 - b. The total lot coverage, inclusive of the buildings but exclusive of the water surface areas of pools, shall not exceed 80% of the lot area.
 8. Maximum building height: three stories/35 feet.
 9. Maximum accessory building height: 18 feet, but not more than one story.
- F. Off-street parking shall be required in accordance with Section 30-8.21. No parking is permitted in the front yard area.
- G. Affordable housing requirements. All affordable housing developments shall provide a minimum of 20% affordable housing units for low- and moderate-income households in for-sale developments, and a minimum of 15% affordable housing units for low- and moderate-income households in rental developments, in conformance with the requirements of the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.), with the exception that in lieu of 10% of affordable units in rental projects being required to be at 35% of median income, 13% of affordable units in such projects shall be required to be at 30% of median income, and all other applicable law including but not limited to phasing requirements contained in N.J.A.C. 5:93.
- H. In every mixed-use building, each market rate residential unit shall adhere to the following minimum floor area requirements: one-bedroom apartments shall be a minimum of 850 square feet. Each additional bedroom shall have a minimum floor area of 150 square feet.
- I. Every residential unit shall be so designed that each apartment within the building shall be provided with not less than two exterior exposures for each dwelling unit, the same being properly pierced by windows in order to provide either through or corner ventilation.

Appendix E – Other Documents

Additional documents identified by the Court Directive #14-24 including but not limited to an updated affordable housing ordinance, development fee ordinance, spending plan and affirmative marketing plan shall be completed and provided to the Program to follow.

**BOROUGH OF MONMOUTH BEACH
COUNTY OF MONMOUTH
ORDINANCE NO. O-XX-XX**

AN ORDINANCE TO AMEND CHAPTER 30, ARTICLE 30-10, "AFFORDABLE HOUSING" OF THE BOROUGH CODE TO INCLUDE A NEW SECTION 30-10.21, "WHARFSIDE DRIVE AFFORDABLE HOUSING OVERLAY ZONE"

WHEREAS, the Board of Commissioners of the Borough of Monmouth Beach seeks to create a realistic opportunity for the development of affordable housing along Wharfside Drive; and

WHEREAS, in furtherance of this goal, the Borough proposes to create the Wharfside Drive Affordable Housing Overlay Zone to encourage inclusionary multifamily development along Wharfside Drive.

NOW THEREFORE BE IT ORDAINED, by the governing body of the Borough of Monmouth Beach, in the County of Monmouth, and State of New Jersey, that:

SECTION 1. Chapter 30, Article 30-10, "Affordable Housing" shall be amended to include a new Section 30-10.21 " Wharfside Drive Affordable Housing Overlay Zone", which shall read as follows:

§30-10.21 Wharfside Drive Affordable Housing Overlay Zone

A. Purpose.

The purpose of the Wharfside Drive Affordable Housing Overlay Zone is to provide an opportunity to develop affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, in conformance with the requirements of the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.) and applicable rules governing the development of affordable housing as established by the Court or other appropriate entity. The sites herein are included in the Housing Element and Fair Share Plan of the Borough of Monmouth Beach and are intended to address the Borough's fair share obligation. Permitted and conditional uses within the designated overlay zone shall include all permitted and conditional uses in the underlying zoning district in which the overlay zone is located.

B. Block 13, Lot 9.01 shall be designated as part of the Wharfside Drive Affordable Housing Overlay Zone.

C. Principal permitted uses.

1. All uses permitted within the zoning district in which the overlay zone is located.

2. Inclusionary affordable housing development for sale or rental housing, the density of which shall not be more than 20 families per acre. The bedroom mix of affordable units shall be subject to the required bedroom mix of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (UHAC).

D. Permitted accessory uses. The permitted accessory uses for mixed-use inclusionary development in the Wharfside Drive Affordable Housing Overlay Zone shall be those otherwise permitted in the underlying zoning district in which the overlay zone is located.

E. Area, yard and building requirements. The requirements for mixed-use inclusionary development in the Wharfside Drive Affordable Housing Overlay Zone shall be those otherwise required in the underlying zoning district in which the overlay zone is located, except as follows:

1. The total lot coverage for buildings shall not exceed 30% of the lot area.
2. The total lot coverage shall not exceed 60% of the lot.
3. The maximum principal building height shall not exceed three stories/42 feet.

F. Off-street parking shall be required in accordance with Section 30-8.21.

G. Affordable housing requirements.

- (1) All affordable housing developments shall provide a minimum of 20% affordable housing units for low- and moderate-income households in conformance with the requirements of the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.).
- (2) An affordable housing development shall not cause a permanent reduction in the number of restricted units within the overlay that existed prior to its approval. Any restricted units within the overlay that existed before such approval and are removed must be replaced with units of the same income requirements and equivalent number of bedrooms.

H. In all affordable housing developments, each market rate residential unit shall adhere to the following minimum floor area requirements: one-bedroom apartments shall be a minimum of 850 square feet. Each additional bedroom shall have a minimum floor area of 150 square feet.

I. Every residential unit shall be so designed that each apartment within the building shall be provided with not less than two exterior exposures for each dwelling unit, the same being properly pierced by windows in order to provide either through or corner ventilation.

SECTION 2. All Ordinances of the Borough of Monmouth Beach, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

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

SECTION 4. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.