

Housing Element and Fair Share Plan

Prepared for:

**The Borough of Spring Lake Heights
Monmouth County, New Jersey**

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INTRODUCTION

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

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

Under COAH’s regulations, low income households are defined as those with incomes no greater than 50 percent of the median household income, adjusted for household size, of the housing region in which the municipality is located, and moderate-income households are those with incomes no greater than 80 percent and no less than 50 percent of the median household income, adjusted for household size, of the housing region. For the Borough of Spring Lake Heights, the housing region is defined by COAH as Region 4 and is comprised of Mercer, Monmouth and Ocean counties. In Region 4 the median income for a four-person household is \$130,054, the moderate-income limit is \$104,0431, the low-income limit is \$65,027, and the very-low-income limit is \$39,016 in 2024.

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

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

applications for development and probable residential development of lands;

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

MUNICIPAL SUMMARY

The Borough of Spring Lake Heights is an established residential community consisting of 1.3 square miles in southeastern Monmouth County. Spring Lake Heights is bordered by Spring Lake Borough to the east, Wall Township to the north, west, and south, and Sea Girt Borough to the southeast. Spring Lake Heights is among the eastern Monmouth County communities in proximity to the Atlantic Ocean with a stable year-round population, supporting the Jersey Shore when many of the seaside resort communities with a large portion of second homes empty out. The Borough was annexed from Wall Township in 1892. The development of the North Jersey Coast Rail Line, which forms the eastern border of the Borough, and highway infrastructure opened the Borough to additional year-round residents.

Today the Borough is an almost completely built out residential community. Higher-density single family and multi-family development is clustered in the northern portion of the Borough north of the Spring Lake Golf Course and along the State Highway 71 corridor. Commercial uses are concentrated along the eastern edge of the Borough along State Highway 71. Borough facilities and services are scattered throughout the Borough but tend to be located in the blocks between Route 71 and Railroad Avenue (including the municipal building, the fire house, and the public works facility). Park and recreation lands are also disbursed throughout – with recreational courts in the north of the Borough along Allaire Road, and well as in the south at Ocean Road Park. The Spring Lake Golf Club occupies a large central portion of the Borough. Open space / conservation land is located along the Wreck Pond Brook at the Borough's southern border.

The current year-round population of Spring Lake Heights is estimated at 4,866 (ACS 2023 5-year data) and increases during the summer months. Spring Lake Heights has a population density of 3,743 persons per square mile. The Borough grew younger by 9.1 years between 2010 and 2023, with a current median age of 41 years of age. Spring Lake Height's 2023 median household income estimate of \$102,829 was lower than that of the county (\$122,727), but higher than the State of New Jersey overall (\$101,050).

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

DEMOGRAPHIC CHARACTERISTICS

POPULATION

In 2023, the Borough of Spring Lake Heights had a total population of 4,866. This number represented an increase of 336 individuals or 7.4 percent since 2020, when the total population was 4,530 individuals. This increase is the first the Borough has experienced since 1980, as the Borough had experienced slight decreases in the population from 1990 until 2020. The total population pattern for Spring Lake Heights, Monmouth County, and New Jersey are detailed below.

TABLE 1: POPULATION TRENDS, 1940-2023

Year	Spring Lake Heights			Monmouth County			New Jersey		
	Population	Change		Population	Change		Population	Change	
		Number	Percent		Number	Percent		Number	Percent
1940	1,076	-	-	161,238	-	-	4,160,165	-	-
1950	1,798	722	67.1%	225,327	64,089	39.7%	4,835,329	675,164	16.2%
1960	3,309	1,511	84.0%	334,401	109,074	48.4%	6,066,782	1,231,453	25.5%
1970	4,602	1,293	39.1%	461,849	127,448	38.1%	7,171,112	1,104,330	18.2%
1980	5,424	822	17.9%	503,173	41,324	8.9%	7,365,011	193,899	2.7%
1990	5,341	-83	-1.5%	553,124	49,951	9.9%	7,730,188	365,177	5.0%
2000	5,227	-114	-2.1%	615,301	62,177	11.2%	8,414,350	684,162	8.9%
2010*	4,713	-514	-9.8%	628,112	12,811	2.0%	8,721,577	307,227	3.6%
2020*	4,530	-183	-3.9%	620,821	-7,291	1.2%	8,885,418	163,841	1.9%
2023*	4,866	336	7.4%	643,615	22,794	3.67%	9,267,014	381,596	4.29%
2050^	4,907	41	0.8%	669,624	48,559	4.0%	-	-	-

Source: U.S. Census Bureau Decennial Census,
 *2010,2020, 2023 American Community Survey 5-Year Estimates (table DP05)
 ^Population Projections from North Jersey Transportation Planning Authority (NJTPA)

POPULATION COMPOSITION BY AGE

The age composition of Spring Lake Heights has shifted noticeably since 2010. According to American Community Survey 5-Year Estimates, 2023, significant changes occurred in many age groups. The greatest increase in population was experienced in the years 60 to 64 age cohort and the 25 to 34 years age cohort. The greatest decrease in population was experienced in the 45 to 54 age cohort, followed by the 15 to 19 age cohort.

TABLE 2: POPULATION BY AGE COHORT, SPRING LAKE HEIGHTS, 2010-2023

Population	2010		2023		Change 2010-2023
	Number	Percent	Number	Percent	
Total population	4,810	100%	4,864	100.00%	1.12%
Under 5 years	199	4.1%	268	5.5%	34.6%
5 to 9 years	230	4.8%	224	4.6%	-2.6%
10 to 14 years	145	3.0%	211	4.3%	45.5%
15 to 19 years	308	6.4%	129	3.0%	-58.1%
20 to 24 years	221	4.6%	378	7.7%	71.0%
25 to 34 years	389	8.1%	714	11.4%	83.5%
35 to 44 years	612	12.7%	668	13.7%	9.1%
45 to 54 years	830	17.3%	277	5.7%	-66.6%
55 to 59 years	458	9.5%	345	7.0%	-24.6%
60 to 64 years	261	5.4%	604	12.4%	131.4%
65 to 74 years	458	9.5%	649	12.4%	41.7%
75 to 84 years	536	11.1%	272	5.5%	-49.2%
85 years and over	163	3.4%	127	2.6%	-22.1%
U.S. Census Bureau ACS 2023 5- Year Estimates (table DP-05)					

Monmouth County also experienced shifts in the age make-up of its population. The County experienced a significant decrease in children under the age of 18. The 20 to 34-year-old and 55 and over age cohorts experienced population increases between 2010 and 2023, with the largest increases in the older age cohorts, suggesting that the County has an aging population.

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

Population	2010		2023		Change 2010-2023
	Number	Percent	Number	Percent	
Total population	628,112	100.0%	643,615	100.0%	2.5%
Under 5 years	36,105	5.7%	32,114	4.9%	-11.05%
5 to 9 years	43,432	6.9%	37,013	5.7%	-14.8%
10 to 14 years	45,172	7.2%	39,484	6.1%	-12.6%
15 to 19 years	44,706	7.1%	42,163	6.5%	-5.7%
20 to 24 years	33,055	5.3%	37,390	5.8%	13.1%
25 to 34 years	63,105	10.0%	70,569	10.9%	11.8%
35 to 44 years	93,461	14.9%	75,860	11.8%	-18.8%
45 to 54 years	108,675	17.3%	88,083	13.3%	-18.9%
55 to 59 years	42,594	6.8%	50,654	7.9%	18.9%
60 to 64 years	34,235	5.5%	50,797	7.9%	48.4%
65 to 74 years	41,719	6.6%	71,107	11.0%	70.4%
75 to 84 years	29,301	4.7%	33,953	5.3%	15.9%
85 years and over	12,552	2.0%	14,428	2.1%	14.9%
U.S. Census Bureau American Community Survey 5-Year Estimates (table DP-05)					

The median age of Spring Lake Heights residents has decreased by 9.1 years between 2010 and 2023. While the State and County have experienced increases in median age and the Borough experienced a decrease between 2010 and 2023, the County exhibits the highest median age of the three populations, while Spring Lake Heights median age is slightly higher than that of the State overall. The decrease in the median age of Spring Lake Heights residents is likely attributed to families with school aged children moving into the Borough.

TABLE 4: MEDIAN AGE

Year	Spring Lake Heights	Monmouth County	New Jersey
2010	50.1	40.6	38.5
2023	41.0	43.2	40.1
Change	-9.1	2.6	1.6
U.S. Census Bureau, American Community Survey 2010, 2023 5-Year Estimates (table B01002)			

HOUSEHOLDS

A household is defined as one or more persons, either related or not, living together in a housing unit. 2023 ACS 5-Year Estimates note that there were approximately 2,358 households in the Borough. Approximately 72.1% percent of all Borough households were comprised of one or two persons, with 52.9% comprising of one-person households. The Borough’s average household size was 2.06, which is smaller than the County’s average household size of 2.55.

**TABLE 5: HOUSEHOLD CHARACTERISTICS
SPRING LAKE HEIGHTS AND MONMOUTH COUNTY, 2023**

	Borough		County	
	Number	Percent	Number	Percent
Total Households	2,358	100.0%	250,195	100.0%
1-person	1,249	52.9%	66,589	26.0%
2-persons	454	19.2%	81,289	32.9%
3-persons	219	9.3%	40,929	16.4%
4 or more persons	436	18.4%	61,388	24.5%
Average Household Size	2.06		2.55	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (tables S2501 & B25010)				

Family households are defined as two or more persons living in the same household, related by blood, marriage or adoption. Households in Spring Lake Heights are slightly more likely to be non-family households (53.7%) than family households (46.3%). Approximately 88.6 percent of all family households were family households with married couple householders, while 12.8 percent of family households respectively were family households consisting of single female householders. The average family size was 3.03 persons, significantly larger than the average non-family household size of 1.08 persons.

TABLE 6: HOUSEHOLDS BY TYPE (2023)

Households	Total	Percent
		2,358
Average Household Size	2.01	
Average Non-Family Household Size	1.08	
Family households	1,091	46.3%
Married Couple Family	967	88.6%
With own children under 18 years	239	21.9%
No children under 18 years	728	66.7%
Other Family		
Male householder, no spouse present	27	2.5%
With own children under 18 years	0	0.0%
No own children under 18 years	27	100%
Female householder, no spouse present	140	12.8%
With own children under 18 years	77	55%
No own children under 18 years	63	45%
Nonfamily Households	1,267	53.7%
Average Family Size	3.03	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table S1101)		

INCOME

Spring Lake Heights experienced a 96.2 percent increase in per capita income between 2010 and 2023, which was lower than Monmouth County’s 110.4 percent increase, and slightly lower than the State’s 96.7 percent increase over the same period. While the Borough’s percent increase in per capita income was less than that of Monmouth County, Spring Lake Height’s per capita income of \$68,853 is greater than the County’s \$65,545, both of which are greater than the State’s \$53,118.

TABLE 7: PER CAPITA INCOME AND MEDIAN HOUSEHOLD INCOME

	2000 Per Capita Income	2023 Per Capita Income	Percent Change	2000 Median Household Income	2023 Median Household Income	Percent Change
Spring Lake Heights	\$35,093	\$68,853	96.2%	\$51,330	\$102,829	100.3%
Monmouth	\$31,149	\$65,545	110.4%	\$64,271	\$122,727	90.9%
New Jersey	\$27,006	\$53,118	96.7%	\$55,146	\$101,050	83.2%
U.S. Census Bureau, American Community Survey 2010, 2023 5-Year Estimates (tables S1902 and S1903)						

The income distribution for the Borough is similar to that of the County. The income brackets containing the highest percentage of households for both Spring Lake Heights and Monmouth County is the \$200,000 or more bracket, followed by the \$100,000 to \$149,999 range. The median income in Spring Lake Heights was \$102,829, approximately \$20,000 less than the

county median household income, and about \$1,800 more than the state median household income. Between 2010 and 2023, the median household income increased 100.3 percent, higher than the 90.9 percent growth rate experienced in Monmouth County and the 83.2 percent increase for the State overall.

**TABLE 8: HOUSEHOLD INCOME DISTRIBUTION
SPRING LAKE HEIGHTS AND MONMOUTH COUNTY, 2023**

	Spring Lake Heights		Monmouth County	
	Number	Percent	Number	Percentage
Total Households	2,358	100.0%	250,195	100.0%
Less than \$10,000	86	3.6%	8,165	3.2%
\$10,000 to \$14,999	9	0.3%	5,319	2.1%
\$15,000 to \$24,999	73	3.1%	10,781	4.3%
\$25,000 to \$34,999	121	5.1%	10,705	4.3%
\$35,000 to \$49,999	252	10.7%	17,390	6.9%
\$50,000 to \$74,999	303	12.8%	25,153	10.05%
\$75,000 to \$99,999	287	12.1%	25,542	10.2%
\$100,000 to \$149,999	455	19.2%	43,917	17.5%
\$150,000 to \$199,999	191	8.1%	33,996	13.6%
\$200,000 or more	581	24.6%	69,227	27.7%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table B19001)				

HOUSEHOLD COSTS

The tables below show housing expenditures for owner- and renter-occupied units in Spring Lake Heights in 2023. The first table shows the housing costs of owner occupants as a percentage of total income. A total of 397 households (28%) were devoting more than 30 percent of their annual income to housing costs. The State affordability threshold for housing as a percent of income suggests that not more than 28 percent of gross income should be allocated for housing costs.

The second table shows rental costs as a percentage of household income. A total of 471 households renting in Spring Lake Heights, or 50.1 percent, were spending over 30 percent of their incomes on rent. The State affordability threshold for housing as a percent of income suggests that not more than 30 percent of gross income should be allocated for rent.

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

	Spring Lake Heights		Monmouth County	
	Number	Percent	Number	Percent
Total Owner-Occupied Housing Units	1,418	100.0%	188,381	100.0%
Less than 15%	638	45%	64,996	34.5%
15 to 19%	158	11.1%	29,489	15.7%
20 to 24%	95	6.7%	25,225	13.4%
25 to 29%	110	7.8%	16,404	8.7%
30 to 34%	86	6.1%	10,800	5.7%
35% or more	311	21.9%	39,482	21.0%
Not computed	20	1.4%	1,985	1.1%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table B25091)				

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

	Spring Lake Heights		Monmouth County	
	Number	Percentage	Number	Percentage
Total Renter-Occupied Housing Units	940	100.0%	61,617	100.0%
Less than 15%	64	6.8%	7,106	11.5%
15 to 19%	57	6.06%	6,970	11.3%
20 to 24%	191	20.3%	6,927	11.2%
25 to 29%	95	10.1%	6,419	10.4%
30 to 34%	123	13.1%	4,751	7.7%
35% or more	348	37.0%	26,025	42.2%
Not computed	62	6.6%	3,419	5.5%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table B25070)				

EXISTING HOUSING CONDITIONS

HOUSING UNIT DATA

Spring Lake Height's housing stock is predominantly owner occupied and relatively old. According to the 2023 ACS, the Borough had a total of 2,358 occupied housing units. Most occupied units (60.1%) were owner-occupied, while 39.9 percent were renter-occupied. Housing construction has slowed since peaking in the decade between 1970 – 1979, just following close behind by 1960-1969. Most of the housing structures (68.03%) were built before 1980.

TABLE 11: HOUSING UNIT DATA, 2023

Housing Units in Spring Lake Heights	Number	Percent
Total Housing Units	2,743	100.0%
Vacant Housing Units	385	14.03%
Occupied Housing Units	2,358	85.9%
Owner Occupied	1,418	60.1%
Renter Occupied	940	39.9%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04)		

	Number	Percent
Built 1939 or earlier	142	5.2%
Built 1940 to 1949	25	0.9%
Built 1950 to 1959	346	12.6%
Built 1960 to 1969	660	24.06%
Built 1970 to 1979	693	25.2%
Built 1980 to 1989	512	18.7%
Built 1990 to 1999	140	5.1%
Built 2000 to 2009	176	6.4%
Built 2010 or later	49	1.7%
Total	2,743	100.0%
Median Year Structure Built	1973	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04 and B25035)		

HOUSING TYPE AND SIZE

The housing stock in Spring Lake Heights is generally divided into three different unit types. Single-family detached homes comprise approximately 44.2% percent of the Borough's housing stock, while a further 21.4 percent of all units were single-family attached homes. Multi-family residences with 3 units or more made up 31.3 percent of the units in Spring Lake Heights. The median number of rooms per unit was 5.5.

TABLE 12: HOUSING UNITS BY TYPE, 2023

Units in Structure	Total	Percent
Total	2,743	100%
1 Unit, detached	1,214	44.2%
1 Unit, attached	588	21.4%
2 Units	85	3.1%
3 or 4 Units	216	7.9%
5 to 9 Units	104	3.8%
10 to 19 Units	336	12.2%
20 Units or more	200	7.2%
Mobile home	0	0.00%
Boat, RV, van, etc.	0	0.00%
Rooms	Total	Percent
1 room	22	0.8%
2 rooms	32	1.16%
3 rooms	347	12.6%
4 rooms	593	21.6%
5 rooms	367	13.4%
6 or more rooms	1,382	50.28%
Median number of rooms	5.5	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (DP04)		

HOUSING VALUES AND CONTRACT RENTS

According to ACS 2023 5-Year Estimates, most housing units in Spring Lake Heights (79.2%) were valued at \$500,000 and greater. Table 13 provides a breakdown of home values for owner-occupied units within the Borough. Only 43 owner-occupied housing units in Spring Lake Heights were worth less than \$100,000. The median value of an owner-occupied housing unit was \$648,500 at the time of the survey.

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

	Spring Lake Heights		Monmouth County	
	Number	Percentage	Number	Percentage
Total	1,418	100.0%	188,578	100%
Less than \$50,000	9	0.6%	3,202	1.7%
\$50,000 to \$99,999	34	2.4%	2,703	1.4%
\$100,000 to \$149,999	0	0.0%	1,760	0.9%
\$150,000 to \$199,999	0	0.0%	2,797	1.4%
\$200,000 to \$299,999	12	0.8%	12,780	6.8%
\$300,000 to \$499,999	240	16.9%	55,119	29.2%
\$500,000 and greater	1,123	79.2%	144,028	76.4%
Median Value	\$648,500		\$566,500	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04)				

With respect to renter-occupied units, there are a range of rents, with most rental units in the Borough carrying rental costs within the \$1,500 to \$1,999 range per month. At the time of the ACS 5-Year Estimates, the median gross rent in Spring Lake Heights was \$1,817. 9 units in the Borough carried rental costs less than \$1,000 per month, and 7.06 percent of units did not require cash rent payments.

TABLE 14: GROSS RENT PAID

	Spring Lake Heights		Monmouth County	
	Number	Percentage	Number	Percentage
Total Renter Occupied Units	878	100.0%	59,223	100%
Less than \$500	0	0.0%	4,045	6.8%
\$500 to \$999	9	1.02%	3,453	5.8%
\$1,000 to \$1,499	36	4.1%	13,711	23.1%
\$1,500 to \$1,999	622	70.8%	15,499	26.1%
\$2,000 to \$2,499	159	18.1%	10,920	18.4%
\$2,500 to \$2,999	0	0.0%	6,150	10.3%
\$3,000 or more	52	5.9%	5,445	9.1%
No cash rent	62	7.06%	2,394	4.0%
Median Contract Rent	\$1,817		\$1,771	
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04)				

HOUSING CONDITIONS

According to the 2023 ACS, there were a minimal number of units exhibiting overcrowding (more than one person per room), lacking complete plumbing facilities or lacking complete kitchen facilities. Table 15 details the condition of housing within Spring Lake Heights based on plumbing facilities, kitchen facilities, and overcrowding. These factors are utilized in determining housing deficiency and general housing problems and are used as the basis to calculate the municipal rehabilitation obligation. According to the data, 0.5 percent of occupied housing units experienced over-crowding, while 0.0 percent of occupied units lacked complete plumbing facilities and 0.9 percent of units lacked complete kitchen facilities.

TABLE 15: HOUSING DEFICIENCY CHARACTERISTICS

	Count	Percent
Housing Units with 1.01 or More Persons Per Room		
1.01 to 1.5 occupants per room	53	2.2%
1.51 or more occupants per room	13	0.5%
Plumbing Facilities		
Total Occupied Housing Units	2,358	100.0%
Lacking complete plumbing facilities	0	0.0%
Kitchen Equipment		
Total Occupied Housing Units	2,414	100.0%
Lacking complete kitchen facilities	21	0.9%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04)		

PROJECTED HOUSING STOCK

According to New Jersey Department of Community Affairs, Spring Lake Heights has issued building permits for 244 residential dwelling units between 2000 and 2023. During that same time period, the Borough issued 203 residential demolition permits, adding a total of 41 dwelling units over this time period. Building permit data by year is summarized in Table 16 below.

**TABLE 16: BUILDING PERMITS AND DEMOLITION PERMITS ISSUED,
2000 - 2023**

Year	Residential Building Permits Issued	Residential Demolitions	Total Added
2000	14	8	6
2001	13	11	2
2002	17	9	8
2003	8	12	-4
2004	30	14	16
2005	16	15	1
2006	13	6	7
2007	11	11	0
2008	3	11	-8
2009	4	5	-1
2010	9	3	6
2011	1	2	-1
2012	5	5	0
2013	3	3	0
2014	6	5	1
2015	8	7	1
2016	6	19	-13
2017	7	8	-1
2018	17	13	4
2019	5	8	-3
2020	17	6	11
2021	5	7	-2
2022	9	7	2
2023	17	8	9
Total	244	203	41
Source: New Jersey Department of Community Affairs Construction Reporter			

EMPLOYMENT DATA

The 2023 ACS reports on work activity of residents aged 16 years and older. While the Borough’s working age population was 4,139 residents, Spring Lake Heights had an approximate labor force of 2,938 residents. Approximately 29.0 percent of the Borough’s working age residents were not participating in the labor force at the time of the estimates. The vast majority of the Borough’s labor force was employed in civilian jobs, while zero residents reported being members of the armed forces. Approximately 3.4 percent of Borough residents reported being unemployed.

TABLE 17: EMPLOYMENT STATUS

	Spring Lake Heights		Monmouth County	
	Number	Percent	Number	Percent
Population 16 years and over	4,139	100.0%	529,352	100.0%
In labor force	2,938	71.0%	349,815	66.08%
Civilian Labor Force	2,938	71.0%	349,355	65.9%
Employed	2,798	67.6%	331,018	62.5%
Unemployed	140	3.4%	18,337	3.5%
Armed Forces	0	0.0%	460	0.1%
Not in labor force	1,201	29.0%	176,537	33.3%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)				

More than three quarters of the Borough’s workers were employed in private wage and salary positions, while 4.86 percent of workers are self-employed. Government workers comprise about 11.9 percent of the Borough’s workforce. Table 18 provides a breakdown of worker classifications.

TABLE 18: CLASSIFICATION OF WORKERS IN SPRING LAKE HEIGHTS, 2023

	Number	Percent
Total	2,798	100.0%
Private Wage and Salary Worker	2,315	82.7%
Government Worker	335	11.9%
Self-Employed Worker	136	4.86%
Unpaid Family Worker	12	0.4%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)		

An analysis of employees (over the age of 16) by economic sector indicates that employed working age individuals in Spring Lake Heights were involved in a range of economic sectors. As depicted in Table 19 below, the highest concentration of workers (33.2%) are employed in the educational, health care, and social services sectors. The professional scientific, management, administrative and waste management services and arts, entertainment, and recreation, and accommodation and food services sectors employ 17.3 and 10.9

percent of the Borough’s workforce and employ the next highest concentrations of Borough workers respectively.

TABLE 19: WORKFORCE BY SECTOR

Sector	Number	Percent
Civilian employed population 16 years and over	2,798	100.0%
Agriculture, forestry, fishing and hunting, mining	9	0.3%
Construction	42	1.5%
Manufacturing	191	6.8%
Wholesale Trade	27	0.9%
Retail Trade	298	10.6%
Transportation and Warehousing, and Utilities	48	1.7%
Information	83	2.9%
Finance and insurance, and real estate and rental and leasing	173	6.1%
Professional, scientific, and management, and administrative and waste management services	484	17.3%
Educational services, and health care and social assistance	931	33.2%
Arts, entertainment, and recreation, and accommodation and food services	305	10.9%
Other Services, except public administration	141	5.03%
Public administration	66	2.3%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)		

Table 20 provides a percentage comparison of the Borough’s workforce against that of the County. The Borough’s profile of employment by sector generally mirrors that of the County. In both the Borough and the County, the highest percentage of employment are the educational services, and health care and social assistance sectors, followed by the professional, scientific, and management, and administrative and waste management services.

**TABLE 20: COMPARISON OF WORKFORCE BY SECTOR
 SPRING LAKE HEIGHTS AND MONMOUTH COUNTY, 2023**

Sector	Spring Lake Heights	Monmouth County
Civilian employed population 16 years and over	2,798	331,018
Agriculture, forestry, fishing and hunting, mining	0.3%	0.4%
Construction	1.5%	6.9%
Manufacturing	6.8%	6.2%
Wholesale Trade	0.9%	2.4%
Retail Trade	10.6%	10.4%
Transportation and Warehousing, and Utilities	1.7%	4.4%
Information	2.9%	3.2%
Finance and insurance, and real estate and rental and leasing	6.1%	10.3%
Professional, scientific, and management, and administrative and waste management services	17.3%	15.5%
Educational services, and health care and social assistance	33.2%	24.3%
Arts, entertainment, and recreation, and accommodation and food services	10.9%	7.7%
Other Services, except public administration	5.03%	3.7%
Public administration	2.3%	4.3%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)		

Table 21 provides a breakdown of occupations by type for the Borough’s employed civilian labor force. Approximately 48.7 percent of the Borough’s employed civilian labor force was employed in management, business, science and arts occupations, while 23.2 percent of the Borough’s employed work force worked in sales and office occupations.

TABLE 21: OCCUPATIONS BY TYPE

Occupation	Number	Percent
Employed Civilian population 16 years and over	2,798	100.0%
Management, business, science and arts occupations	1,362	48.7%
Service occupations	584	20.9%
Sales and office occupations	650	23.2%
Natural resources, construction and maintenance occupations	35	1.2%
Production Transportation and material moving occupations	167	5.9%
U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03)		

As indicated in Table 22 below, it is projected that Monmouth County will add 21,400 jobs by 2032. The Ambulatory Health Care Services, Transportation and Warehousing, and Information sectors are poised to experience the greatest increase in number of jobs over

the course of the projection period.

TABLE 22: PROJECTED EMPLOYMENT, MONMOUTH COUNTY, 2032

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

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

Lands Most Appropriate for Affordable Housing

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

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

Infrastructure

Water and Sewer

The Borough of Spring Lake Heights is located within public water and sewer service areas. Sewer service is provided by the South Monmouth Regional Sewerage Authority, which directs wastewater to a secondary treatment plant located in Wall Township. Public Water is provided by the Spring Lake Heights Water Department which owns and operates the potable water system within the Borough. Water for public consumption is drawn from three groundwater wells tapping into the Mount Laurel and Englishtown Aquifers.

Anticipated Demand and Land Use Patterns

The Borough of Spring Lake Heights contains residential neighborhoods, commercial development, and public uses with very limited vacant land. According to NJTPA population estimates projected to 2050, it is anticipated that the Borough's population will grow by approximately 41 people (0.8 percent). As a fully built-out municipality, it is anticipated that the Borough will need to accommodate future population and employment growth as opportunities for redevelopment arise.

Residential

Currently, the Borough is predominantly zoned for Single Family housing in zones R-1, R-2, R-3, R-4, and R-5. However, a number of higher density apartment complexes exist throughout Spring Lake Heights, particularly in the northern portion of the Borough. Opportunities for mixed- use development are located along Route 71 in the MU-1 and MU-2 Mixed Use Zones.

Non-Residential

Spring Lake Heights has a number of commercial, business and office uses located throughout the Borough in pockets, yet mainly concentrated on the eastern portion along Route 71. One commercial area is located in the southwestern corner of the Borough along Ocean Road, and all office uses are located on the east side of Route 71. Given the build-out nature of the Borough, new commercial development will most likely take the place of existing tenants or will require some degree of redevelopment to occur on already developed sites.

Environmental Constraints

Spring Lake Heights enjoys many natural environmental amenities, including wooded areas, lake and creeks, wetlands, and nearby access to the ocean. In order for these environmentally sensitive features to retain their existing quality and perform vital ecosystem functions, the Borough must be conscious of its role as steward of its natural environment. The portion of the Borough located to the east of Route 71 is located within the CAFRA zone. Wreck Pond and its tributaries form the southern boundary of the Borough. Additional Wreck Pond tributaries run throughout the Borough. Polypod Brook is located along the northern municipal boundary. Areas with sensitive environmental features are not suitable for development.

Historic

There is one (1) property in Spring Lake Heights eligible to be listed on the State or National Register of Historic Places, the Old Mill, located in the southwestern portion of town. Historic status is not generally a major source of development constraint in Spring Lake Heights.

Existing Land Use Designations

The Borough's land use designations have been continually examined and updated through the Master Plan Reexamination process. The last Reexamination Report was adopted in 2018.

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

One-Family Residential Zones: R-1, R-2, R-3, R-4 and R-5

The Borough has established five one-family residential zones, all of which permit the same principal, accessory, and conditional uses. The principal permitted uses are one-family detached dwellings, municipal facilities and public parks, playgrounds, playfields and walkways, and essential services.

Residential Cluster Development of single family detached dwellings or of townhouses and

golf courses are principally permitted in the R-1 zone district only. Clubhouses and dining facilities, tennis and other racquet sports, swimming pools and shuffleboard courts subordinate to the operation of a golf course are also permitted in the R-1 Zone only. Townhouse residential development is permitted in the R-5 Zone on Block 46.02, Lots 1-62.

The R-1 zone is located in one area in the center of the Borough, consisting of the Spring Lake Golf Course.

The R-2 zone is located in one area in the northwest portion the Borough, bordered by Wall Road to the north, Greve Avenue to the east, Allaire Road to south, and Old Mill Road to the west.

The R-3 zone is located in western and southern portions of the Borough. It is bordered by Sea Girt Borough and Wall Township to the south, Spring Lake Borough to the east, and Shore Road to the north, east of Route 71. West of Route 71, the zone is bordered by the B-2 Zone to the east, Park Avenue and the R-1 zone to the north, Old Mill Road to the east and Wall Township to the west. The zone is also located to the north of the R-2 zone, where it is bordered by Wall Township to the north and west, Kipling Avenue and the R-5 zone to the east, and Wall Road and the R-2 zone to the south.

The R-4 zone is located in one area in the northern portion of the Borough, east of the R-2 zone. It is bordered by Wall Road to the north, the R-5 zone to the east, Allaire Road to the south, and Greve Road to the west.

Finally, the R-5 zone is encompasses all of the residentially zoned areas east of Route 71, with the exception of the area south of Shore Road. The R-5 zone is also located west of Route 71 in the north portion of the Borough, north of Allaire Road, bordered by the R-4 zone to the west and south, Kipling Avenue to the west, and Wall Township to the north.

Certain zones in Spring Lake Heights **permit residential uses** as part of a mixed-use development, as summarized below:

MU-1 and MU-2 Mixed Use Zones

The purpose of the MU -1 and MU -2 Zones is to allow for a combination of mixed uses along Route 71 including commercial, retail, and residential uses. The MU -1 Zone includes parcels north of Warren Ave, and the MU -2 Zone includes parcels south of Warren Ave. Retail/ commercial uses are permitted on the ground level with residential units above. No residence is permitted on ground level. Townhouse units are permitted in the rear of the mixed-use building. Any mixed-use development requires a mandatory 20% set aside for affordable housing in accordance with the Borough's Affordable Housing Ordinance and all applicable regulatory requirements.

Certain zones in Spring Lake Heights **have been zoned for the creation of the affordable**

housing, as summarized below:

MU-AH-1, MU-AH-2, Mixed Use Affordable Housing and AH-3, AH-4 Affordable Housing

The MU-AH-1, MU-AH-2, AH-3, and AH-4 zones were created as part of the Third Round Settlement Agreement to help the Borough of Spring Lake Heights satisfy its Third Round housing obligation by zoning for inclusionary affordable housing opportunities.

Certain zones in Spring Lake Heights **do not permit residential uses** at all, as summarized below:

B-2 Commercial Zone

Principally permitted uses in this zone include the retail sale of consumable products, wearing apparel, pharmaceuticals, hardware, appliances, household goods, confections and general merchandise; banks, fiduciary institutions, business and professional offices and medical centers; the sale of personal services such as cleaners, tailors, barbershops and beauty salons, and the repair of appliances and shoes, transportation terminal facilities, including taxi stands, bus passenger stations and similar uses; such municipal facilities deemed necessary and appropriate by the governing body of the Borough; restaurants and bars; and motels. The B-2 Commercial Zone is located throughout the Borough in pockets along Route 71 and one area in the southwestern corner of the Borough, along Ocean Road.

CONSISTANCY WITH STATE PLAN

The Borough of Spring Lake Heights remains consistent with New Jersey State Development and Redevelopment Plan. The Borough is located within the PA 1 – Metropolitan Planning Area. This planning area includes a variety of communities and is intended to provide for future redevelopment and revitalization, promote growth in compact forms, stabilize older suburbs, redesign areas of sprawl and protect the character of existing stable communities.

Spring Lake Heights has published multiple documents related to stormwater planning, most notably, a stormwater management plan that outlines the proactive steps the Borough is taking to protect citizens and property from the adverse effects of stormwater flooding, as well as a Stormwater Pollution Prevention Plan.

Spring Lake Heights is not one of the State's 36 designated Transit Villages, however, the NJ Transit North Jersey Coast Commuter Rail Line runs through the Borough, with the closest station located just across the municipal border in Spring Lake. NJ Transit also provides bus service throughout the Borough.

FAIR SHARE PLAN

Fair Share Obligation Summary

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

TABLE 23: FAIR SHARE OBLIGATION SUMMARY

Obligation Component	Number of Credits Required
Present Need	35
Prior Round Obligation (1987-1999)	76
Third Round “Gap” and Prospective Need (1999-2025)	145
Fourth Round Prospective Need (2025-2035)	44
Total Realistic Development	0

The following sections outline the Borough’s plan for complying with its Fair Share Obligation.

Lack of Developable Vacant Land

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

Given the Borough’s relative lack of vacant and developable land, the Borough’s ability to satisfy its Court-determined affordable housing obligation is limited. To demonstrate its continued lack of vacant developable land, the Borough has prepared an updated Vacant Land Adjustment analysis in accordance with N.J.A.C. 5:93:4.2, submitted as part of this plan as Appendix A. The Borough continues to exhibit a lack of vacant developable land, with redevelopment over time presenting itself as the principal vehicle for accomplishing projects with affordable housing. The prepared VLA illustrated a lack of vacant land and a Realistic Development Potential (RDP) of 0 affordable units.

Satisfaction of the Borough’s Rehabilitation/Present Need Obligation

The Borough of Spring Lake Heights will participate in Monmouth County Housing Improvement Program, which is administered by the Monmouth County Community Development Block Grant (CDBG) program through an intergovernmental agreement between the Borough and the County. The Borough will fund the program until such time as the funds become available in the Affordable Housing Trust Fund. The Borough anticipates completing three (3) rehabilitations per year to satisfy its obligation.

Satisfaction of the Borough's Realistic Development Potential

The Borough's Realistic Development Potential (RDP) is zero (0) units. The Borough proposes to address this RDP through construction of affordable units, bonus credits, and the use of mandatory set-aside ordinance.

Third Round Compliance

Spring Lake Heights took a vacant land adjustment to address their third round obligation and was found to have an RDP of seventeen (17) units. This obligation was addressed through a settlement agreement with several developers, the use of a Mixed-Use Zone with a mandatory set-aside along Route 71, and the creation of a mandatory set-aside ordinance.

Helen Motzenbecker

The property located at 2014 State Highway 71, identified as Block 59, Lot 39, on the tax maps of the Broough of Spring Lake Heights and comprised of 0.4 acres received approval for a mixed-use project consisting of five (5) multi-family residential units, including one (1) unit available to a low income household and one non-residential unit on the property.

Lombardi

The property located at 2019 State Highway 71, identified as Block 46.01, Lots 5 and 7 on the tax maps of the Borough of Spring Lake Heights is comprised of 1.57 acres and is proposed to be developed with 16 residential units, of which 20% or three (3) units will be reserved for low- and moderate-income households. The units will be family rental units. A minimum of 1,000 sq. ft. of ground level commercial space is required along the highway frontage. The zoning of the proposed development has been approved and adopted by the Borough.

Highwood Development

The property located at 2011-2015 State Highway 71, identified as Block 46.01, Lots 2, 3, and 4 on the tax maps of the Borough of Spring Lake Heights is comprised of 1.9 acres and is proposed to be developed with 47 residential units of which 15% or seven (7) units will be reserved for low- and moderate-income families. The units will be family rental units. Additionally, 600 sq. ft. of ground level commercial space is required along the highway frontage. The zoning of the proposed development has been approved and adopted by the Borough.

Church Street

The property located at 554 Church Street, identified s Block 59, Lots 21.03 and 21.04 on the tax maps of the Borough of Spring Lake Heights is comprised of 0.87 acres and is proposed to be developed with 13 townhouse units of which four (4) will be available to low- and moderate-income households. The affordable units will be family rental units. The zoning of the proposed development has been approved and adopted by the Borough.

TABLE 24: THIRD ROUND SUMMARY

Affordable Housing Mechanism	Affordable Units	Bonus Credits	Total Credits
Motzenbecker	1		1
Lombardi	3	3	6
Highwood Development	7		7
Church Street	4	1	5
Total Credits			19
Surplus Credits			2

Satisfaction of the Borough’s Unmet Need

The Borough’s unmet need is 44 units based on the remaining Fourth Round Prospective Need (2025-2035) Obligation. The Borough implemented the following mechanisms as part of the Third Round Plan to address its unmet need. The Borough intends to continue to enforce these ordinances.

MU-1 and MU-2 Zoning Ordinances

The Borough adopted Ordinance 2024-12 establishing the Mixed Use 1 (MU-1) and Mixed Use 2 (MU-2) Zones to allow for a combination of mixed uses along Route 71 including commercial, retail, and residential uses. The adopted ordinance is included herein as Appendix C.

AH-5 Overlay Zone

The Borough adopted Ordinance 2026-3 establishing the AH-5 Overlay Zoning District, comprised of Block 53, Lots 4 and 5, and Block 67, Lot 5. The AH-5 Overlay Zone allows for multi-family residential up to three (3) stories with a mandatory 20% set-aside for affordable housing and allows for a density of 24 dwelling units per acre.

Mandatory Set-Aside Ordinance (“MSO”)

The Borough adopted a Borough-wide Mandatory Set-Aside Ordinance (“MSO”). The MSO requires a 20 percent (20%) affordable housing set-aside for residential developments, comprised of five or more dwelling units. The MSO requires that to the extent possible, in all

inclusionary developments, low and moderate income units shall be integrated with market units. The Ordinance ensures that the MSO does not give any developer the right to any such rezoning, variance, redevelopment designation or other relief, or establish any obligation on the part of Spring Lake Heights or its boards to grant such rezoning, variance, redevelopment designation or other relief. The ordinance is included herein as Appendix D.

Development Fee Ordinance

The Borough adopted a Development Fee Ordinance in accordance with applicable regulatory requirements, for all new non-residential development and new non-inclusionary residential development. The ordinance also requires residential development fees be collected for all residential expansions that increase density pursuant to N.J.S.A. 40:55D-70d(5). The ordinance can be found in Appendix D.

APPENDICES

Appendix A. Vacant Land Adjustment

Vacant Land Inventory and Analysis Report

**Prepared for:
Borough of Spring Lake Heights
Monmouth County, New Jersey**

June 2025

Prepared By:



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I. INTRODUCTION

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

Previous Housing Rounds and Vacant Land Analyses

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

Current Housing Round and Vacant Land Assessment

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

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

The realistic development potential (RDP) of the Borough’s vacant land was analyzed in accordance with the provisions of Subchapter 4 of N.J.A.C. 5:93 based on the most recently available data. After following the procedures as outlined, the analysis shows that the Borough has an RDP new construction obligation of zero (0) affordable units.

II. PERMITTED EXCLUSIONS

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

plan approval has been granted may also be excluded. Finally, landlocked parcels or sites with limited or no access may also be excluded from the calculation of the Borough's RDP.

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

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

III. Summary and Conclusion

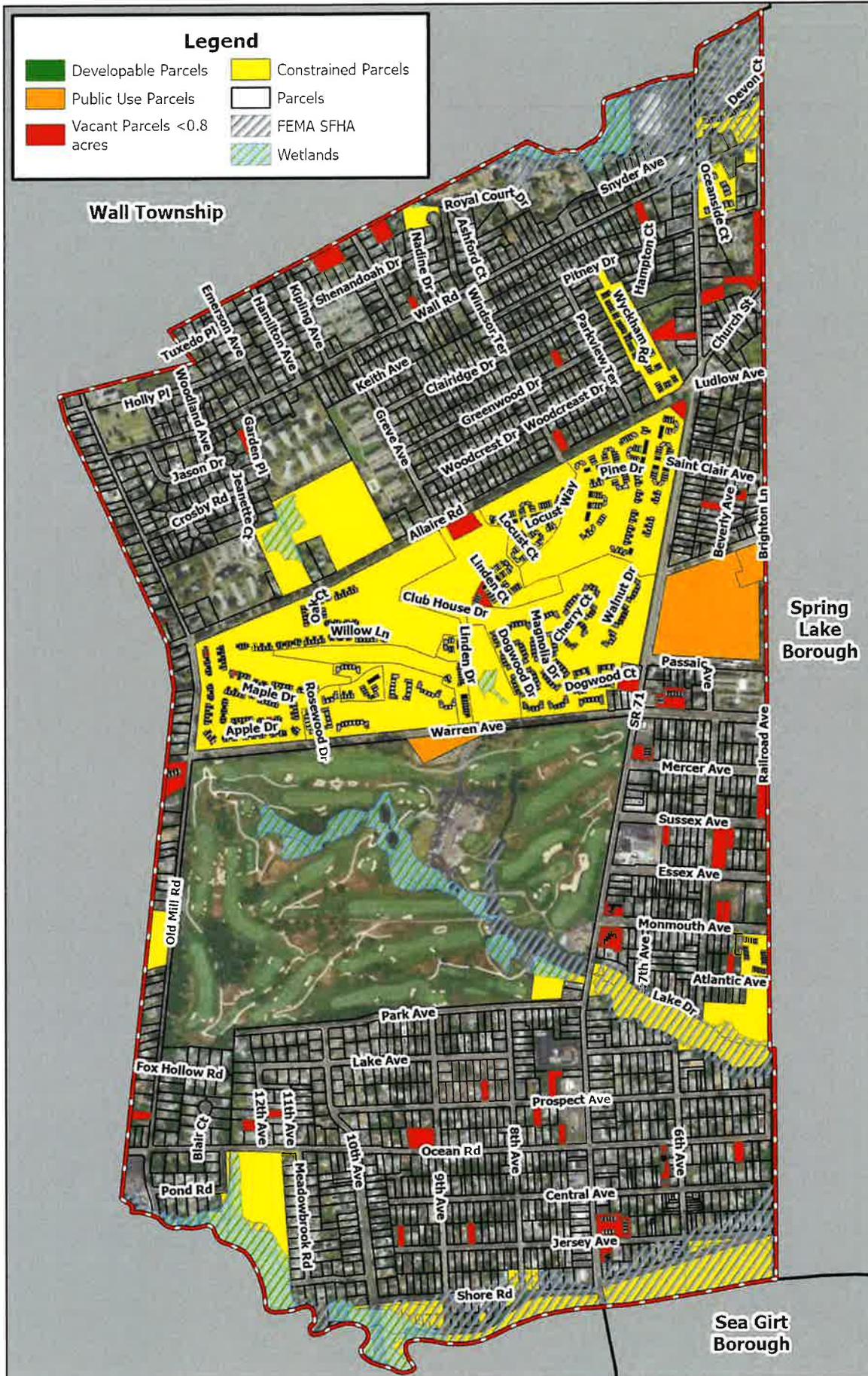
Based on the procedures for municipal adjustments provided in N.J.A.C. 5:93, the Borough of Spring Lake Heights's RDP has been determined to be zero (0) affordable units. This finding is consistent with the Borough's current development conditions.

ATTACHMENT A: VACANT LAND INVENTORY **TABLE**

SPRING LAKE HEIGHTS BOROUGH VACANT LAND ADJUSTMENT ANALYSIS

Block	Lot	Class	Location	Owner Name	Area	Constrained Acres	Unconstrained Acres	Developable Acres	Reason for Exclusion	Total Units	Affordable Units	SIM 05/29/2025
3.02	9	15C	Ocean Rd	BOROUGH OF SPRING LAKE HEIGHTS	8.85	8.85	0.00	0.00	On ROSI	0.00	0.00	0.00
3.02	10.01	1	1201 Pond Rd	QUINN, JOHN J	0.86	0.86	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
3.02	219	15C	13 Tenth Ave	BOROUGH SPRING LAKE HEIGHTS	0.09	0.09	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
3.02	220	15C	11 Tenth Ave	BOROUGH SPRING LAKE HEIGHTS	0.61	0.61	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
5	1	15C	Shore Road	BOROUGH SPRING LAKE HEIGHTS	2.73	2.73	0.00	0.00	On ROSI	0.00	0.00	0.00
6	118	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	1.80	1.80	0.00	0.00	On ROSI	0.00	0.00	0.00
6	145	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	0.10	0.10	0.00	0.00	On ROSI	0.00	0.00	0.00
6	146	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	0.11	0.11	0.00	0.00	On ROSI	0.00	0.00	0.00
6	147	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	0.11	0.11	0.00	0.00	On ROSI	0.00	0.00	0.00
6	148	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	0.11	0.11	0.00	0.00	On ROSI	0.00	0.00	0.00
6	149	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	0.11	0.11	0.00	0.00	On ROSI	0.00	0.00	0.00
6	150	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	0.11	0.11	0.00	0.00	On ROSI	0.00	0.00	0.00
6	151	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	0.68	0.68	0.00	0.00	On ROSI	0.00	0.00	0.00
6	225	1	910 Jersey Ave	WOOD, CHRISTOPHER D & MICHELLE A	0.17	0.00	0.17	0.00	Developable acreage <0.80	0.00	0.00	0.00
10	5	15C	Shore Rd	BOROUGH SPRING LAKE HEIGHTS	0.09	0.09	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
10	136	15C	Shore Rd	BOROUGH OF SPRING LAKE HEIGHTS	0.08	0.08	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
11	192	1	1 Eighth Ave	WATERS, MICHAEL & LAURA	0.26	0.26	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
12	241	1	812 Jersey Ave	ENNIS, STACY & MITCHELL LOUIS	0.17	0.00	0.17	0.00	Developable acreage <0.80	0.00	0.00	0.00
14	204	1	716 Shore Rd	KANE, JOSEPH & TRUESDALE, JENNA	0.17	0.17	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
14	205	1	716 Shore Rd	KANE, JOSEPH & TRUESDALE, JENNA	0.17	0.17	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
17	1	15C	Shore Road	SPRING LAKE HEIGHTS BORO	6.66	6.66	0.00	0.00	On ROSI	0.00	0.00	0.00
18	110	15F	60 Highway 71	JERSEY AVE CONDOMINIUM ASSOCIATION	0.17	0.00	0.17	0.00	Developable acreage <0.80	0.00	0.00	0.00
19	1	15F	15 Waterford Way	WATERFORD 5TH HOMEOWNERS ASSOC.	0.68	0.00	0.68	0.00	Developable acreage <0.80	0.00	0.00	0.00
19	1.06	15F	6 Waterford Way	MIMANALUGH, JOSEPH & REBECCA	0.02	0.00	0.02	0.00	Developable acreage <0.80	0.00	0.00	0.00
20	23	15F	Central Ave	FOUR PROVINCE CONDO HOMEOWNER ASSOC	0.24	0.00	0.24	0.00	Developable acreage <0.80	0.00	0.00	0.00
21	119	15C	Shore Rd	BOROUGH SPRING LAKE HEIGHTS	0.21	0.21	0.00	0.00	On ROSI	0.00	0.00	0.00
21	120	15C	Shore Rd	BOROUGH SPRING LAKE HEIGHTS	0.17	0.17	0.00	0.00	On ROSI	0.00	0.00	0.00
23	31.02	1	557 Ocean Rd	WADEWITZ, THOMAS & KAPRAL, DONNA J	0.23	0.00	0.23	0.00	Developable acreage <0.80	0.00	0.00	0.00
24	5	15C	309 Old Mill Rd	BOROUGH SPRING LAKE HEIGHTS	0.20	0.00	0.20	0.00	Developable acreage <0.80	0.00	0.00	0.00
24	18	15C	525 Old Mill Road	BOROUGH SPRING LAKE HEIGHTS	1.39	1.39	0.00	0.00	Municipal yard, water tower	0.00	0.00	0.00
24	28	15F	1301 Warren Ave	THE MANOR CONDO HOMEOWNERS ASSOC	0.61	0.00	0.61	0.00	Developable acreage <0.80	0.00	0.00	0.00
24	29	1	Assessed in Wall Twp	ASSESSED IN WALL TWP	0.00	0.00	0.00	0.00	Developable acreage <0.80	0.00	0.00	0.00
25	13	1	Highway 71	SPRING LAKE GOLF CLUB	1.46	1.46	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
25	27	1	Warren Ave	SPRING LAKE GOLF CLUB	1.32	1.32	0.00	0.00	Golf club parking lot	0.00	0.00	0.00
25.02	20	1	305 Twelfth Ave	COOK, JOHN E & PALMA	0.21	0.00	0.21	0.00	Developable acreage <0.80	0.00	0.00	0.00
26	9	1	307 Eleventh Ave	REHRER, MARY BETH & DAVID JR	0.17	0.00	0.17	0.00	Developable acreage <0.80	0.00	0.00	0.00
27	2	15C	902 Ocean Road	BOROUGH SPRING LAKE HEIGHTS	0.65	0.00	0.65	0.00	Developable acreage <0.80	0.00	0.00	0.00
31	14	15F	806 Prospect Ave	MAGOVERN, PATRICIA, TRUSTEE	0.17	0.00	0.17	0.00	Developable acreage <0.80	0.00	0.00	0.00
33	6	1	705 Ocean Rd	MANASQUAN SAVINGS BANK	0.17	0.00	0.17	0.00	Developable acreage <0.80	0.00	0.00	0.00
33	10	15F	713 Prospect Ave	MURPHY, MICHAEL & EMILY	0.20	0.00	0.20	0.00	Developable acreage <0.80	0.00	0.00	0.00
34	43.03	1	706 Prospect Ave	CAMPIONI, MARK J & VITALE, LISA	0.33	0.00	0.33	0.00	Developable acreage <0.80	0.00	0.00	0.00
37	97.02	15C	Highway 71	BOROUGH SPRING LAKE HEIGHTS	0.43	0.43	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
39	79	15C	Sixth Ave	BOROUGH SPRING LAKE HEIGHTS	0.13	0.13	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
40	1	15C	Wreck Pond	BOROUGH SPRING LAKE HEIGHTS	5.50	5.50	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
40	2	1	Highway 71	SKELLINGER, GARY & JUDITH	0.13	0.13	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
41	1.01	1	1304 Warren Ave	JENNINGS, W & K, COUGHLAN, K & C	0.01	0.00	0.01	0.00	Developable acreage <0.80	0.00	0.00	0.00
42	2	1	1201 Allaire Rd	FAIRWAY MEWS COMMUNITY ASSOC	0.61	0.00	0.61	0.00	Developable acreage <0.80	0.00	0.00	0.00
42.01	1	15C	Allaire Rd & Hwy 71	FAIRWAY MEWS COMMUNITY ASSOC	0.23	0.00	0.23	0.00	Developable acreage <0.80	0.00	0.00	0.00
42.02	3	1	1005 Highway 71	BARRY FRANKLIN LLC	0.34	0.00	0.34	0.00	Developable acreage <0.80	0.00	0.00	0.00
42.03	1	15F	Common Element	FAIRWAY MEWS COMMUNITY ASSOCIATION	14.88	14.88	0.00	0.00	Fairway Mews common area and golf course	0.00	0.00	0.00
42.04	1	15F	Common Element	FAIRWAY MEWS COMMUNITY ASSOCIATION	17.85	17.85	0.00	0.00	Fairway Mews common area and golf course	0.00	0.00	0.00
42.05	1	15F	Common Element	FAIRWAY MEWS COMMUNITY ASSOCIATION	4.72	4.72	0.00	0.00	Fairway Mews common area and golf course	0.00	0.00	0.00
42.06	1	15F	Common Element	FAIRWAY MEWS COMMUNITY ASSOCIATION	0.30	0.00	0.30	0.00	Developable acreage <0.80	0.00	0.00	0.00
42.07	1	15F	Common Element	FAIRWAY MEWS COMMUNITY ASSOCIATION	13.21	13.21	0.00	0.00	Constrained by wetlands or SFHA	0.00	0.00	0.00
42.08	1	15F	Common Element	FAIRWAY MEWS COMMUNITY ASSOCIATION	25.10	25.10	0.00	0.00	Fairway Mews common area and golf course	0.00	0.00	0.00
42.08	72	15F	118 Maple Dr	NUJENT, JOHN & HELEN	0.03	0.00	0.03	0.00	Developable acreage <0.80	0.00	0.00	0.00
42.08	1121	15F	20 Apple Dr	VELTHEOFEN, CARLA I	0.02	0.00	0.02	0.00	Developable acreage <0.80	0.00	0.00	0.00

ATTACHMENT B: VACANT LAND MAPPING



LEON S. AVAKIAN, Inc.
Consulting Engineers



Vacant Land and Constraints
Vacant Land Adjustment
Borough of Spring Lake Heights
Monmouth County, New Jersey



Source: LSA, MGIN, and
Monmouth County GIS.
Revised: May 29, 2025

This map was developed using data
provided by the Department of Environmental Protection
and the Monmouth County GIS. The accuracy of the
data is not guaranteed. The user assumes all
responsibility for the use of the data. The
accuracy of the data is not guaranteed by
NJDEP and is not state authorized or endorsed.

ATTACHMENT C: EXISTING LAND USE MAP

Appendix B. Spending Plan

**SPRING LAKE HEIGHTS BOROUGH
AFFORDABLE HOUSING TRUST FUND SPENDING PLAN**

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

The Borough has prepared a new development fee ordinance which is scheduled for adoption on September 16, 2024 which will be codified as part of the Borough's Revised General Ordinances, to require and regulate the collection of residential and non-residential development fees as revenue for the Borough's affordable housing trust fund at a percentage of 1.5% for residential development and 2.5% for non-residential development. The sections below outline the Borough's plan for the administration and use of collected development fee revenues as per the requirements of N.J.A.C. 5:93-5.1(c).

I. Projected Revenues through 2025

A projection of anticipated revenues to be collected during the tenure of the Third Round has been calculated based on historical annualized trends in average increase in value of structures after being knocked down and rebuilt in Spring Lake Heights. Spring Lake Heights is a fully developed community, in which all development occurs through the removal of a previously existing structure. The Borough has not yet established its Affordable Housing Trust Fund, but has projected revenues for 2024 and 2025. The Borough has not yet collected any revenue in the form of from payments in lieu of construction of affordable units. Projected revenues included an analysis of the number of demolition/construction permits issued annually ranges between approximately five (5). Should a complete knock down and rebuilt occur, resulting in a change in the assessment of approximately \$2,400,000.00 the residential development fee would total \$36,000.00. However, some of those construction permits are for remodeling existing homes which wouldn't result in change in the assessment that significant. If ten (10) construction permits are issued and the development fee ranges from \$36,000 for a total knock down – rebuilt to a modest addition that may change the assessment approximately \$250,000 resulting in a development fee of \$3,750, the Borough estimates the residential development fee revenues for 2024 and 2025 to be \$150,000.00.

II. Administrative Mechanisms for Collecting and Distributing Revenues

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

The Development Fee Ordinance covers the following general topics:

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

As the Borough has not yet established a Trust Fund no bank has been utilized but Spring Lake Heights recognizes that a separate interest-bearing affordable housing trust fund must be established and that the information will be provided to the Court, Fair Share Housing Center and the Special Adjudicator once the account is opened.

Anticipated Use of Development Fees

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

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

(A) Anticipated Rehabilitation and New Construction Projects

The Borough of Spring Lake Heights has a rehabilitation obligation of twenty-one (21) units. The Borough will allocate \$10,000 per unit and plans to rehabilitate two (2) units/year for a total of \$40,000.00 over the next two (2) years and will continue to offer the rehabilitation program as the Affordable Housing Trust Fund is established.

(B) Affordability Assistance Requirement

The Borough anticipates dedicating \$307,060.00 to its affordability assistance program. As per the requirements of N.J.A.C. 5:93-8.16, at least thirty (30%) percent of all development fees and interest earned shall be used to provide low- and moderate-income households in affordable units with affordability assistance. This total comes out to \$90,000.00, however the Borough has committed to include any surplus revenue to the affordability assistance program. One-third of the required affordability assistance shall specifically be used to provide affordability assistance to very low-income households (i.e. those households earning thirty percent or less of regional median income). As soon as the Affordable Housing Trust Fund encumbers at least \$50,000.00 ear marked for Affordability Assistance.

The projected minimum affordability assistance requirement through 2025 is calculated as follows:

Projected development fees plus interest, 2024 - 2025	\$ 300,000.00
PROJECTED TOTAL	\$ 300,000.00
Projected minimum affordability assistance requirement (30%)	\$ 90,000.00
Projected minimum required for very low-income households (1/3 of total affordability assistance)	\$ 90,000.00*

* at this time the Borough is anticipating \$217,060 in surplus revenue which has been added to the affordability assistance program which totals \$307,060.00

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

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

(C) Administrative Expenses

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

The projected maximum administrative expenditures through 2025 is calculated as follows:

Projected development fees plus interest, 2024-2025	\$ 300,000.00
PROJECTED TOTAL	\$ 300,000.00
Projected maximum administrative expenditures (20%)	\$ 60,000.00

III. Schedule for New or Rehabilitated Housing Units

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

IV. Implementation in the Event of Unexpected Shortfalls

The Borough of Spring Lake Heights will commit to funding any shortfall of revenue needed to implement the Housing Element and Fair Share Plan as outlined above. Shortfalls will be addressed as need arises. The Borough will fill gaps in funding through municipal bond. Any excess funds shall be put toward additional affordability assistance measures.

V. In Sum

Spring Lake Heights has prepared this Spending Plan in support of the implementation of its Third Round Housing Element and Fair Share plan, and in accordance with the administrative requirements of N.J.A.C. 5:93-1 et seq. The Spending Plan represents the Borough's intended use of development fee revenues that are collected in its Housing Trust Fund, illustrating how the Borough will use these funds to provide for its fair share of regional affordable housing need.

Housing Trust Fund Borough of Spring Lake Heights, New Jersey				
Projected Revenues for 2019 - 2025				
Funding Source	2024	2025	Total	
Projected Balance 12/31/2023	Zero			Zero
Projected Development Fees	\$150,000.00	\$150,000.00	\$	300,000.00
Pmts in lieu of construction	-	\$107,060.00	\$	107,060.00
Other funds	\$ -	\$ -	\$	-
Total	\$ 150,000.00	\$ 257,060.00	\$	407,060.00
Projected Expenditures for 2019-2025				
Type	2024	2025	Total	
Rehabilitation Program	\$ 20,000.00	\$ 20,000.00	\$	40,000.00
Affordability Assistance	\$ 153,530.00	\$ 153,530.00	\$	307,060.00
Administrative Costs	\$ 30,000.00	\$ 30,000.00	\$	60,000.00
Total	\$ -	\$ 203,530.00	\$	407,060.00
Projected Balance available for Future Projects and Programs				\$ -

APPENDIX

**BOROUGH OF SPRING LAKE HEIGHTS
AFFORDABILITY ASSISTANCE PROGRAMS**

(For Qualifying Households in Deed Restricted and Market Rate Housing within the Borough)

SPRING LAKE HEIGHTS BOROUGH FOR-SALE UNIT
AFFORDABILITY AND RENTAL UNIT AFFORDABILITY
ASSISTANCE PROGRAMS

I. FOR-SALE UNIT AFFORDABILITY ASSISTANCE PROGRAM

1. Down Payment Loan Program

The Borough may offer a Down Payment Assistance Loan program to eligible buyers of households earning 80% or less of Area Median Income (AMI) of the housing region. To be eligible for the loan, the qualified Buyer must be able to supply 3% of the down payment with the Buyer's own funds, plus additional closing costs that exceed the amount of the loan. No gifts or other loans may be used to fund the 3% down payment amount but may be used to fund additional closing costs. The loan amount may be made up to ten percent (10%) of the purchase price.

The Borough must approve the Buyer's qualifications and need for the loan. The loan has no prepayment penalty. It is due and payable when the Buyer resells, borrows against the property or refinances the First Purchase Money Mortgage. The loan may be subordinated only to the First Purchase Money Mortgage. When calculating the borrowing capacity of the homeowner and the equity in the property, this loan must be included. The Buyer must sign a Mortgage, Mortgage Note and Repayment Agreement with the Spring Lake Heights Borough.

2. Payment of Closing Costs

Eligible buyers may receive payment of closing costs, i.e., title work and policy, reasonable attorney's fees for closing of title, preparation of survey, homeowners insurance, recording fees and other necessary closing expenses to third parties, not to exceed one thousand five hundred dollars (\$1,500) per household. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars (\$3,000) per unit. The buyer will execute documents required to secure payment to the Spring Lake Heights Borough.

3. Payment of Lender Fees

Eligible Buyers may receive payment of lender fees, i.e., mortgage points, application fees, appraisal fees, bank attorney review fees, and necessary mortgage closing expenses, not to exceed one thousand five hundred dollars (\$1,500) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars (\$3,000) per unit.

4. Administration

Spring Lake Heights's Affordability Assistance Programs will be managed by the Administrative Agent. The availability of the program shall be advertised continually on the Spring Lake Heights's website. The following administrative process is applied to the For-Sale Unit Affordability Assistance Program:

- a. The Buyer contacts the Administrative Agent to confirm that he/she wants to receive Down Payment Assistance.

- b. The Buyer must complete an application and provide required documentation for the Administrative Agent to verify that he/she is qualified for Affordable Housing in the Spring Lake Heights Borough.
- c. The Buyer must produce an exact copy of a signed Real Estate Contract for an affordable housing unit in Spring Lake Heights, which indicates clearly the full amount of the purchase price. Buyer must provide the Administrative Agent with the full name, address, phone number, and fax number of the Buyer's Attorney or Settlement Agent so that the Attorney or Settlement Agent can review and approve any and all documents required for the loan.
- d. The Administrative Agent contacts the Realtor or Developer for confirmation of the sale of the unit, and the Attorney handling the sale for the Developer at closing.
- e. The amount of the Down Payment Assistance loan is verified (not to exceed ten percent of the Purchase Price) so that a Mortgage Note, Mortgage and Repayment Agreement can be prepared by the Administrative Agent.
- f. The amount of the Down Payment Assistance loan must be disclosed to the Lender, so that the Lender can accurately prepare the First Mortgage documents. The Buyer must give a copy of the First Mortgage Commitment to the Administrative Agent upon receipt of same, so that the Lender can receive full information about the Down Payment Assistance Loan, which shall constitute a Second Mortgage on the premises. The Lender must approve the secondary financing. The Spring Lake Heights Borough Affordable Housing Attorney will contact the Lender once the Affordable Housing Attorney has a copy of the First Mortgage Commitment.
- g. The Borough Finance Department will generate the necessary forms and obtain Borough Council approval for it to issue an Affordable Housing Trust Fund check payable to the Seller's Attorney or Settlement Agent, so that the Down Payment Assistance check can be deposited into the Seller's Attorney Trust Account or Settlement Agent Trust Account pending Closing of Title. The letter and check to the Seller's Attorney or Settlement Agent shall state that the deposit money must be returned to the Borough if the closing is canceled, or if the sale is declared null and void. If there is a Closing of Title, the Down Payment Assistance money shall be released to the Seller. This money shall be shown on the Closing Statement as a deposit, with credit given at closing to the Buyer. The Buyer must fully execute the Mortgage Note, Mortgage, and Repayment Agreement at the Closing of Title before any money is released.
- h. The Seller's Attorney or Settlement Agent shall verify that the Mortgage Note, Mortgage, and Repayment Agreement have been properly executed, and shall file the original Mortgage with the County Clerk to protect the Borough's Second Mortgage on the property and return the Filed Mortgage to Affordable Housing Attorney along with the original Mortgage Note and Repayment Agreement.

II. RENTAL UNIT AFFORDABILITY ASSISTANCE PROGRAM

1. Rental Assistance

Spring Lake Heights Borough may offer a Rental Assistance Program that is managed by the Administrative Agent. Eligible recipients of the program are Very-Low, Low- or Moderate-income renters earning 80% or less of Area Median Income (AMI) of the housing region who are renting a market-rate unit or Affordable Unit and not receiving any additional rental subsidies. The following assistance is available to eligible very-low, low- and moderate-income households:

- a. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed five hundred dollars (\$500) per household. Moving expenses will be paid to the tenant as a reimbursement upon the tenant's submission of a paid invoice or receipt for moving expenses.
- b. Rental security deposits shall be paid directly to the landlord and are to be returned to the Borough's Affordable Housing Trust Fund upon termination of tenancy. Rental security deposits shall not exceed one thousand five hundred dollars (\$1,500). This one-time assistance is available to renters of Affordable Housing as well as market-rate units.
- c. Rental subsidies for tenants of Affordable units will be available on a case-by-case basis via temporary crisis grants for those facing eviction who will have the means to afterward maintain the housing. Assistance will be based upon size of household and number of bedrooms in apartment, which subsidies shall be limited to a time period of one (1) year per household:

<u># of Bedrooms</u>	<u>Eligible Household</u>	<u>Subsidy Amount</u>
1 Bedroom	Low & Very-Low	\$55 per month
1 Bedroom	Moderate	\$100 per month
2 Bedrooms	Low & Very-Low	\$100 per month
2 Bedrooms	Moderate	\$200 per month
3 Bedrooms	Low & Very-Low	\$150 per month
3 Bedrooms	Moderate	\$250 per month

- d. Rental subsidies for market-rate units will be available based upon the household income, size of household and number of bedrooms in the apartment. Subsidies shall be limited to a time period of one (1) year per household, but may be extended beyond one (1) year if affordable housing trust funds are available through the Spring Lake Heights Borough:

<u># of Bedrooms</u>	<u>Eligible Household</u>	<u>Subsidy Amount</u>
1 Bedroom	Very-Low, Low or Moderate	\$75 per month
2 Bedrooms	Very-Low, Low or Moderate	\$125 per month
3 Bedrooms	Very-Low, Low or Moderate	\$175 per month

- e. Rental assistance does not need to be repaid by the tenant. The amount of the rental supplement will be calculated initially based on the tenant's actual income and the amount of the market-rate rental to help bring the total shelter costs down to 30% of the total household income or lower, if warranted by the particular household circumstances. If the tenant wishes to renew the lease, he/she must be able to afford the unit without additional rental assistance from the

Borough. If he/she cannot afford the rent, he/she must be re-income qualified and the rental supplement will be recalculated ONLY IF affordable housing trust funds are available. If the tenant no longer qualifies for the rental assistance, he/she may renew the lease and stay in the unit, but will no longer receive rental assistance from this program.

- f. Tenants utilizing the rental assistance program may not concurrently receive rental subsidies from any other programs. In the event that the tenant obtains an additional subsidy after program certification, the tenant must notify the Administrative Agent in writing. If the tenant does not notify the Administrative Agent they risk having an overpayment that they must repay to the Spring Lake Heights Borough and/or ineligibility for future Borough programs.

2. Administration

- a. Spring Lake Heights's Rental Unit Affordability Assistance Program will be administered by the Administrative Agent. The availability of the program shall be advertised continually on the Borough's website. The Buyer must complete an application and provide required documentation for the Administrative Agent to verify that he/she is qualified for Affordable Housing in the Spring Lake Heights Borough pursuant to the Uniform Housing Affordability Controls.
- b. For qualified and approved payment of moving expense, Spring Lake Heights Borough will generate a check that is made out to the applicant. Once the check is produced, the Borough.
- c. The affordability assistance recipient will sign a contract with the Spring Lake Heights Borough which states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information if required.
- d. The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within Spring Lake Heights and provided to all Administrative Agents of affordable units within Spring Lake Heights and advertised on the Borough's website.
- e. An eligible occupant or applicant for an affordable unit within the Borough may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.

Appendix C. MU-1 and MU-2 Zoning Ordinances

**ORDINANCE 2024-12
BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

**AN ORDINANCE AMENDING CHAPTER 22, ARTICLE VI ZONING REGULATIONS,
SECTION 606 (ZONE DISTRICT REGULATIONS) OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF SPRING LAKE HEIGHTS IN
FURTHERANCE OF THE BOROUGH'S OBLIGATION TO PROVIDE FOR ITS FAIR
SHARE OF AFFORDABLE HOUSING.**

WHEREAS, the Borough of Spring Lake Heights has a constitutional obligation to provide for its fair share of affordable housing pursuant to the *Mt. Laurel* doctrine established by the New Jersey Supreme Court; and

WHEREAS, a property owner commenced *Mt. Laurel* builder's remedy litigation against the Borough docketed at MON-L-0031-21, which was subsequently consolidated with a declaratory judgment action commenced by the Borough captioned In the Matter of the Application of the Borough of Spring Lake Heights, Docket No. MON-L-1916-21, in an effort to establish the Borough's Prior Round and Third Round affordable housing obligation and the mechanisms by which the Borough may meet its constitutional obligation (the "Borough's Declaratory Judgment Action"); and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center on March 4, 2024 (the "Fair Share Settlement Agreement") which established its affordable housing obligation from 1987-2025 which established a Realistic Development Potential of 17 affordable housing units and an unmet need of 221 affordable housing units and the Court entered an Order on July 11, 2024 approving the Fair Share Settlement Agreement and requiring the Borough to implement the zoning mechanism set forth in the Fair Share Settlement Agreement; and

WHEREAS, the Settlement Agreement requires the Borough to address its unmet need obligation, by creating a mixed-use inclusionary zoning over properties fronting on State Highway Route 71 and the Borough Council believes it is in the best interest of the Borough to comply with the Court Order approving the Settlement Agreement in order to further satisfy its constitutional obligation to provide for its fair share of affordable housing and to avoid builder's remedy litigation.

NOW THEREFORE, BE IT HEREBY ORDAINED by the Mayor and Council of the Borough of Spring Lake Heights in the County of Monmouth, State of New Jersey that the Borough's Land Development Ordinance at Chapter 22, Article VI Zoning Regulations, Section 606 (Zone District Regulations) is hereby amended as follows:

NOTE: Sections of Chapter 22, Article VI Zoning Regulations that are to be added are set forth below. All additions are shown in ***bold with italics with underlines***. All deletions are shown in ***~~bold italics with strikeouts~~***. All sections that are unchanged remain in regular typeface.

Chapter 22, Article VI Zoning Regulations, 22-606 (Zone District Regulations) shall be amended to repeal Section 606.5 entitled "B-3 Commercial (Business and Office) Zone."

CHAPTER 22 MUNICIPAL LAND USE REGULATIONS

ARTICLE VI ZONING REGULATIONS

22-606 ZONE DISTRICT REGULATIONS

606.5 Reserve

BE IT FURTHER ORDAINED by the Borough Council of the Borough of Spring Lake Heights that Chapter 22, Article VI Zoning Regulations, 22-606.2 entitled “B-1 Business and Office Zone” shall be deleted and repealed in its entirety and shall be replaced with the following new Section by a new zoning district entitled “Mixed Use 1 (MU-1) and Mixed Use 2 (MU-2)” Zones. The purpose of the MU-1 and MU-2 Zones would be to allow for a combination of mixed uses along Route 71 including commercial, retail, and residential uses.

CHAPTER 22 MUNICIPAL LAND USE REGULATIONS

ARTICLE VI ZONING REGULATIONS

606.2 Mixed Use 1 (MU-1) and Mixed Use 2 (MU-2)

- A. Purpose. The purpose of the MU-1 and MU-2 Zones is to allow for a combination of mixed uses along Route 71 including commercial, retail, and residential uses. The MU-1 Zone includes parcels north of Warren Ave, and the MU-2 Zone includes parcels south of Warren Ave.

- B. Permitted Principal Uses (Land and Building)
 - 1. Mixed Use
 - (a) Retail/commercial on ground level with residential units above; no residence on ground level; townhouse units are permitted in the rear of the mixed-use building. Any mixed-use development requires a mandatory 20% set aside for affordable housing in accordance with the Borough’s Affordable Housing Ordinance and all applicable regulatory requirements.
 - (b) Essential services
 - (c) Municipal facilities, public parking lots, public parks, and walkways deemed necessary and appropriate by the governing body.
 - 2. Commercial (Business, Office, Retail)
 - (a) Retail
 - (b) Convenience store
 - (c) Personal services
 - (d) Banks and financial services
 - (e) Professional offices
 - (f) Food service
 - (g) Restaurants
 - (h) Banquet facilities

- (i) Essential services
- (j) Municipal facilities, public parking lots, public parks, and walkways deemed necessary and appropriate by the governing body.

C. Permitted Accessory Uses

- 1. Off-street parking and loading facilities
- 2. Supply and equipment storage
- 3. Signs, conforming to the provisions of section 22-610
- 4. Fences and walls

D. Conditional Uses. Other uses permitted upon site approval of the Planning Board

- 1. Townhouse attached with individual connecting walls
- 2. Bed and Breakfast
- 3. Motor vehicle Fueling and/or Service Stations

E. Area and bulk requirements

Minimum Lot Area:	10,000 square feet
Minimum Lot Frontage:	100 feet
Minimum Lot Width:	100 feet
Minimum Lot Depth:	125 feet
Minimum Front Yard:	20 feet
Minimum Side Yard:	10 feet
Minimum Rear Yard:	30 feet
Maximum Building Height:	40 feet (3.5 stories)
Maximum Building Height Accessory Structure:	15 feet
Maximum Building Coverage:	40%
Maximum Dwelling Unit/Acre:	20
Maximum Lot Coverage:	75%

F. Off -street parking and Loading requirements

- 1. All residential development shall comply with the Residential Site Improvement Standards for all residential development.
- 2. Non-residential parking in accordance with Attachment 3 of the Borough’s Ordinance, entitled Minimum Off-Street Parking and Loading Requirements.

G. Buffers

- 1. Buffers shall be provided in accordance with Section 22-505.

H. Design Criteria. In addition to all other design standards as may be applicable under this chapter, the following design standards shall be applied in the C1 and C2 Combination Zones:

- 1. Parking lots are prohibited to front on State Highway 71.
- 2. A planting strip, a minimum of five (5’) feet wide, is required along State Highway 71 between the curb and the sidewalk.

3. All sidewalks shall be five (5') feet wide.
4. All approved plantings along State Highway 71 exceeding six (6') feet in height shall be a minimum of ten (10') feet from the curb.
5. Shade trees (as per Borough Tree List) shall be required with a minimum of two (2) per lot approximately thirty-five (35') apart as per site plan approval.
6. Decorative lamp posts (Grosse Pointe 3173 PB w/305 Base) are required every seventy (70') feet of frontage along State Highway 71 and shall be implemented as per site plan approval.
7. Sidewalk benches shall be required (2 per frontage) as per site plan approval.
8. All recycling and dumpster areas shall be enclosed on four (4) sides and surrounded by four (4') to six (6') foot evergreen trees (as per Borough Tree List) on three (3) sides.
9. Above ground storm water management is prohibited.
10. All wiring and utilities shall be underground.

BE IT FURTHER ORDAINED THAT the Zoning District Map of the Borough of Spring Lake Heights is hereby amended to include the MU-1 and MU-2 Zoning District.

BE IT FURTHER ORDAINED, that

- A. All other Ordinances or provisions of the Code of the Borough of Spring Lake Heights or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

BE IT FURTHER ORDAINED, that this ordinance shall take effect upon passage and publication in accordance with applicable law.


 William Graetz, Acting Mayor

9/17/2024
 Date


 Janine Gillis, Borough Clerk

9-17-2024
 Date

**Appendix D. Affordable Housing, Development Fee, and
Mandatory Set-Aside (MSO) Ordinance**

ORDINANCE 2026

**BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

**AN ORDINANCE AMENDING CHAPTER 22, ARTICLE VI, AFFORDABLE HOUSING
IN FURTHERANCE OF THE BOROUGH'S FOURTH ROUND AFFORDABLE
HOUSING OBLIGATION**

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 Spring Lake Heights; and

WHEREAS, the DCA Report calculated Spring Lake Heights's Fourth Round fair share obligations as follows: Present Need (Rehabilitation) Obligation of 35 units and a Fourth Round Prospective Need (New Construction) Obligation of 44 affordable housing units; and

WHEREAS, the Borough of Spring Lake Heights (the "Borough" or "Spring Lake Heights") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action bearing the caption, In the Matter of the Borough of Spring Lake Heights, Superior Court of New Jersey, Law Division, Docket No. MON-L-436-25 on January 21, 2025; and

WHEREAS, the Borough having filed its Housing Element and Fair Share Plan on June 4 2025 (the "HEFSP"); and

WHEREAS, FSHC and other objectors having filed challenges pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's HEFSP on August 31, 2025; and

WHEREAS, the Mediation before the Program was unsuccessful, and the Program, Judge, the Hon. Mary C. Jacobson, A. J.S.C. (retired), having found the Borough's position legally consistent with the Fair Housing Act and issued a Program Decision on January 8, 2026 which requires the Borough to implement its Fourth Round Affordable Housing obligation through the adoption of an updated Affordable Housing and Development Fee ordinance; and

WHEREAS, the Borough Council of the Borough of Spring Lake Heights believes it is in the best interest of the Borough to adopt the Fourth Round implementing ordinances in

order to obtain compliance certification from the Program/Court thereby protecting the Borough from exclusionary zoning litigation for ten years until 2035; and

NOW THEREFORE, BE IT HEREBY ORDAINED by the Mayor and Council of the Borough of Spring Lake Heights in the County of Monmouth, State of New Jersey that Sections 22-650.1 through 22-650.9 are hereby repealed and replaced with the following:

§22-650.1

A. Introduction & Applicability

1. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in Borough of Spring Lake Heights consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-302 et seq., as well as the Department of Community Affairs, Division of Local Planning Services (“LPS”) at N.J.A.C. 5:99 et seq., statutorily upheld existing regulations of the now-defunct Council on Affordable Housing (“COAH”) at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan (“HEFSP”).
2. This Ordinance is intended to ensure that very low-, low- and moderate-income units (“affordable units”) are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item 5.c. below.
3. The Spring Lake Heights Borough Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
4. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.
5. Applicability
 - a. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality’s most recently adopted HEFSP.
 - b. This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
 - c. Projects receiving federal Low Income Housing Tax Credit financing and are proposed for credit shall comply with the low/moderate split and bedroom distribution

requirements, maximum initial rents and sales prices requirements, affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

§22-650.2

B. Definitions

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

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

“Act” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-302 et seq.

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

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

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

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

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

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

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

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

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

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

“Affordable Housing Monitoring System” or “AHMS” means the Department’s cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

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

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

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

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

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

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

“Builder’s remedy” means court-imposed site-specific relief for a litigant who seeks to build affordable housing for which the court requires a municipality to utilize zoning techniques,

such as mandatory set-asides or density bonuses, including techniques which provide for the economic viability of a residential development by including housing that is not for low- and moderate-income households.

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

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

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

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

“Compliance certification” means the certification obtained by a municipality pursuant to section 3 of P.L.2024, c. 2 (C.52:27D-304.1), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a “judgment of compliance” or “judgment of repose.” The term “compliance certification” shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c. 222 (C.52:27D-313).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“FHA” means the New Jersey Fair Housing Act, N.J.S.A. 52:27D-302 et seq.

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

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

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

“Housing element” means the portion of a municipality’s master plan adopted in accordance with the Municipal Land Use Law (MLUL) at N.J.S.A. 40:55D-28.b(3) and the Act consisting of reports, statements proposals, maps, diagrams, and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to low- and moderate-income housing, which shall include the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. at N.J.S.A. 52:27D-304.1.

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

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

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

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

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

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

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

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

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

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

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

“Municipal affordable housing trust fund” means a separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing previously approved prior to March 20, 2024 (per P.L. 2024, c.2), barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and this chapter.

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

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

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

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

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

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

transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

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

"Non-residential development" means:

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

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

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

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

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

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

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

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

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

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

controlled sale price exceeds the contract price or, in the absence of a contract price, the appraised value, the price differential is zero dollars.

“Prior round unit” means a housing unit that addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or judgment of compliance to create a realistic opportunity for development; (3) is subject to a grant agreement or other contract with either the State or a political subdivision thereof entered into prior to July 1, 2025, pursuant to either item (1) or (2) above; or (4) otherwise addresses a municipality’s fair share obligation from a round prior to the fourth round of affordable housing obligations. A unit created after the enactment of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) on March 20, 2024, is not a prior round unit unless: (1) it is created pursuant to a prior round development plan or zoning designation that received COAH or court approval on or before the cutoff date of June 30, 2025, or the date that the municipality adopts the implementing ordinances and resolutions for the fourth round of affordable housing obligations, whichever occurs sooner; and (2) its siting and creation are consistent with the form of the prior round development plan or zoning designation in effect as of the cutoff date, without any amendment or variance.

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

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

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

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

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

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

abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

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

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

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

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

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

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

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

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

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

“Supportive housing household” means a very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or program guidance as eligible for supportive or special needs

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

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

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

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

"Treasurer" means the Treasurer of the State of New Jersey.

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

"UHORP" means the Agency's Urban Homeownership Recovery Program, as it was authorized by the Agency Board.

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

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

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

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

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

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

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

§22-650-3

C. Monitoring and Reporting Requirements

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

§22-650.4

D. Municipality-wide Mandatory Set-Aside

1. A development, other than single-family detached, providing a minimum of five new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provides for densities at or above six units per acre, is required to include an affordable housing set-aside of 20%.

2. Any affordable units generated through such mandatory set-aside shall be subject to all other provisions of this ordinance.
3. All such affordable units shall be governed by this ordinance the controls on affordability, including bedroom distribution, and affirmatively marketed to the housing region in conformance with UHAC at N.J.A.C. 5:80-26.1 et seq., any successor regulation, and all other applicable laws.
4. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.
5. The mandatory set-aside requirements of this section do not give any developer the right to any rezoning, variance or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance or other relief.
6. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.
7. In the event that the inclusionary set-aside of 20% of the total number of residential units does not result in a full integer, the developer shall round the set-aside upward to construct a whole additional affordable unit.

§22-650.5

E. New Construction (per N.J.A.C. 5:93 as may be updated per various sections in N.J.A.C. 5:97 and N.J.S.A. 52:27D-302 et seq.). Per the definition of “New Construction,” this section governs the creation of new affordable housing units regardless of the means by which the units are created. Newly constructed units may include new residences constructed or created through other means.

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

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

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

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

- a. Affordable units shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 - b. In each affordable housing development, at least 50% of the restricted units within each bedroom distribution rounded up to the nearest whole number shall be very low- or low-income units.
 - c. Within rental developments, of the total number of affordable rental units, at least 13%, rounded up to the nearest whole number, shall be affordable to very low-income households. The very low-income units shall be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count, and counted as part of the required number of low-income units within the development.
 - d. Affordable housing developments that are not age-restricted or supportive housing shall be structured such that:
 - i. At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units;
 - ii. Two-bedroom and/or three-bedroom units compose at least 50 percent of all restricted units;
 - iii. The combined number of efficiency and one-bedroom units shall be no greater than 20%, rounded down, of the total number of low- and moderate-income units.
 - iv. At least 30% of all low- and moderate-income units, rounded up shall be two-bedroom units.
 - v. At least 20% of all low- and moderate-income units, rounded up shall be three-bedroom units.
 - vi. The remaining units may be allocated among two- and three- bedroom units at the discretion of the developer.
 - e. Affordable housing developments that are age-restricted or supportive housing, except those supportive housing units whose sponsoring program determines the unit arrangements, shall be structured such that, at a minimum, the number of bedrooms shall equal the number of age-restricted or supportive housing low- and moderate-income units within the inclusionary development. Supportive housing units whose sponsoring program determines the unit arrangement shall comply with all requirements of the sponsoring program. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. In affordable housing developments with 20 or more restricted units that are age-restricted or supportive housing, two-bedroom units must comprise at least 5% of those restricted units.
6. Accessibility requirements.
- a. Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be

required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.

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

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

§22-650.6

F. Affordable Housing Programs

1. Pursuant to amended UHAC regulations at N.J.A.C. 5:80-26.1 et seq. and, in addition, pursuant to P.L. 2024, c.2 and specifically to the amended FHA at N.J.S.A. 52:27D-311.m, “All parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing unless those regulations are contradicted by statute, including but not limited to P.L. 2024, c.2, or binding court decisions.” The following are many of the main provisions of the COAH regulations at either N.J.A.C. 5:93 or 5:97 that have been upheld by the NJ Supreme Court. Municipalities should consult the cited full COAH regulations when preparing the HEFSP for required documentation, etc. Additional compliance details may also be included in the specific municipal program manual.
2. Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10).
 - a. The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:
 - i. Units are subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968).
 - ii. Units may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services.
 - iii. The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
 - iv. Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the Act.
 - v. Occupancy shall not be restricted to youth under 18 years of age.
 - vi. In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.

- vii. The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing, and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).
- viii. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the Act. In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.
- ix. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.
- x. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
 - (a) An Affirmative Marketing Plan in accordance with D1 above; and
 - (b) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.
- xi. The sponsor/owner shall complete annual monitoring as directed by the MHL.

§22-650.7

G. Regional Income Limits.

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

H. Maximum Initial Rents And Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC N.J.A.C. 5:80-26.4.
2. The average rent for all restricted units within each affordable housing development shall be affordable to households earning no more than 52 percent of regional median income.
3. The maximum rent for restricted rental units within each affordable housing development shall be affordable to households earning no more than 60% of regional median income.
4. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very low-income units shall be part of the low-income requirement and very-low-income units should be distributed between each bedroom count as proportionally as possible, to the nearest whole unit, to the total number of restricted units within each bedroom count.
5. The maximum sales price of restricted ownership units within each affordable housing development shall be affordable to households earning no more than 70% of median income, and each affordable housing development must achieve an affordability average that does not exceed 55% for all restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type when the number of low- and moderate-income units permits.
6. The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.
7. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted family units, the following standards shall be met:
 - a. A studio or efficiency unit shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
8. In determining the initial rents and sales prices for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted and special needs and supportive housing developments, the following standards shall be met:

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

§22-650.8

I. Affirmative Marketing.

1. The municipality shall adopt, by resolution, an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.16, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age, or number of children, to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is

intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 4 and is required to be followed throughout the period of deed restriction.

3. The Affirmative Marketing Plan provides the following preferences, provided that units that remain unoccupied after these preferences are exhausted may be offered to households without regard to these preferences.
 - a. Where the municipality has entered into an agreement with a developer or residential development owner to provide a preference for very-low-, low-, and moderate-income veterans who served in time of war or other emergency, pursuant to N.J.S.A. 52:27D-311.j, there shall be a preference for veterans for up to 50 percent of the restricted rental units in a particular project.
 - b. There shall be a regional preference for all households that live and/or work in Housing Region 4 comprising Monmouth, Mercer and Ocean Counties.
 - c. Subordinate to the regional preference, there shall be a preference for households that live and/or work in New Jersey.
 - d. With respect to existing restricted units undergoing approved rehabilitation for the purpose of preservation or to restricted units newly created to replace existing restricted units undergoing demolition, a preference for the very-low-, low-, and moderate-income households that are displaced by the rehabilitation or demolition and replacement.
4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Process, including the marketing of initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the municipality shall implement the Affirmative Marketing Process to ensure the Affirmative Marketing of all affordable units, with the exception of affordable programs that are exempt from Affirmative Marketing as noted herein.
5. The Affirmative Marketing Process shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Process, the Administrative Agent shall consider the use of language translations where appropriate.
6. Applications for affordable housing or notices thereof, if offered online, shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and municipal library in the municipality in which the units are located; and the developer's rental or sales office. The developer shall mail applications to prospective applicants upon request and shall make applications available through a secure online website address.
7. In addition to other Affirmative Marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units on the New Jersey Housing Resource Center website. Any other entities, including developers or persons or companies retained to implement the Affirmative Marketing Process, shall comply with this paragraph.

8. In implementing the Affirmative Marketing Process, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 9. The Affirmative Marketing Process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
 10. The cost to affirmatively market the affordable units shall be the responsibility of the developer, sponsor or owner, with the exception of Affirmative Marketing for resales.
- J. Selection of Occupants of Affordable Housing Units.
1. The Administrative Agent shall use a random selection process to select occupants of very low-, low- and moderate-income housing.
 2. A pool of interested households will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.16.
- K. Occupancy Standards.
1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - a. Ensure each bedroom is occupied by at least one person, except for age-restricted and supportive and special needs housing units;
 - b. Provide a bedroom for every two adult occupants;
 - c. With regard to occupants under the age of 18, accommodate the household's requested arrangement, except that such arrangement may not result in more than two occupants under the age of 18 occupying any bedroom; and
 - d. Avoid placing a one-person household into a unit with more than one bedroom.
- L. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.
1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years subject to the requirements of N.J.A.C. 5:80-26.6, as may be amended and supplemented.
 2. Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).
 3. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. The date of commencement shall be identified in the deed restriction.
 4. If existing affordability controls are being extended, the extended control period for a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.

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

§22-650.9

M. Price Restrictions for Restricted Ownership Units and Resale Prices.

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

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

N. Buyer Income Eligibility.

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

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

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
 4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, property taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 35 percent of the household's eligible monthly income; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;
 - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments
- O. Limitations on Indebtedness Secured by Ownership Unit; Subordination.
1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

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

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

P. Control Periods for Restricted Rental Units.

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

Q. Rent Restrictions for Rental Units; Leases and Fees.

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

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

3. No additional fees, operating costs, or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
 - a. Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.
4. Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
5. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.
6. Pet fees may not exceed \$30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
7. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
8. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

R. Tenant Income Eligibility.

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

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

§22-650.10

S. Municipal Housing Liaison.

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

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

§22-650.11

T. Administrative Agent.

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

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

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

U. Responsibilities of The Owner of a development containing affordable units.

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

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

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

§22-650.12

V. Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an owner, developer or tenant of an affordable unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the owner, developer or tenant is found by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than \$500 or imprisonment for a period not to exceed 90 days, or both, unless otherwise specified below, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - ii. In the case of an owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an owner who has rented his or her affordable unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
3. The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.
4. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.

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

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

§22-650.13

W. Development Fees.

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

the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

§22-650.14

2. Basic Requirements

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

§22-650.15

3. Residential Development Fees

a. Imposed fees

- i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.0% of the equalized assessed value for residential development, provided no increased density is permitted..
- ii. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6.0% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

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

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

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

synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the development fee ordinance in effect on the date that the construction permit is issued.

- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- iv. Developers of one or two family owner occupied dwelling units and green buildings shall be subject to a reduced fee of fifty percent (50%)
- v. Nonprofit organizations constructing residential projects 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 Municipal 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, shall be exempted from paying a development fee.
- vi. Federal, state, county and local governments shall be exempted from paying a development fee.
- vii. No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.

§22-650.16

4. Non-Residential Development Fees

a. Imposition of fees

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

certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

- b. Eligible exactions, ineligible exactions and exemptions for non-residential development
 - i. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
 - ii. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- c. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- d. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- e. If a property that was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

§22-650.17

5. Collection Procedures

- a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF, "State of New Jersey Non-Residential Development Certification/Exemption," to be completed by the developer as per the instructions provided in the Form N-RDF. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided on Form N-RDF. The tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- c. The construction official responsible for the issuance of a building permit shall notify the tax assessor of the issuance of the first construction permit for a development that is subject to a development fee.
 - d. Within 90 days of receipt of that notice, the tax assessor shall provide an estimate, based on the plans filed, of the equalized assessed value of the development.
 - e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the tax assessor of any and all requests for the scheduling of a final inspection on property that is subject to a development fee.
 - f. Within 10 business days of a request for the scheduling of a final inspection, the tax assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
 - g. Should the municipality fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
 - h. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the construction permit. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the construction permit and that determined at the time of issuance of certificate of occupancy.
6. Appeal of development fees
- a. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by that board, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - b. A developer may challenge non-residential development fees imposed by filing a challenge with the director of the Division of Taxation. Pending a review and determination by the director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the municipality. Appeals from a determination of the director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§22-650.18

7. Affordable Housing Trust Fund

- a. A separate, interest-bearing Municipal Affordable Housing Trust Fund shall be maintained by the chief financial officer of the municipality for the purpose of

- depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Municipal Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - i. Payments in lieu of on-site construction of an affordable unit, where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;
 - ii. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - iii. Rental income from municipally operated units;
 - iv. Repayments from affordable housing program loans;
 - v. Recapture funds;
 - vi. Proceeds from the sale of affordable units; and
 - vii. Any other funds collected in connection with the municipal affordable housing program including but not limited to interest earned on fund deposits.
 - c. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.
 - d. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
 - i. Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
 - ii. Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
 - iii. Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
 - iv. Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;
 - v. Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
 - vi. Revocation of compliance certification or a judgment of compliance and repose;
 - vii. Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;
 - viii. Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.

- e. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

§22-650.19

8. Use of Funds

- a. The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to-affordable program; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost-saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by Superior Court and specified in the approved Spending Plan.
- b. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
- c. At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - ii. Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
- d. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.

§22-650.20

9. Monitoring

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

10. Ongoing Collection of Fees

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

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

Repealer

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

Severability

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

Effective Date

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

Appendix E. Third Round Settlement Sites Zoning

Borough of Spring Lake Heights, NJ

§ 22-606.6. Mixed-Use AH-1. [Added 10-3-2022 by Ord. No. 2022-16]

- a. Purpose. The purpose of the Affordable Housing Zone is to provide a realistic opportunity for affordable housing within an inclusionary development. The creation of the Affordable Housing Zone is in furtherance of the Borough's Settlement Agreement of Motzenbecker vs. Borough Spring Lake Heights, Borough Council of Spring Lake Heights and the Borough of Spring Lake Heights Planning Board, Superior Court of New Jersey, Monmouth County, Law Division, Docket No. MON-L-0030-21 (the "Builder's Remedy Action").

The Mixed Use AH-1 Zoning District includes Block 59, Lot 39, consisting of approximately 0.40 acres. The purpose of the MU-AH-1 Zone is to provide a realistic opportunity for affordable housing within an inclusionary development by creating an integrated mixed use zone for a combination of commercial and residential development; to permit the construction of one office or retail space along the frontage of State Highway 71; and permit the construction of five housing units on the remaining undeveloped acres.

Twenty percent, or a single, two-bedroom unit in the development, shall be set-aside for, and shall be, a non-age restricted, two-bedroom, very-low income household earning 30% or less of the regional median income. The Settlement Agreement for the Builder's Remedy Action includes a concept plan that is the basis of this subsection.

- b. Permitted Principal Uses.
1. Mixed-Use buildings that include retail or office space, along the frontage of State Highway 71, and five multi-family housing units. Of the five housing units, one street level, two bedroom unit shall be affordable to a very-low-income household and shall not be age restricted.
- c. Permitted Accessory Uses. Uses that are customary and incidental to multi-family housing, including, but not limited to:
1. Parking.
 2. Garages.
 3. Signs.
 4. Fences.
 5. Temporary construction trailers.
 6. Trash enclosures.
 7. HVAC units.
 8. Generators.
- d. Bulk Regulations. The bulk regulations shall be the same as the B-1 Zone as depicted at Attachment 5 of the Borough's Land Development Ordinance (Schedule of Yard, Area and Bulk Requirements) with the following exceptions:
1. Minimum Lot Width shall be 95 feet.

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2. Minimum Lot Area shall be 10,000 square feet.
 3. Minimum Front Yard shall be 24 feet.
 4. Minimum Side Yard shall be eight feet.
 5. Minimum Rear Yard shall be 15 feet.
 6. Maximum DU/Acre - A maximum of five housing units are permitted.
 7. Development in this zone shall be exempt from Section 22-503 of the Borough's zoning ordinance (Apartments and Townhouses) as well as any other Borough standard conflicting with the bulk standards established herein.
 8. Building height shall be the vertical distance measured from the average proposed grade at the perimeter of the building to the midpoint of a non-flat roof, or to the top of a flat roof. Chimneys, antennas, elevator equipment, cupolas, weather vanes, and mechanical and utility equipment may exceed the permitted building height by five feet.
 9. Parking spaces situated parallel to the side lot line of the property may be a minimum of eight feet in width. No landscaping other than grass shall be required alongside such parallel parking spaces.
 10. Projections from buildings, such as, but not limited to balconies, patios, chimneys and windows may extend into the building set-back provided they shall be set-back a minimum of 22 feet from the front yard property line and five feet on the side yard property line.
- e. Parking and Loading.
1. Retail and office uses. Pursuant to Section 22-611 of the land development ordinance, no loading spaces shall be required for retail and office uses.
 2. Residential uses. The residential site improvement standards shall apply, subject to the granting of reasonable de minimus exceptions.
- f. Off Street Parking. Off street parking shall be set back a minimum of 22 feet from the front lot line, three feet from the site lot line and 30 feet from the rear lot line.
- g. Fencing. Notwithstanding the set-back requirements for other accessory uses, fencing is permitted along the rear yard or side yard property line. Such fencing may be up to six feet in height and be of solid construction.
- h. Trash Enclosure. Trash enclosure shall be masonry block and shall not be located closer than 15 feet from the rear lot line nor closer than 36 feet from the side lot line.
- i. Driveway Aisle. Driveway aisle width shall be a minimum of 22 feet.
- j. Landscaping. Landscaping along the southern property line shall be pervious material and shall not require planting.
- k. Signage.

1. One monument sign with a maximum area of 40 square feet may be provided along the lot frontage if set-back five feet from the Route 71 street line as of January 1, 2022. The monument sign may provide information regarding the residential and non-residential uses in the building.
 2. Numbers indicating the addresses of the multi-family residential buildings are permitted to be mounted on the building facade, not to exceed eight square feet and not to protrude more than six inches from the building's surface.
 3. One tenant sign attached to the building consistent with Section 22-610.7f of the Borough zoning ordinances.
- I. Deviations from Concept Plan. Development in the Affordable Housing Zone shall generally conform to the Concept Plan, dated (submission date) January 18, 2022. However, it is the intent that the applicant can make reasonable refinements to the Concept Plan and that the Board shall approve those refinements even if such refinements require variance relief.
- m. Affordable Housing.
1. One, single, non-age-restricted, two-bedroom affordable housing unit on the street level, or 20% of the five residential units, shall be affordable to eligible very-low-income households, as defined as those households earning 30% or less of the regional median income, pursuant to N.J.S.A. 52:27D-329.1.
 2. Pursuant to the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), the affordable unit shall be subject to affordability controls of at least 30 years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very-low income shall be defined as at or below thirty 30% of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action to extend or release the unit from such controls after at least 30 years. If the Borough acts to release the unit from such controls, affordability controls shall remain in effect until the date on which a rental unit shall become vacant due the voluntary departure of the occupant household in accordance with N.J.A.C. 5:80-26.11(b).
 3. The affordable unit shall comply with the UHAC regulations with regards to the pricing of rents or sale prices associated with very-low income households at 30% or less of median income, pursuant to N.J.S.A. 52:27D-329.1.
 4. Construction of the affordable unit shall be phased in accordance with N.J.A.C. 5:93-5.6(d). The affordable unit shall be deed restricted prior to issuance of the certificates of occupancy, and a copy of the deed restrictions shall be provided to Fair Share Housing Center (510 Park Boulevard, Cherry Hill, New Jersey 08002) upon recording.
 5. The affordable unit shall utilize the same heating sources as the market unit within the inclusionary development.
 6. With regard to ADA compliance, the very-low income housing provided as townhouses or multistory dwelling units shall comply with N.J.A.C. 5:97-3.14.

7. The developer shall contract with an experienced administrative agent in compliance with N.J.A.C. 5:80-26.14.
8. The affordable unit shall be affirmatively marketed in accordance with the UHAC, pursuant to N.J.A.C. 5:80-26.15, and applicable law by an experienced administrative agent. The affirmative marketing shall include posting of the affordable unit in the New Jersey Housing Resource Center website in accordance with applicable law as well as written notice to the following community and regional organizations: Fair Share Housing Center (510 Park Boulevard, Cherry Hill, NJ 08002); the New Jersey State Conference of the NAACP; the Latino Action Network (P.O. Box 943, Freehold, NJ 07728); STEPS, OCEAN, Inc.; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and the Trenton branches of the NAACP; and the Supportive Housing Association.

Conflicting Standards and Exemptions. The standards set forth in the Affordable Housing Zone shall supersede any conflicting standards elsewhere in the Land Development Ordinance. It is recognized that the subject properties are relatively flat; and therefore, any Borough land regulation related to slope shall not apply to the Affordable Housing Zone. No municipal standard regulating tree removal or tree replacement shall apply in the Affordable Housing Zone.

§ 22-606.7. Affordable Housing AH-2 Zoning District. [Added 11-20-2023 by Ord. No. 2023-08]

- a. The purpose of the Affordable Housing AH-2 Zone ("AH-2 Zone") is to provide for the development of an inclusionary development designed to assist the Borough in satisfying its combined Prior Round and Round 3 (1999-2025) Realistic Development Potential ("RDP") affordable housing obligation through construction of affordable units set aside for low and moderate income households. The AH-2 Zone shall comprise the following tax lots: Lots 5 & 7, Block 46.01 and the zoning map shall be amended accordingly. This subsection is adopted in furtherance of the Settlement Agreement entered into between the Borough and Lombardi Residential, LLC (hereinafter the "Lombardi Settlement Agreement"), and in connection with the Borough's Mount Laurel litigation captioned at MON-L-1916-21.
- b. Permitted Principal Uses.
 1. Inclusionary residential development with a twenty percent (20%) set aside for low and moderate income housing. A maximum of sixteen (16) residential units are permitted.
 2. Townhomes, provided that no more than five (5) units be attached in one building, with a maximum of thirteen (13) units.
 3. Mixed use building, with a minimum nonresidential floor area of one thousand (1,000) square feet on the ground floor. Commercial, retail, and uses permitted in the B-3 Zone. Residential apartment units are permitted on, and above the first floor with a maximum of three (3) units.
 4. Multiple principal uses are permitted in accordance with this subsection.
- c. Permitted Accessory Uses.

1. Off-street parking facilities.
 2. Other uses that are customarily incidental to a permitted principal use.
 3. Fences and walls erected, maintained or planted no greater than six (6) feet above ground level within a side or rear yard, and no greater than four (4) feet within a front yard.
 4. Decks, porches, balconies and patios.
 5. Bike racks.
 6. Solid waste and recycling area, setback at least fifteen (15) feet from any rear yard or side yard. Parking area setback at least five (5) feet from any property line.
 7. Site lighting. The arrangement of exterior lighting shall adequately illuminate parking areas and prevent glare to adjoining residential areas.
 8. HVAC units and generators.
- d. Prohibited Uses.
1. Parking or storage of boats, boat trailers, motor homes, and recreational vehicles.
- e. Bulk, Area and Building requirements (overall tract and townhouse development).
1. Minimum lot size: fifty thousand (50,000) square feet.
 2. Minimum lot frontage: one hundred fifty (150) feet.
 3. Minimum lot depth: two hundred (200) feet.
 4. Minimum setbacks to building:
 - (a) Minimum front yard setback: twenty (20) feet.¹
 - (b) Minimum one side yard setback: ten (10) feet.
 - (c) Minimum both side yard setback: twenty (20) feet.
 - (d) Minimum rear yard setback: twenty (20) feet.
 5. Maximum building height: thirty-eight (38) feet/three and five-tenths (3.5) stories.²
 6. Maximum building coverage: forty percent (40%).
 7. Maximum lot coverage: seventy-five percent (75%).
 8. Minimum parking setback from side lot line: ten (10) feet.

1. Front yard setback is calculated before any dedication that may be required for road widening.

2. Building height shall mean the vertical distance from the average finished grade measured at the structure's foundation to the midpoint for pitched roofs and to the top of the flat surface for flat roofs. Parapets, chimneys, antennas, cupolas, elevator equipment, weathervanes and mechanical and utility equipment may exceed the permitted building height by five (5) feet.

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9. Minimum parking setback rear from lot line: forty (40) feet.
 10. Minimum drive aisle setback from a side lot line: five (5) feet.
- f. Bulk, Area and Building Requirements (mixed use).
1. Minimum lot size: five thousand (5,000) square feet.
 2. Minimum lot frontage: forty (40) feet.
 3. Minimum lot depth: forty (40) feet.
 4. Minimum setbacks to building:
 - (a) Minimum front yard setback: twenty (20) feet.³
 - (b) Minimum one side yard setback: seven and five-tenths (7.5) feet.
 - (c) Minimum both side yard setback: fifteen (15) feet.
 5. Minimum rear yard setback: twenty (20) feet.
 6. Maximum building height: thirty-eight (38) feet/three and five-tenths (3.5) stories.⁴
 7. Maximum building coverage: sixty percent (60%).
 8. Maximum lot coverage: eighty-five percent (85%).
- g. Site Access, Off-Street Parking, and Loading Requirements.
1. One site access driveway shall be provided with a minimum width of twenty (20) feet.
 2. Number of spaces, and parking space dimensions, as required by New Jersey Residential Site improvement Standards at N.J.A.C. 5:21-1.1 et seq. (RSIS) shall apply, notwithstanding any standards to the contrary in the zoning ordinance.
 3. Commercial and retail uses per the parking requirements of this chapter. Space dimensions in accordance with RSIS.
 4. No loading space is required.
- h. Signs.
1. One (1) monument sign with a maximum sign area of forty (40) square feet is permitted along the lot frontage subject to a ten (10) foot setback from Route 71 prior to any dedication that may be required. The sign may be back-lit or use ground lighting or a combination of both.
 2. Wall mounted, non-illuminated address sign is permitted with a maximum sign area of five (5) square feet.

3. Front yard setback is calculated before any dedication that may be required for road widening.

4. Building height shall mean the vertical distance from the average finished grade measured at the structure's foundation to the midpoint for pitched roofs and to the top of the flat surface for flat roofs. Parapets, chimneys, antennas, cupolas, elevator equipment, weathervanes and mechanical and utility equipment may exceed the permitted building height by five feet.

3. One (1) wall mounted tenant sign consistent with subsection 22-610.7b of this chapter.
- i. Design Standards. Building should have a unified theme, displayed through the application of common building materials.
- j. Miscellaneous.
 1. Projections from buildings, such as, but not limited to, balconies, patios, chimneys, and windows may extend into the building setback provided such encroachment is limited to twenty-four (24) inches and in the case of patios no more than five (5) feet.
 2. Development in the AH-2 Zone is exempt from Section 22-503 through Section 22-505, of this chapter as well as any other Borough standard conflicting with the standards established herein.
 3. A five (5) foot planted buffer around the perimeter of the overall tract side and rear yard is required starting at seventy-five (75) feet from the front property line. The planted buffer shall not be required in stormwater features provided a fence is constructed.
 4. No municipal standards regulating tree removal or tree replacement shall apply.
 5. In the event the calculated affordable housing obligation results in a fractional number the developer shall be permitted to make a payment in lieu derived from the calculation for payments in N.J.A.C. 5:97-6.4(c) for COAH Region 4, payable to the Borough's Affordable Housing Trust Fund.
- k. Relationship between the overall tract and subdivided parcels. This zone has been adopted to include one overall tract. A developer shall be permitted to further subdivide the overall tract to create fee simple townhouse lots and a mixed-use lot without any variance relief from the bulk standards, including but not limited to, building, parking, and drive aisle setbacks.
 1. Affordable Housing.
 - (a) The affordable units shall be non-age restricted rental units.
 - (b) One (1) one-bedroom affordable housing unit shall be affordable to eligible very-low- income households, as defined as those households earning thirty percent (30%) or less of the regional median income, pursuant to N.J.S.A. 52:27D-329.1. One (1) two-bedroom affordable housing unit shall be affordable to eligible moderate income households earning sixty percent (60%) or less of the regional medial income. One (1) three-bedroom affordable housing unit shall be affordable to eligible low-income households earning fifty percent (50%) or less of the regional medial income.
 - (c) Pursuant to the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), the affordable unit shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action release the unit from such

controls after at least thirty (30) years. If the Borough acts to release the unit from such controls, affordability controls shall remain in effect until the date on which a rental unit shall become vacant due the voluntary departure of the occupant household in accordance with N.J.A.C. 5:80-26.11(b). The deed restrictions shall state the bedroom size and income level for each affordable unit.

- (d) The affordable units shall comply with the UHAC regulations with regards to the pricing of rents.
- (e) Certificates of occupancy for the market rate units and the affordable units shall be phased in accordance with N.J.A.C. 5:93-5.6(d). The affordable units shall be deed restricted prior to issuance of the certificates of occupancy, and a copy of the deed restrictions shall be provided to Fair Share Housing Center (510 Park Boulevard, Cherry Hill, New Jersey 08002) upon recording.
- (f) The developer shall contract with an experienced administrative agent in compliance with N.J.A.C. 5:80-26.14 and applicable law.
- (g) The affordable unit shall be affirmatively marketed in accordance with the UHAC, pursuant to N.J.A.C. 5:80-26.15, and applicable law by an experienced administrative agent. The affirmative marketing shall include posting of the affordable unit in the New Jersey Housing Resource Center website in accordance with applicable law as well as written notice to the following community and regional organizations: Fair Share Housing Center, Inc. (510 Park Boulevard, Cherry Hill, NJ 08002); the New Jersey State Conference of the NAACP; the Latino Action Network (P.O. Box 943, Freehold, NJ 07728); STEPS, OCEAN, Inc.; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and the Trenton branches of the NAACP; and the Supportive Housing Association at least ninety (90) days before any lottery to select applicants.

**ORDINANCE 2024-11
BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

AN ORDINANCE CREATING THE AFFORDABLE HOUSING AH-3 ZONING DISTRICT IN FURTHERANCE OF THE TOWNSHIP'S OBLIGATION TO PROVIDE FOR ITS FAIR SHARE OF AFFORDABLE HOUSING

WHEREAS, the Borough of Spring Lake Heights has a constitutional obligation to provide for its fair share of affordable housing pursuant to the *Mt. Laurel* doctrine established by the New Jersey Supreme Court; and

WHEREAS, a property owner commenced *Mt. Laurel* builder's remedy litigation against the Borough docketed at MON-L-0031-21, which was subsequently consolidated with a declaratory judgment action commenced by the Borough captioned In the Matter of the Application of the Borough of Spring Lake Heights, Docket No. MON-L-1916-21, in an effort to establish the Borough's Prior Round and Third Round affordable housing obligation and the mechanisms by which the Borough may meet its constitutional obligation (the "Borough's Declaratory Judgment Action"); and

WHEREAS, Highwood Development and Holdings, LLC is interested in assisting the Borough in satisfying a portion of its Third Round Mount Laurel obligation, which obligation will be determined by the trial court;

WHEREAS, in evaluating properties appropriate for inclusionary development, the Borough has determined that the property located at Block 46.01, Lots 2, 3 & 4 (the "Property") is available, approvable, developable, and suitable for the proposed development of 40 market rate units in a mixed-use building with 7 residential deed restricted affordable units in three separate buildings located on the Property as set forth in the Developer's Agreement between Highwood Development and the Borough, and as those terms are used in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 ("FHA") and Council on Affordable Housing ("COAH") regulations, N.J.A.C. 5:93-1 et seq.,

WHEREAS, the Borough Council believes it is in the best interest of the Borough to include the Property with the Proposed Development which will assist the Borough in addressing its Third Round Mount Laurel Obligation and which zoning initiatives will be a component of the Borough's Third Round Housing Element and Fair Share Compliance Plan; and

WHEREAS, the Borough Council believes it is in the best interest of the Borough to comply with its obligation under the Highwood Development Settlement Agreement in order to further satisfy its constitutional obligation to provide for its fair share of affordable housing.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Spring Lake Heights, County of Monmouth, State of New Jersey that it hereby amends the Borough Code to create a new section, Section 22-606.8 known as the Affordable Housing AH-3 Zoning District as set forth herein.

Section 22-606.8

- a. The purpose of the Affordable Housing AH-3 Zone ("AH-3 Zone") is to provide for the development of an inclusionary development designed to assist the Borough in satisfying its combined Prior Round and Round 3 (1999-2025) Realistic Development Potential ("RDP") affordable housing obligation through construction of affordable units set aside for low- and moderate-income households. The AH-3 Zone shall comprise the following tax lots: Lots 2 (Parcel B), 3 & 4 (Parcel A), Block 46.01 and the zoning map shall be

**ORDINANCE No. 2024-15
BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

**AN ORDINANCE CREATING THE AFFORDABLE HOUSING AH-4 ZONING DISTRICT
IN FURTHERANCE OF THE BOROUGH'S OBLIGATION TO PROVIDE FOR ITS FAIR
SHARE OF AFFORDABLE HOUSING**

WHEREAS, the Borough of Spring Lake Heights has a constitutional obligation to provide for its fair share of affordable housing pursuant to the Mt. Laurel doctrine established by the New Jersey Supreme Court; and

WHEREAS, a property owner commenced Mt. Laurel builder's remedy litigation against the Borough docketed at MON-L-0031-21, which was subsequently consolidated with a declaratory judgment action commenced by the Borough captioned In the Matter of the Application of the Borough of Spring Lake Heights, Docket No. MON-L-1916-21, in an effort to establish the Borough's Prior Round and Third Round affordable housing obligation and the mechanisms by which the Borough may meet its constitutional obligation (the "Borough's Declaratory Judgment Action"); and

WHEREAS, Pitney Commons, LLC is interested in assisting the Borough in satisfying a portion of its Third Round Mount Laurel obligation, which obligation will be determined by the trial court;

WHEREAS, in evaluating properties appropriate for inclusionary development, the Borough has determined that the property located at Block 59, Lots 21.03 and 21.04 (the "Property") is available, approvable, developable, and suitable for the proposed development of 15 market rate units in a mixed-use building with 4 residential deed restricted affordable units in three separate buildings located on the Property as set forth in the Concept Plan attached as Exhibit A (the "Proposed Development"), as those terms are used in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 ("FHA") and Council on Affordable Housing ("COAH") regulations, N.J.A.C. 5:93-1 et seq.,

WHEREAS, the Borough Council believes it is in the best interest of the Borough to include the Property with the Proposed Development which will assist the Borough in addressing its Third Round Mount Laurel Obligation and which zoning initiatives will be a component of the Borough's Third Round Housing Element and Fair Share Compliance Plan; and

WHEREAS, the Borough Council believes it is in the best interest of the Borough to comply with its obligation under Church Street Settlement Agreement in order to further satisfy its constitutional obligation to provide for its fair share of affordable housing.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Spring Lake Heights, County of Monmouth, State of New Jersey that it hereby amends the Borough Code to create a new section, Section 22-606.9 known as the Affordable Housing AH-4 Zoning District as set forth herein.

Section 22-606.9

The purpose of the Affordable Housing- 4 Zone (AH-4) is to provide for the development of an inclusionary development designed to assist the Borough in satisfying its combined Prior Round

and Round 3 Realistic Development Potential affordable housing obligation through the construction of affordable units set aside for low- and moderate-income households. The AH-4 zone shall comprise of the following tax lots: Lots 21.03 and 21.04, Block: 59 and the zoning map shall be amended accordingly. This ordinance is adopted in furtherance of the settlement agreement entered into between the Borough and Pitney Commons, LLC, and in connection with the Borough's Mount Laurel litigation.

(1) Permitted principal uses.

- a. Inclusionary residential development with the 20 percent set aside for low- and moderate-income housing. A maximum of eighteen (18) units per acre but not more than fifteen (15) units total, four (4) of which must be classified as affordable units set aside for very-low, low- and moderate-income households and subject to all rules and regulations for such units.
 - i. Attached dwelling units, provided that no more than two (2) units are attached in one building.
 - ii. Apartments, limited to one (1) building, with a maximum of four units. A basement area, consisting of a maintenance, mechanical, laundry, and property management office shall be permitted.
 - iii. Detached three-bedroom single dwelling unit building, limited to one (1) building.

(2) Permitted accessory uses

- a. Off- street parking facilities
 - i. Parking facilities that shall comply with the following requirements.
 1. Minimum side yard setback = 1.5 feet.
 2. Minimum side yard drive aisle setback = 4 feet.
 3. Minimum drive aisle width = 20 feet.
 4. Drive aisle shall only permit one way function.
- b. Other uses that are customarily incidental to a permitted principal use.
- c. Fences erected, maintained or planted no greater than six (6) feet above grade level within any yard. Chain link, barbed wire, sharp pointed fences, canvas, cloth, and electrically charged fences are prohibited.
- d. Solid waste and recycling areas must be provided for each unit in each single or attached unit building and one area must be provided for the apartment building. The area must be located in the side or rear of each unit/building and must be located at least five (5) feet from any side or rear property line or any adjacent building. The area shall not be located in any front yard or building frontage nor adjacent to any driveway.
- e. Site lighting. The arrangement of exterior lighting shall adequately illuminate parking areas and prevent glare to adjoining residential areas.
 - i. Parking area lighting poles shall be limited to twenty (20) feet in height.
 - ii. All lighting shall provide shielding to prevent glare.
- f. HVAC units and generators shall only be permitted in the following locations:
 - i. On roof tops with a setback of five (5) feet from any parapet wall. The equipment may exceed the maximum permitted building height by five (5) feet, and all equipment must be properly screened from street view.

- ii. In a side or rear yard of each unit or building with a setback of five (5) feet from any adjacent building. The units may be at grade or mounted to the building.
 - g. Electric Vehicle (EV) parking. EV parking shall comply with the regulations outlined in P.L. 1975, c291 (C.40:55D-66.20.3.a.1).
- (3) Prohibit uses.
 - a. Parking or storage of boats, boat trailers, motorhomes, and recreational vehicles.
- (4) All, area and building requirements
 - a. Minimum lot size = 38,000 square feet.
 - b. Minimum lot width = 50 feet.
 - c. Minimum lot frontage = 50 feet.
 - d. Minimum lot depth = 150 feet.
 - e. Minimum setbacks for principal buildings
 - i. Minimum front yard setback = 30 feet (Church Steet).
 - ii. Minimum front yard setback = 15 feet (Pitney Drive).
 - iii. Minimum rear yard setback = 5 feet.
 - iv. Minimum side yard setback = 5 feet.
 - v. Minimum of separation between buildings = 10 feet.
 - vi. Maximum roof height = 40 feet.
 - vii. Maximum number of stories = 3 stories.
 - viii. Maximum building coverage = 30%
 - ix. Maximum lot coverage = 80%
 - f. Each attached and single unit building must provide one (1) garage space per unit. Parking for all apartment units shall be provided on-site but will not require garage spaces.
 - g. Access steps and landing for the apartment building may encroach up to five (5) feet into any required side yard.
- (5) Site access and off-street parking
 - a. A one-way site access driveway shall be provided with a minimum width of 20 feet.
 - b. Number of spaces and parking space dimensions shall comply with the New Jersey Residential Site Improvement Standards, NJAC 5:21-1.1 et seq (RSIS).
- (6) Signs
 - a. One monument sign with a maximum sign area of 40 square feet is permitted along each lot frontage subject to a 10-foot setback from any right of way.
 - b. Each sign may be externally lit with goose neck lighting, ground mounted lighting or backlit letters. Interior illuminated letters or internally illuminated signage shall not be permitted.
 - c. Monument signs shall be made of stone or some other attractive material similar to the architectural design of the principal buildings.
 - d. Monument sign bases shall be appropriately landscaped.
 - e. Pole signs are prohibited.
 - f. Directional signs and pavement markings designed and used to control or divert the flow of traffic upon or within the lot shall be permitted.
 - g. Posted "warning", "no trespassing" and "danger" signs not exceeding two square feet are permitted, and no sign permit shall be required.
- (7) Affordable housing.

- a. The affordable units shall not be age restricted units.
- b. The bedroom distribution and income distribution of the units available to low- and moderate-income households shall be in compliance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-1 et. seq., except that 13% of the low-income units shall be available to very-low-income households which are at 30 percent of the medium income of the applicable region.
- c. Pursuant to the Uniform Housing Affordability Controls, NJAC 5:80-26.1, et seq. (UHAC), the affordable units shall be subject to affordability controls of at least 30 years from the date of initial occupancy and affordable deed restrictions as provided by UHAC, with the sole exception that very low income shall be defined as at or below 30% of median income pursuant to the Fair Housing Act, and the affordability control shall remain unless and until the Borough, at its sole discretion, takes action to release the units from such controls after at least 30 years. If the Borough acts to release the units from such controls, affordability control shall remain in effect until the date on which the rental unit shall become vacant due to voluntary departure of the occupant household in accordance with NJAC 5:80-26.11(b) . The deed restriction shall state the minimum bedroom size and income level for each affordable unit.
- d. The affordable units shall comply with the UHAC regulations with regards to pricing of rents.
- e. Certificates of Occupancy for the market rate units and the affordable units shall be phased in accordance with NJAC 5:93-5.6.(d). the affordable units shall be deed restricted prior to the issuances of the certificates of occupancy, and a copy of the deed restrictions shall be provided to the Fair Share Housing Center upon recording.
- f. The developer shall contract with an experienced administrative agent in compliance with NJAC 5:80-26.14 and applicable law.
- g. The affordable units shall be affirmatively marketed in accordance with the UHAC, pursuant to NJAC 5:80-26.15, and all applicable law, by an experienced administrative agent. The affirmative marketing shall include posting of the affordable units availability on the New Jersey Housing Resource Center website in accordance with all applicable law, as well as written notice to the following community and regional organizations: Fair Share Housing Center, Inc. (510 Park Boulevard Cherry Hill, NJ 08002), the New Jersey State Conference of the NAACP (15 W. Front St, Trenton, NJ 08608), the Latino Action Network (2560 US Hwy. 22, Suite # 322, Scotch Plains, NJ 07076), STEPS (14 Clifton Ave South, Lakewood, NJ 08701), Ocean, Inc. (40 Washington Street, Toms River, NJ 08753), the Greater Red Bank (P.O. Box 791 Red Bank, NJ 07701), Asbury Park/Neptune (P.O. Box 1143, Asbury Park 07712), Bayshore (P.O. Box 865 Matawan, 07747), Greater Freehold (P.O. Box 246 Marlboro Annex, NJ 07746) , Greater Long Branch (P.O. Box 472 Long Branch, NJ 07740), and the Trenton Branches of the NAACP (395 W State St., Trenton, NJ 08618): and the Supportive Housing Association (185 Valley St, South Orange, NJ 07079) at least 90 days before any lottery to select applicants.

BE IT FURTHER ORDAINED THAT the Zoning District Map of the Borough of Spring Lake Heights is hereby amended to include the AH-4 Zoning District.

BE IT FURTHER ORDAINED, that

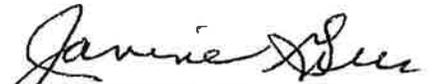
- A. All other Ordinances or provisions of the Code of the Borough of Spring Lake Heights or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

BE IT FURTHER ORDAINED, that this ordinance shall take effect upon passage and publication in accordance with applicable law.



William Graetz, Acting Mayor

9/17/2024
Date



Janine Gillis, Borough Clerk

9-17-2024
Date

amended accordingly. This Ordinance is adopted in furtherance of the Settlement Agreement entered into by and between the Borough and Fair Share Housing Center (hereinafter the "Settlement Agreement") in connection with the Borough's Mount Laurel litigation captioned at MON-L-1916-21.

b. Permitted Principal Uses

- i. Residential development with seven (7) low- and moderate-income housing units on Parcel B and forty (40) unrestricted market units on Parcel A maximum of forty-seven (47) residential units are permitted
- ii. Mixed use residential building with a minimum nonresidential floor area of 600 square feet on the ground floor, located on Parcel A. Commercial and retail uses shall be those permitted in the B-3 Zone.

c. Permitted Accessory Uses

- i. Off-street parking and loading facilities
- ii. Other uses that are customarily incidental to a permitted principal use
- iii. Fences and walls erected, maintained or planted no greater than six (6) feet above ground level within a side or rear yard, and no greater than four (4) feet within a front yard and fifty (50%) open.
- iv. Decks, porches, balconies, and patios.
- v. Community amenities may include dog runs, community gardens, recreation areas, sitting areas (pergolas) and fire pits.
- vi. Bike Racks
- vii. Electrical Vehicle Charging Stations
- viii. Solid Waste and recycling area, setback at least fifteen (15) feet from any rear or side yard
- ix. Site Lighting. The arrangement of exterior lighting shall adequately illuminate parking areas and prevent glare to adjoining residential areas.
- x. Utilities, including HVAC units, transformers, emergency generators and water boxes/vaults.
- xi. Signs, conforming to the provisions of section 22-610
- xii. Temporary construction and/or sales Trailers

d. Overall Tract: Bulk, Area and Building requirements:

- i. Minimum Lot Area 80,000 square feet
- ii. Minimum Lot Frontage 275 feet
- iii. Minimum Lot Width 275 feet

- iv. Minimum Lot Depth 140 feet
- v. Maximum Lot Coverage 75 percent
- vi. Maximum Building Coverage 50 percent
- e. Parcel A: Bulk, Area, and Building requirements:
 - i. Minimum Lot Area 50,000 square feet
 - ii. Minimum Lot Frontage 150 feet
 - iii. Minimum Lot Width¹ 140 feet
 - iv. Minimum Lot Depth² 350 feet
 - v. Minimum setbacks to principal building
 - a. Minimum front yard setback 20 feet
 - b. Minimum one side yard setback 10 feet
 - c. Minimum both side yard setback 20 feet
 - d. Minimum rear yard setback 50 feet
 - vi. Maximum Building Height³ 40 feet (3.5 stories)
 - vii. Maximum Building Coverage 50%
 - viii. Maximum Lot Coverage 75%
 - ix. Minimum setbacks to parking
 - a. Minimum front yard setback 3 feet
 - b. Minimum one side yard setback (adjoining residential use) 10 feet
 - c. Minimum both side yard setback 15 feet
 - d. Minimum rear yard setback 20 feet

¹ Lot width shall mean the distance between side lot lines measured parallel with the street line at the minimum building setback from the street.

² Lot depth shall mean the shortest perpendicular distance between the front lot line and a line drawn parallel (or concentric) to the front line through the midpoint of the rear lot line.

³ Building height shall mean the vertical distance from the average finished grade measured at the structure's foundation to the midpoint for pitched roofs and to the top of the flat surface for flat roofs. Parapets, chimneys, antennas, cupolas, elevator equipment, weathervanes and mechanical and utility equipment may exceed the permitted building height by five (5) feet. To qualify as a "half story", the occupied area cannot exceed 75% the area of the floorplate below. For a sloped roof, the half story may not alter the slope of the roof and may only intrude to a maximum of 33% of the linear length of a building side with dormers or skylights. For a flat roof, the half story must set back from the lower story by at least five (5) feet, creating a stepped or "wedding cake" effect.

- x. The buffer for Parcel A having 20-foot rear yard setback from the property line shall be planted on a berm and will include a fence along the property line.

f. Parcel B: Bulk, Area and Building requirements

- i. Minimum Lot Area 14,000 square feet
- ii. Minimum Lot Frontage 100 feet
- iii. Minimum Lot Width 100 feet
- iv. Minimum Lot Depth 125 feet
- v. Minimum setbacks to principal buildings (existing building or extension thereto, new construction consistent with Parcel A standards)
 - a. Minimum front yard setback 15 feet
 - b. Minimum side yard setback 5 feet
 - c. Minimum rear yard setback 4 feet
- vi. Maximum Building Height 40 feet (3.5 stories)
- vii. Maximum Building Coverage 50%
- viii. Maximum Lot Coverage 75%
- ix. Minimum setbacks to parking
 - a. Minimum front yard setback 3 feet
 - b. Minimum side yard setback 5 feet
 - c. Minimum rear yard setback 20 feet

g. Site Access, Off-Street Parking and Loading Requirements

- i. Each Parcel shall have independent access to State Highway Route 71 with cross-access established by an easement between the Parcels.
- ii. Number of spaces, and parking space dimensions, as required by New Jersey Residential Site Improvement Standards at N.J.A.C. 5:21-1.1 et seq. (RSIS) shall apply to all the residential units on-site, notwithstanding the presence of commercial uses.
- iii. The quantity of parking for commercial and retail uses per the parking requirements of the ordinances.
- iv. If necessary, Parcel A shall provide a parking easement for Parcel B. No loading space is required for any commercial or retail development.

h. Signs.

- i. One (1) monument sign with a maximum sign area of 40 square feet is permitted along the lot frontage subject to a ten (10) foot setback from the property line. The sign may be back-lit or use ground lighting or a combination of both.
 - ii. Wall or canopy mounted, illuminated address sign is permitted with a maximum sign area of five (5) square feet.
- i. Miscellaneous
 - i. Projections from buildings, such as but not limited to, balconies, patios, chimneys, terraces, and windows may extend into the building setback provided such encroachment is limited to 24".
 - ii. Patios shall be setback no less than eight (8) feet from the side lot line. No patios shall be permitted in the front yard.
 - iii. Development of the AH-3 Zone is exempt from any other Borough standard conflicting with the standards established herein.
 - iv. No municipal standards regulating tree removal or tree replacement shall apply.
- j. Affordable Housing
 - i. The affordable units shall be non-age restricted rental units.
 - ii. There shall be One (1) 1-bedroom affordable housing unit; Four (4) 2-Bedroom affordable housing units; and two (2) 3-Bedroom affordable housing units and the affordable housing units shall meet the very low, low, and moderate income household split required by the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. ("UHAC")
 - iii. Pursuant to UHAC, the affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action release the unit from such controls after at least thirty (30) years. If the Borough acts to release the unit from such controls, affordability controls shall remain in effect until the date on which a rental unit shall become vacant due the voluntary departure of the occupant household in accordance with N.J.A.C. 5:80-26.11(b). The deed restrictions shall state the bedroom size and income level for each affordable unit.
 - iv. The affordable units shall comply with the UHAC regulations with regards to the pricing of rents.
 - v. Certificates of occupancy for the market rate units and the affordable units shall be phased in accordance with N.J.A.C. 5:93-5.6(d). The affordable units shall be deed restricted prior to issuance of the certificates of occupancy, and a copy of the deed restrictions shall be provided to Fair Share Housing Center (510 Park Boulevard, Cherry Hill, New Jersey 08002) upon recording.
 - vi. The developer shall contract with an experienced administrative agent in compliance with N.J.A.C. 5:80-26.14 and applicable law.
 - vii. The affordable unit shall be affirmatively marketed in accordance with the UHAC, pursuant to N.J.A.C. 5:80-26.15, and applicable law by an experienced administrative agent. The affirmative marketing shall include posting of the affordable unit in the New Jersey Housing Resource Center website in accordance with applicable law as well as

written notice to the following community and regional organizations: Fair Share Housing Center, Inc. (510 Park Boulevard, Cherry Hill, NJ 08002); the New Jersey State Conference of the NAACP; the Latino Action Network (P.O. Box 943, Freehold, NJ 07728); STEPS, OCEAN, Inc.; the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and the Trenton branches of the NAACP; and the Supportive Housing Association at least ninety (90) days before any lottery to select applicants.

BE IT FURTHER ORDAINED THAT the Zoning District Map of the Borough of Spring Lake Heights is hereby amended to include the AH-3 Zoning District.

BE IT FURTHER ORDAINED, that

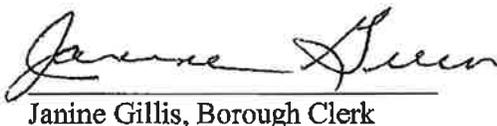
- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

BE IT FURTHER ORDAINED, that this ordinance shall take effect upon passage and publication in accordance with applicable law.



William Graetz, Acting Mayor

9/17/2024
Date



Janine Gillis, Borough Clerk

9/17/2024
Date

Appendix F. AH-5 Overlay Zone

ORDINANCE 2026

**BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH**

**AN ORDINANCE AMENDING CHAPTER 22, ARTICLE VI ZONING REGULATIONS,
SECTION 606 (ZONE DISTRICT REGULATIONS) CREATING THE AH-5 OVERLAY
ZONING DISTRICT IN FURTHERANCE OF THE BOROUGH'S OBLIGATION TO
PROVIDE FOR ITS FAIR SHARE OF AFFORDABLE HOUSING.**

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 Spring Lake Heights; and

WHEREAS, the DCA Report calculated Spring Lake Heights's Fourth Round fair share obligations as follows: Present Need (Rehabilitation) Obligation of 35 units and a Fourth Round Prospective Need (New Construction) Obligation of 44r affordable housing units; and

WHEREAS, the Borough of Spring Lake Heights (the "Borough" or "Spring Lake Heights") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action bearing the caption, In the Matter of the Borough of Spring Lake Heights, Superior Court of New Jersey, Law Division, Docket No. MON-L-436-25 on January 21, 2025; and

WHEREAS, the Borough having filed its Housing Element and Fair Share Plan on June 4 2025 (the "HEFSP"); and

WHEREAS, FSHC and other objectors having filed challenges pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's HEFSP on August 31, 2025; and

WHEREAS, the Mediation before the Program was unsuccessful, and the Program, Judge, the Hon. Mary C. Jacobson, A. J.S.C. (retired), having found the Borough's position legally consistent with the Fair Housing Act and issued a Program Decsion on January 8, 2026 which requires the Borough to allow for residential use with an affordable housing set aside and to adopt an updated Affordable Housing Ordinance; and

WHEREAS, the Borough Council of the Borough of Spring Lake Heights believes it is in the best interest of the Borough to adopt the Fourth Round implementing ordinances in order to obtain compliance certification from the Program/Court thereby protecting the Borough from exclusionary zoning litigation for ten years until 203

NOW THEREFORE, BE IT HEREBY ORDAINED by the Mayor and Council of the Borough of Spring Lake Heights in the County of Monmouth, State of New Jersey that the Borough's Land Development Ordinance at Chapter 22, Article VI Zoning Regulations, Section 606 (Zone District Regulations) is hereby amended to create the AH-5 Overlay Zoning District as follows:

606.10 Affordable Housing AH-5 Overlay Zoning District

A. Purpose. The purpose of the *AH-5 Overlay Zone* is to allow for residential uses with an affordable housing set aside to assist the Borough in meeting its Fourth Round unmet need obligation. The AH-5 Zone includes Block 53, Lots 4 and 5 and Block 67, Lot 5.

B. Permitted Principal Uses (Land and Building)

1. Residential Use.

(a) Multi-Family Residential up to three stories with a mandatory 20% set aside for affordable housing.

(b) Essential services

C. Permitted Accessory Uses

1. Off-street parking and loading facilities

2. Supply and equipment storage

3. Signs, conforming to the provisions of section 22-610

4. Fences and walls

D. Area and bulk requirements

Minimum Lot Area:	10,000 square feet
Minimum Lot Frontage:	100 feet
Minimum Lot Width:	100 feet
Minimum Lot Depth:	125 feet
Minimum Front Yard:	20 feet
Minimum Side Yard:	10 feet*
Minimum Rear Yard:	30 feet
Maximum Building Height:	40 feet (3 stories)
Maximum Building Height Accessory Structure:	15 feet
Maximum Building Coverage:	40%
Maximum Dwelling Unit/Acre:	24
Maximum Lot Coverage:	75%

E. Parking requirements

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

F. Buffers

1. **Buffers shall be provided in accordance with Section 22-505.**

G. Design Criteria. In addition to all other design standards as may be applicable under this chapter, the following design standards shall be applied in the C1 and C2 Combination Zones:

1. **A planting strip, a minimum of five (5') feet wide, is required along State Highway 71 between the curb and the sidewalk.**
2. **All sidewalks shall be five (5') feet wide.**
3. **All approved plantings along State Highway 71 exceeding six (6') feet in height shall be a minimum of ten (10') feet from the curb.**
4. **Shade trees (as per Borough Tree List) shall be required with a minimum of two (2) per lot approximately thirty-five (35') apart as per site plan approval.**
5. **Decorative lamp posts (Grosse Pointe 3173 PB w/305 Base) are required every seventy (70') feet of frontage along State Highway 71 and shall be implemented as per site plan approval.**
6. **Sidewalk benches shall be required (2 per frontage) as per site plan approval.**
7. **All recycling and dumpster areas shall be enclosed on four (4) sides and surrounded by four (4') to six (6') foot evergreen trees (as per Borough Tree List) on three (3) sides.**
8. **Above ground storm water management is prohibited.**
9. **All wiring and utilities shall be underground.**

BE IT FURTHER ORDAINED THAT the Zoning District Map of the Borough of Spring Lake Heights is hereby amended to include the AH-5 Overlay Zoning District.

BE IT FURTHER ORDAINED, that

- A. All other Ordinances or provisions of the Code of the Borough of Spring Lake Heights or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

BE IT FURTHER ORDAINED, that this ordinance shall take effect upon passage and publication in accordance with applicable law.

INTRODUCED:

ADOPTED

Janine Gillis, Borough Clerk