

Housing Element and Fair Share Plan

Prepared for:

**Upper Freehold Township
Monmouth County, New Jersey**

**Adopted:
June 12, 2025**

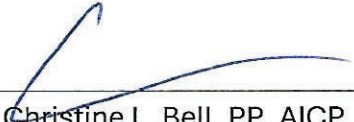
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INTRODUCTION

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 Township of Upper Freehold the housing region is defined by COAH as Region 4 and is comprised of Mercer, Monmouth and Ocean counties. In 2024, the Region 4 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.

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

Upper Freehold Township is located in central New Jersey, covering approximately 47.37 square miles in southwest Monmouth County. Upper Freehold Township is bordered by Millstone, Allentown, and Roosevelt in Monmouth County, and Robbinsville in Mercer County to the north, Millstone Township to the east, Hamilton in Mercer County, and North Hanover and Chesterfield in Burlington County to the west, and Plumsted and Jackson Townships in Ocean County to the south. Upper Freehold is the westernmost portion of Monmouth County with a stable year-round population. The landscape is predominantly rural, farmland and wooded areas, and has historically been dedicated to farming.

The 2017 Master Plan Reexamination Report for Upper Freehold indicated that...“it is the ‘vision’ of the Township to appropriately balance private and public property rights, conserve natural and cultural resources, maintain active farming and open space, develop educational and recreational facilities and to preserve the prevailing quality of life; all in order to promote a sustainable future for all residents of the Township that is affordable and desirable.” To that end, maintaining the rural atmosphere and retaining farmland throughout the Township is key to Upper Freehold’s future development.

The current year-round population of Upper Freehold Township is estimated at 7,237 (ACS 2023 5-year data). Upper Freehold has a population density of 153 persons per square mile. The Township grew older by 4.1 years between 2010 and 2023, with a current median age of 47.4 years of age. Upper Freehold’s 2023 median household income estimate of \$169,597 was higher than that of the county (\$122,727) and the State (\$101,050).

In the guidelines established by COAH, Upper Freehold Township is in affordable housing Region 4 which is comprised of Monmouth, Mercer, and Ocean Counties.

DEMOGRAPHIC CHARACTERISTICS

POPULATION

In 2023, the Township of Upper Freehold had a total population of 7,237. This number represented an increase of 224 individuals or 3.1 percent since 2020, when the total population was 7,013 individuals. Although the rate at which the population has increased has slowed significantly since 2010, the population of Upper Freehold has continued to increase since 1940.

TABLE 1: POPULATION TRENDS, 1940-2023

| Year | Upper Freehold | | | Monmouth County | | | New Jersey | | |
|-------|----------------|--------|---------|-----------------|---------|---------|------------|-----------|---------|
| | Population | Change | | Population | Change | | Population | Change | |
| | | Number | Percent | | Number | Percent | | Number | Percent |
| 1940 | 1,839 | - | - | 161,238 | - | - | 4,160,165 | - | - |
| 1950 | 2,193 | 354 | 67.1% | 225,327 | 64,089 | 39.7% | 4,835,329 | 675,164 | 16.2% |
| 1960 | 2,363 | 170 | 84.0% | 334,401 | 109,074 | 48.4% | 6,066,782 | 1,231,453 | 25.5% |
| 1970 | 2,551 | 188 | 39.1% | 461,849 | 127,448 | 38.1% | 7,171,112 | 1,104,330 | 18.2% |
| 1980 | 2,750 | 199 | 17.9% | 503,173 | 41,324 | 8.9% | 7,365,011 | 193,899 | 2.7% |
| 1990 | 3,277 | 527 | 19.1% | 553,124 | 49,951 | 9.9% | 7,730,188 | 365,177 | 5.0% |
| 2000 | 4,282 | 1,005 | 30.7% | 615,301 | 62,177 | 11.2% | 8,414,350 | 684,162 | 8.9% |
| 2010 | 6,435 | 2,153 | 50.2% | 628,112 | 12,811 | 2.0% | 8,721,577 | 307,227 | 3.6% |
| 2020* | 7,013 | 578 | 8.9% | 620,821 | -7,291 | 1.2% | 8,885,418 | 163,841 | 1.9% |
| 2023* | 7,237 | 224 | 3.1% | 643,615 | 22,794 | 3.67% | 9,267,014 | 381,596 | 4.29% |
| 2050^ | 7,362 | 41 | 0.8% | 669,624 | 48,559 | 4.0% | - | - | - |

Source: U.S. Census Bureau Decennial Census,

*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 Upper Freehold has shifted noticeably since 2010. According to American Community Survey 5-Year Estimates, 2023, significant changes occurred in many age groups. The number of adults between the ages of 45 to 59 years old has decreased significantly over this time period. The greatest increases in population were experienced in 20 to 24 years age cohort, followed closely by the 75 to 84 years cohort. All age cohorts 60 and over experienced significant population growth. The greatest decrease in population was experienced in the 45 to 54 age cohort, followed by the 35 to 44 age cohort.

TABLE 2: POPULATION BY AGE COHORT, UPPER FREEHOLD, 2010-2023

| Population | 2010 | | 2023 | | Change 2010-2023 |
|---|--------|---------|--------|---------|---------------------|
| | Number | Percent | Number | Percent | |
| Total population | 6,435 | 100% | 7,237 | 100.00% | 12.4% |
| Under 5 years | 315 | 4.8% | 283 | 3.9% | -10.2% |
| 5 to 9 years | 605 | 9.4% | 539 | 7.4% | -10.9% |
| 10 to 14 years | 556 | 8.6% | 492 | 6.8% | -11.5% |
| 15 to 19 years | 374 | 5.8% | 363 | 5.0% | -2.9% |
| 20 to 24 years | 205 | 3.2% | 683 | 9.4% | 233.1% |
| 25 to 34 years | 288 | 4.5% | 289 | 3.9% | 0.3% |
| 35 to 44 years | 1,018 | 15.8% | 765 | 10.5% | -23.6% |
| 45 to 54 years | 1,254 | 19.5% | 957 | 13.2% | -66.6% |
| 55 to 59 years | 589 | 9.1% | 488 | 6.7% | -17.1% |
| 60 to 64 years | 403 | 6.2% | 662 | 9.1% | 64.3% |
| 65 to 74 years | 567 | 8.8% | 968 | 13.4% | 70.7% |
| 75 to 84 years | 179 | 2.7% | 595 | 8.2% | 232.4% |
| 85 years and over | 82 | 1.2% | 153 | 2.1% | 86.6% |
| 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 55 and over age cohorts also experienced the largest population increases between 2010 and 2023, with the largest increases in the aged 65 to 74 years cohort, suggesting that the County, like the Township, 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 Upper Freehold residents increased by 4.1 years between 2010 and 2023. While the State and County have all experienced increases in median age, the Township experienced the largest increase between 2010 and 2023 and exhibits the highest median age of the three populations.

TABLE 4: MEDIAN AGE

| Year | Upper Freehold | Monmouth County | New Jersey |
|--|----------------|-----------------|------------|
| 2010 | 43.3 | 40.6 | 38.5 |
| 2023 | 47.4 | 43.2 | 40.1 |
| Change | 4.1 | 2.6 | 1.6 |
| U.S. Census Bureau, 2010 Decennial Census (table DP-1) U.S. Census Bureau, American Community Survey 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 2,500 households in the Township. Approximately 54.8% percent of all Township households were comprised of one or two persons, with 40.5% comprising of two-person households. While one- and two-person household also comprise the majority of County households at 58.9%, Upper Freehold has fewer larger households than the County overall. The Township's average household size was 2.49, which is smaller than the County's average household size of 2.55.

**TABLE 5: HOUSEHOLD CHARACTERISTICS
UPPER FREEHOLD AND MONMOUTH COUNTY, 2023**

| | Township | | County | |
|---|----------|---------|---------|---------|
| | Number | Percent | Number | Percent |
| Total Households | 2,500 | 100.0% | 250,195 | 100.0% |
| 1-person | 358 | 14.3% | 66,589 | 26.0% |
| 2-persons | 1,013 | 40.5% | 81,289 | 32.9% |
| 3-persons | 332 | 13.2% | 40,929 | 16.4% |
| 4 or more persons | 797 | 31.8% | 61,388 | 24.5% |
| Average Household Size | 2.49 | | 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 Upper Freehold are mainly family households (84.1%). Approximately 82.2 percent of all family households were family households with married couple householders, while 13 percent of family households were family households consisting of single female householders. The average family size was

3.18 persons. The average non-family household size was 1.09 persons.

TABLE 6: HOUSEHOLDS BY TYPE (2023)

| Households | Total | Percent |
|---|-------|---------|
| | 2,500 | 100.0% |
| Average Household Size | 2.89 | |
| Average Non-Family Household Size | 1.09 | |
| Family households | 2,103 | 84.1% |
| Married Couple Family | 1,729 | 82.2% |
| With own children under 18 years | 680 | 39.3% |
| No children under 18 years | 1,049 | 60.7% |
| Other Family | | |
| Male householder, no spouse present | 100 | 4.8% |
| With own children under 18 years | 30 | 30% |
| No own children under 18 years | 70 | 70% |
| Female householder, no spouse present | 274 | 13.0% |
| With own children under 18 years | 57 | 20.8% |
| No own children under 18 years | 217 | 79.2% |
| Nonfamily Households | 397 | 15.8% |
| | | |
| Average Family Size | 3.18 | |
| U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table S1101) | | |

INCOME

Upper Freehold experienced a 42.2 percent increase in per capita income between 2010 and 2023, which was less than Monmouth County's 59.9 percent increase, and the State's 52.3 percent increase over the same period. While the Township's percent increase in per capita income was lower than that of Monmouth County, Upper Freehold's per capita income of \$69,302 is greater than the County's \$65,545, and both of which are greater than the State's \$53,118.

TABLE 7: PER CAPITA INCOME AND MEDIAN HOUSEHOLD INCOME

| | 2010 Per Capita Income | 2023 Per Capita Income | Percent Change | 2010 Median Household Income | 2023 Median Household Income | Percent Change |
|---|------------------------|------------------------|----------------|------------------------------|------------------------------|----------------|
| Upper Freehold | \$48,665 | \$69,302 | 42.4% | \$122,525 | \$169,597 | 38.4% |
| Monmouth County | \$40,976 | \$65,545 | 59.9% | \$82,265 | \$122,727 | 49.1% |
| New Jersey | \$34,858 | \$53,118 | 52.3% | \$69,811 | \$101,050 | 44.7% |
| U.S. Census Bureau, American Community Survey 2010 and 2023 5-Year Estimates (tables S1902 and S1903) | | | | | | |

The income distribution for the Township deviates slightly from that of the County. The

income bracket containing the highest percentage of households for both Upper Freehold and the County is the \$200,000 or more bracket. However, the percentage of households in this bracket is much larger in the Township (42.8%) vs. the County (27.7%). The income bracket containing the second highest percentage for both the Township and the County was the \$100,000 to \$149,999 range. However, a slightly higher percentage of County households (17.5%) were in this bracket than at the Township level (14.2%). The median income in Upper Freehold was \$169,597, approximately \$46,870 more than the county median household income, and about \$68,547 more than the state median household income. However, between 2010 and 2023 the Township's median household income increased by 38.4 percent, lower than the 49.1 percent growth rate experienced in Monmouth County and the 44.7 percent increase for the State overall.

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

| | Upper Freehold | | Monmouth County | |
|--|----------------|---------------|-----------------|---------------|
| | Number | Percent | Number | Percentage |
| Total Households | 2,500 | 100.0% | 250,195 | 100.0% |
| Less than \$10,000 | 0 | 0% | 8,165 | 3.2% |
| \$10,000 to \$14,999 | 30 | 1.2% | 5,319 | 2.1% |
| \$15,000 to \$24,999 | 11 | 0.4% | 10,781 | 4.3% |
| \$25,000 to \$34,999 | 75 | 3% | 10,705 | 4.3% |
| \$35,000 to \$49,999 | 124 | 4.9% | 17,390 | 6.9% |
| \$50,000 to \$74,999 | 231 | 12.8% | 25,153 | 10.05% |
| \$75,000 to \$99,999 | 311 | 12.1% | 25,542 | 10.2% |
| \$100,000 to \$149,999 | 357 | 14.2% | 43,917 | 17.5% |
| \$150,000 to \$199,999 | 290 | 11.6% | 33,996 | 13.6% |
| \$200,000 or more | 1,071 | 42.8% | 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 Upper Freehold in 2023. The first table shows the housing costs of owner occupants as a percentage of total income. A total of 706 households (29.2%) 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 11 households renting in Upper Freehold, or 12.9 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

| | Upper Freehold | | Monmouth County | |
|--|----------------|---------|-----------------|---------|
| | Number | Percent | Number | Percent |
| Total Owner-Occupied Housing Units with a Mortgage | 2,415 | 100.0% | 188,578 | 100.0% |
| Less than 15% | 711 | 29.4% | 28,917 | 15.3% |
| 15 to 19% | 317 | 13.1% | 32,253 | 17.1% |
| 20 to 24% | 513 | 21.2% | 31,997 | 17.0% |
| 25 to 29% | 168 | 7.0% | 25,780 | 13.7% |
| 30 to 34% | 104 | 4.3% | 16,946 | 9.0% |
| 35% or more | 602 | 24.9% | 10,722 | 5.7% |
| Not computed | 0 | 0.0% | 8,426 | 4.5% |
| U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table B25091) | | | | |

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

| | Upper Freehold | | Monmouth County | |
|--|----------------|------------|-----------------|------------|
| | Number | Percentage | Number | Percentage |
| Total Renter-Occupied Housing Units | 85 | 100.0% | 61,617 | 100.0% |
| Less than 15% | 33 | 38.8% | 7,106 | 11.5% |
| 15 to 19% | 20 | 6.06% | 6,970 | 11.3% |
| 20 to 24% | 0 | 0.0% | 6,927 | 11.2% |
| 25 to 29% | 0 | 0.0% | 6,419 | 10.4% |
| 30 to 34% | 0 | 0.0% | 4,751 | 7.7% |
| 35% or more | 11 | 12.9% | 26,025 | 42.2% |
| Not computed | 21 | 24.7% | 3,419 | 5.5% |
| U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table B25070) | | | | |

EXISTING HOUSING CONDITIONS

HOUSING UNIT DATA

Upper Freehold housing stock is predominantly owner occupied and relatively new. According to the 2023 ACS, the Township had a total of 2,415 occupied housing units. Most occupied units (91.6%) were owner-occupied, while 3.1 percent were renter-occupied. More than half of all units (63%) within Upper Freehold were built between 1980 to 2009, with the decade from 2000- 2009 contributing 33.9% of all housing units within the Township. The median year a residential structure was built in Upper Freehold was 1973.

TABLE 11: HOUSING UNIT DATA, 2023

| Housing Units in Upper Freehold | Number | Percent |
|--|--------|---------|
| Total Housing Units | 2,728 | 100.0% |
| Vacant Housing Units | 228 | 8.4% |
| Occupied Housing Units | 2,500 | 91.6% |
| Owner Occupied | 2,415 | 88.5% |
| Renter Occupied | 85 | 3.1% |
| U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04) | | |

| | Number | Percent |
|---|--------|---------|
| Built 1939 or earlier | 318 | 11.7% |
| Built 1940 to 1949 | 24 | 0.9% |
| Built 1950 to 1959 | 76 | 2.8% |
| Built 1960 to 1969 | 36 | 1.3% |
| Built 1970 to 1979 | 120 | 4.4% |
| Built 1980 to 1989 | 379 | 13.9% |
| Built 1990 to 1999 | 414 | 15.2% |
| Built 2000 to 2009 | 925 | 33.9% |
| Built 2010 or later | 49 | 1.7% |
| Total | 2,728 | 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 Upper Freehold is generally divided into three different unit types. Single-family detached homes comprise approximately 95.1% percent of the Township's housing stock, while a further 1.9 percent of all units were single-family attached homes. Multi-family residences made up 2.9 percent of the units in Upper Freehold. The median number of rooms per unit was 8.0.

TABLE 12: HOUSING UNITS BY TYPE, 2023

| Units in Structure | Total | Percent |
|--|-------|---------|
| Total | 2,728 | 100% |
| 1 Unit, detached | 2,596 | 95.1% |
| 1 Unit, attached | 52 | 1.9% |
| 2 Units | 47 | 1.7% |
| 3 or 4 Units | 0 | 0% |
| 5 to 9 Units | 0 | 0% |
| 10 to 19 Units | 0 | 0% |
| 20 Units or more | 33 | 1.2% |
| Mobile home | 0 | 0.00% |
| Boat, RV, van, etc. | 0 | 0.00% |
| Rooms | Total | Percent |
| 1 room | 0 | 0.0% |
| 2 rooms | 0 | 0.0% |
| 3 rooms | 54 | 1.9% |
| 4 rooms | 137 | 5.0% |
| 5 rooms | 147 | 5.4% |
| 6 or more rooms | 2,117 | 77.6% |
| Median number of rooms | 8.0 | |
| 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 owner-occupied housing units in Upper Freehold (75.9%) were valued at \$500,000 and greater. Table 13 provides a breakdown of home values for owner-occupied units within the Township. Only 43 owner-occupied housing units in Upper Freehold were worth less than \$100,000. The median value of an owner-occupied housing unit was \$685,900 at the time of the survey.

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

| | Upper Freehold | | Monmouth County | |
|--|----------------|------------|-----------------|------------|
| | Number | Percentage | Number | Percentage |
| Total | 2,415 | 100.0% | 188,578 | 100% |
| Less than \$50,000 | 0 | 0.0% | 3,202 | 1.7% |
| \$50,000 to \$99,999 | 43 | 1.7% | 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 | 64 | 2.6% | 12,780 | 6.8% |
| \$300,000 to \$499,999 | 476 | 19.7% | 55,119 | 29.2% |
| \$500,000 and greater | 1,832 | 75.9% | 110,217 | 58.4% |
| Median Value | \$685,900 | | \$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 all rental units in the Township carrying rental costs within the \$1,000 to \$1,999 range per month. At the time of the ACS 5-Year Estimates, the median gross rent in Upper Freehold was \$1,318. 0 units in the Township carried rental costs less than \$1,000 per month, and 0.9 percent of units did not require cash rent payments.

TABLE 14: GROSS RENT PAID

| | Upper Freehold | | Monmouth County | |
|--|----------------|------------|-----------------|------------|
| | Number | Percentage | Number | Percentage |
| Total Renter Occupied Units | 64 | 100.0% | 59,223 | 100% |
| Less than \$500 | 0 | 0.0% | 4,045 | 6.8% |
| \$500 to \$999 | 9 | 0.0% | 3,453 | 5.8% |
| \$1,000 to \$1,499 | 64 | 100.0% | 13,711 | 23.1% |
| \$1,500 to \$1,999 | 0 | 0.0% | 15,499 | 26.1% |
| \$2,000 to \$2,499 | 0 | 0.0% | 10,920 | 18.4% |
| \$2,500 to \$2,999 | 0 | 0.0% | 6,150 | 10.3% |
| \$3,000 or more | 0 | 0.0% | 5,445 | 9.1% |
| No cash rent | 21 | 0.9% | 2,394 | 4.0% |
| Median Contract Rent | \$1,318 | | \$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 Upper Freehold 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, 0.0 percent of occupied housing units experienced over-crowding, while 0.0 percent of occupied units lacked complete plumbing facilities and 0.0 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 | 0 | 0.0% |
| 1.51 or more occupants per room | 0 | 0.0% |
| Plumbing Facilities | | |
| Total Occupied Housing Units | 2,500 | 100.0% |
| Lacking complete plumbing facilities | 0 | 0.0% |
| Kitchen Equipment | | |
| Total Occupied Housing Units | 2,500 | 100.0% |
| Lacking complete kitchen facilities | 0 | 0.0% |
| U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP04) | | |

PROJECTED HOUSING STOCK

According to the New Jersey Department of Community Affairs, Upper Freehold has issued building permits for 1,200 residential dwelling units between 2000 and 2023. During that same time period, the Township issued 126 residential demolition permits, adding a total of 1,074 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 | 174 | 8 | 166 |
| 2001 | 213 | 7 | 206 |
| 2002 | 157 | 3 | 154 |
| 2003 | 159 | 4 | 155 |
| 2004 | 145 | 3 | 142 |
| 2005 | 72 | 3 | 69 |
| 2006 | 44 | 3 | 41 |
| 2007 | 32 | 5 | 27 |
| 2008 | 11 | 0 | 11 |
| 2009 | 7 | 1 | 6 |
| 2010 | 4 | 3 | 1 |
| 2011 | 14 | 3 | 11 |
| 2012 | 8 | 2 | 6 |
| 2013 | 8 | 6 | 2 |
| 2014 | 14 | 1 | 13 |
| 2015 | 13 | 0 | 13 |
| 2016 | 33 | 18 | 15 |
| 2017 | 49 | 33 | 16 |
| 2018 | 23 | 4 | 19 |
| 2019 | 3 | 0 | 3 |
| 2020 | 4 | 3 | 1 |
| 2021 | 4 | 3 | 1 |
| 2022 | 7 | 2 | 5 |
| 2023 | 6 | 11 | -5 |
| Total | 1,200 | 126 | 1,074 |
| 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 Township's working age population was 5,794 residents, Upper Freehold had an approximate labor force of 3,465 residents. Approximately 40.2 percent of the Township's working age residents were not participating in the labor force at the time of the estimates. The vast majority of the Township's labor force was employed in civilian jobs, while zero residents reported being members of the armed forces. Approximately 3.9 percent of the Township's residents reported being unemployed.

TABLE 17: EMPLOYMENT STATUS

| | Upper Freehold | | Monmouth County | |
|--|----------------|---------|-----------------|---------|
| | Number | Percent | Number | Percent |
| Population 16 years and over | 5,794 | 100.0% | 529,352 | 100.0% |
| In labor force | 3,465 | 59.8% | 349,815 | 66.08% |
| Civilian Labor Force | 3,465 | 59.8% | 349,355 | 65.9% |
| Employed | 3,234 | 55.8% | 331,018 | 62.5% |
| Unemployed | 231 | 3.9% | 18,337 | 3.1% |
| Armed Forces | 0 | 0.0% | 460 | 0.1% |
| Not in labor force | 2,329 | 40.2% | 176,537 | 33.3% |
| U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03) | | | | |

More than three quarters of the Township's workers were employed in private wage and salary positions, while 2.9 percent of workers are self-employed. Government workers comprise about 13.7 percent of the Township's workforce. Table 18 provides a breakdown of worker classifications.

TABLE 18: CLASSIFICATION OF WORKERS IN UPPER FREEHOLD, 2023

| | Number | Percent |
|--|--------|---------|
| Total | 3,234 | 100.0% |
| Private Wage and Salary Worker | 2,699 | 83.5% |
| Government Worker | 442 | 13.7% |
| Self-Employed Worker | 93 | 2.9% |
| Unpaid Family Worker | 0 | 0.0% |
| 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 Upper Freehold were involved in a range of economic sectors. As depicted in Table 19 below, the highest concentration of workers (19%) are employed in the educational, health care, and social services sectors. The professional, scientific, management, administrative and waste management services (16.6%) and manufacturing (12.6%) employ the next highest concentrations of Township workers respectively.

TABLE 19: WORKFORCE BY SECTOR

| Sector | Number | Percent |
|--|---------------|----------------|
| Civilian employed population 16 years and over | 3,234 | 100.0% |
| Agriculture, forestry, fishing and hunting, mining | 117 | 3.6% |
| Construction | 323 | 9.9% |
| Manufacturing | 407 | 12.6% |
| Wholesale Trade | 73 | 2.3% |
| Retail Trade | 151 | 4.7% |
| Transportation and Warehousing, and Utilities | 95 | 2.9% |
| Information | 60 | 1.9% |
| Finance and insurance, and real estate and rental and leasing | 373 | 11.5% |
| Professional, scientific, and management, and administrative and waste management services | 538 | 16.6% |
| Educational services, and health care and social assistance | 615 | 19.0% |
| Arts, entertainment, and recreation, and accommodation and food services | 190 | 5.9% |
| Other Services, except public administration | 69 | 2.1% |
| Public administration | 223 | 6.9% |
| U.S. Census Bureau, American Community Survey 2023 5-Year Estimates (table DP03) | | |

Table 20 provides a percentage comparison of the Township's workforce against that of the County. The largest percentage of both the Township's and County's workforce are employed in the 'educational, health care, and social services sector,' followed by the 'professional, scientific, management, administrative and waste management services sector.' However, higher percentages of the Township's workforce are employed in the 'manufacturing,' 'agriculture, forestry, fishing and hunting, mining,' and 'construction' sectors.

**TABLE 20: COMPARISON OF WORKFORCE BY SECTOR
UPPER FREEHOLD AND MONMOUTH COUNTY, 2023**

| Sector | Upper Freehold | Monmouth County |
|--|-----------------------|------------------------|
| Civilian employed population 16 years and over | 3,234 | 331,018 |
| Agriculture, forestry, fishing and hunting, mining | 3.6% | 0.4% |
| Construction | 9.9% | 6.9% |
| Manufacturing | 12.6% | 6.2% |
| Wholesale Trade | 2.3% | 2.4% |
| Retail Trade | 4.7% | 10.4% |
| Transportation and Warehousing, and Utilities | 2.9% | 4.4% |
| Information | 1.9% | 3.2% |
| Finance and insurance, and real estate and rental and leasing | 11.5% | 10.3% |
| Professional, scientific, and management, and administrative and waste management services | 16.6% | 15.5% |
| Educational services, and health care and social assistance | 19.0% | 24.3% |
| Arts, entertainment, and recreation, and accommodation and food services | 5.9% | 7.7% |
| Other Services, except public administration | 2.1% | 3.7% |
| Public administration | 6.9% | 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 Township's employed civilian labor force. Approximately 65.8 percent of the Township's employed civilian labor force was employed in management, business, science and arts occupations, while 14.5 percent of the Township's employed work force worked in sales and office occupations.

TABLE 211: OCCUPATIONS BY TYPE

| Occupation | Number | Percent |
|--|---------------|----------------|
| Employed Civilian population 16 years and over | 3,234 | 100.0% |
| Management, business, science and arts occupations | 2,128 | 65.8% |
| Service occupations | 203 | 6.3% |
| Sales and office occupations | 471 | 14.5% |
| Natural resources, construction and maintenance occupations | 308 | 9.5% |
| Production Transportation and material moving occupations | 124 | 3.8% |
| 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. Ambulatory Health Care Services, Transportation and Warehousing, and the Management of Companies and Enterprises 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 Township could accommodate developments that address affordable housing need. This analysis reviews the Township's existing zoning and planned zoning changes and outlines the Township'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 Township and anticipated land use patterns; and
- Factors, such as environmental conditions, that present constraints on development.

Infrastructure

Water and Sewer

The Township of Upper Freehold is not located within public water and sewer service areas. Due to the majority of the Township being in a rural area, most of the Township does not have access to a public water system and rely on individual wells and septic systems for wastewater management. This causes a major development constraint.

Anticipated Demand and Land Use Patterns

The Township of Upper Freehold is a rural, suburban community located in southwestern Monmouth County. Development within the Township consists mostly of farmland and low density single-family homes, small areas of commercial development located County Roads. According to NJTPA population estimates projected to 2050, it is anticipated that the Township's population will grow by approximately 41 people (0.8 percent) from 2023. Lack of public water and sewer are the largest contributing factor to development constraints within the Township.

Residential

Consistent with the unavailability of public water and sewer, the Township is predominantly zoned for low-density single family homes.

Non-Residential

Commercial, industrial and office uses tend to be concentrated in small pockets along major thoroughfares throughout Upper Freehold.

Environmental Constraints

The Township of Upper Freehold has many important and sensitive environmental features, including wooded areas, lake and creeks, and wetlands. In order for these environmentally sensitive features to retain their existing quality and perform vital ecosystem functions Te Township must be conscious of its role as steward of its natural environment. Areas with sensitive environmental features are not suitable for development and are usually a factor for development constraint.

Historic

There are three (3) properties in Upper Freehold eligible to be listed on the State or National Register of Historic Places. The first property is the Coward-Smith house, located in the southeastern portion of the Township. The second property is the Imlaystown Historic District or also referred to as Salter's Mill, located in the center eastern portion of the Township. The third and final property is the Upper Freehold Baptist Meeting, or also referred to as Ye Olde Yellow Meeting House, located in the eastern portion of Upper Freehold. Historic status is a source of development constraint in Upper Freehold.

Existing Land Use Designations

The Township's land use designations have been continually examined and updated through the Master Plan Reexamination process. The last Reexamination Report was adopted in 2017.

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

AR and RA-5

The AR Agricultural Residential Zone District comprises the majority of Upper Freehold Township and the RA-5 Rural Agricultural 5 Zone District is located northeast portion of the Township, north of US Route 195, near the border with Millstone. Permitted uses in these zones include detached single-family dwellings, farms, conservation areas, open space, public parks, public playgrounds, "public purpose uses," and other similar uses. Detached dwellings in these zones require a minimum of 6 acres in the AR zone and 10 acres in the RA-5 Zone District.

PEC

The PEC Parks, Education and Conservation Zone District is located in the northern portion of Upper Freehold, bordering Millstone Township and Roosevelt Borough, as well as a small area in the northwestern portion of the Township, bordering Allentown, and in areas of the central/ southern portion of the Twp. along Route 526, 27 and Route 539. Permitted uses include detached single-family dwelling units, farms, conservation areas, open apace, public parks, public playgrounds, "public purpose uses," and schools.

The Township has established the following mixed use Zone Districts, in which **residential uses are permitted by right**, as well as a variety of non-residential uses:

VN and VNH

The VVN Village Neighborhood and Village Neighborhood Hornerstown Zone Districts permit similar residential, agricultural, and open space uses as the AR and RA-5 Zones, as well as a number of professional office, personal service, and retail shops. The VN Zone is located in the central portion of Upper Freehold, at the intersection of Routs 526 and 43. The VNH is located in the southern portion of Upper Freehold, bordering Plumsted Township in Ocean County, along Route 537 and 27.

HD

The HD Highway Development Zone District permits farms and agricultural support use as well as a variety of commercial, office, and other non-residential uses. Additionally, residential uses are permitted above retail uses, banks, offices, restaurants, child-care centers and/or small animal clinics located on the first floor. The HD Zone is located in the northwest corner of Upper Freehold, both north and south of US Route 195, bordering Allentown Borough south of 195 and Washington Township north of 195. The HD Zone is also located along Route 537, bordering Plumsted Township to the south.

CC

The CC Community Commercial Zone District is located in three (3) areas of Upper Freehold. The Tier 3 CC Zone is in the upper central portion of Upper Freehold, to the east of the ROM Zone District along Route 524 and is intend to provide for lower-intensity commercial development. The Tier 2 CC Zone is located in the southern portion of the Township along Route 539, at the intersection with Route 27 with the purpose to promote medium intensive commercial development and provide community commercial uses intended to serve the local area. The Tier 1 CC Zone is located in the northwestern portion of the Township on Yardville-Allentown Road, bordering Hamilton Township. The purpose of the Community Commercial Tier One CC-1 is to promote a higher intensity commercial development located proximate to major highway access.

All three (3) tiers of CC Community Commercial Zones permit all uses in the HD Zone District, as well as a variety of additional non-residential zones, varying based on the CC Tier.

The Township has created a number of Affordable Housing Zones to **permit housing units with required affordable housing components and help to meet its affordable housing obligations** if/when water and/or sewer become available. The following zones were created to allow for affordable housing:

Inclusionary Housing Development

This Zone consists of Block 26, Lot 1 and allows that if an inclusionary development is

constructed on Lot 1, Lot 3 will receive three (3) additional acres for the purposes of calculating maximum square footage of nonresidential space.

Affordable Housing Overlay Zone Districts -1, -2, -3, and -4

These overlay zones allow for the creation of inclusionary affordable developments in accordance with the Township's executed Settlement Agreement for the Third Round.

Certain zones in the Township of Upper Freehold that **do not permit residential uses** at all, as summarized below:

ROM Research, Office & Manufacturing

The ROM Research Office and Manufacturing Zone is located along County Route 524 in the center of the Township and permits farms, agriculture support uses, conservation areas, open space, public parks, playgrounds, "public purpose uses, " offices and office buildings, research laboratories, limited manufacturing, hotels and motels, child care centers, and "research, office & manufacturing parks."

GI General Industrial

The GI General Industrial Zone District is located in the center of the Township, southeast of the intersection of County Route 526 and Sharon Station Road. Principally permitted uses in this zone include offices and office buildings, research laboratories, limited manufacturing, warehouses and assembly & distribution Centers, agricultural support uses including, land excavation, repair shops for appliances, machines and engines, and child care centers.

Consistency with the State Plan

The Township of Upper Freehold is located within the PA4 Rural Planning Area in the New Jersey State Development and Redevelopment Plan (SDRP). The goal of the PA4 Planning Area is to maintain the environs as large contiguous areas of farmland and other lands; revitalize cities and towns; accommodate growth in Centers; promote a viable agricultural industry; protect the character of existing stable communities; and confine programmed sewers and public water services to Centers.

Upper Freehold continues to follow NJDEP requirements regarding stormwater management. Upper Freehold had previously been designated as Tier B municipality under the Municipal Separate Storm Sewer System (MS4) permit program. However, in 2023 all municipalities in New Jersey were reassigned to Tier A to improve water quality and flood resilience. The Township is still working towards meeting all Tier A compliance requirements within the NJDEP stipulated timelines.

FAIR SHARE PLAN

Fair Share Obligation Summary

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

TABLE 23: FAIR SHARE OBLIGATION SUMMARY

| Obligation Component | Number of Credits Required |
|--|-----------------------------------|
| Present Need | 15 |
| Prior Round Obligation (1987-1999) | 43 |
| Third Round “Gap” and Prospective Need (1999-2025) | 193 |
| Fourth Round Prospective Need (2025-2035) | 70 |

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

Durational Adjustment

Given the Township’s lack of access of public water and sewer support, the Township’s ability to satisfy its Court determined affordable housing obligation is limited.

There are two (2) developments within Upper Freehold that have private sanitary sewer systems, Four Seasons and Heritage Green. These are not municipal systems and were specifically designed for the developments in which they serve. Additional lots have been identified on the border of Allentown that are connected to Allentown’s sewer systems and are noted on the County Wastewater Management Plan. However, requests to expand the Allentown sewer system have been denied due to a lack of sufficient capacity to accept flow. Upper Freehold has also requested Hamilton Township to extend their sewer into Upper Freehold and has been advised that Hamilton would be unable to do so. Robbinsville was receives their sewer service from Hamilton Township, and as such, is not able to extend sewer capacity to Upper Freehold. Given that Hamilton has previously denied requests for sewer service to Upper Freehold it is considered that further discussions with Robbinsville and/ or Hamilton would not result in new sewer service to Upper Freehold.

Alternative options, such as a package plant or other neighboring municipalities are considered too costly or impractical to pursue. AS such, there are no feasible sanitary sewer systems to extend into Upper Freehold at this time.

The 2025 Monmouth County Future Wastewater Service Area Map, does not indicate any areas of sewer service within Upper Freehold, with the exception of those few lots serviced by Allentown, as identified above.

Upper Freehold will comply with the applicable COAH rules regarding durational adjustments in order to satisfy the Fourth Round Obligation. As per N.J.A.C 5:93-4.3(c), “the lack of adequate capacity, in and of itself shall constitute a duration adjustment of the municipal housing obligation. The requirement to address the municipal housing obligation shall be deferred until adequate water and/or sewer are made available.” The Township commits to complying with the requirements of N.J.A.C 5:93-4.3(c), as stated:

1. Notwithstanding the lack of adequate water and/or sewer at the time a municipality petitions for substantive certification, the municipality shall reserve and set aside new water and/or sewer capacity, when it becomes available, for low and moderate income housing, on a priority basis.
2. Municipal officials shall endorse all applications to the DEP or its agent to provide water and/or sewer capacity. Such endorsements shall be simultaneously submitted to the Council.
3. Where the DEP or its designated agent approves a proposal to provide infrastructure to a site for the development of low and moderate income housing identified in the housing element, the municipality shall permit such development; and
4. Where a municipality has designated sites for low and moderate income housing that lack adequate water and/or sewer and where the DEP or its designated agent approves a proposal to provide water and/or sewer to a site other than those designated for the development of low and moderate income housing in the housing element, the municipality shall amend its housing element and fair share housing ordinance to permit development of such site for low and moderate income housing. The amended housing element and fair share housing ordinance shall be submitted to the Council within 90 days of the site’s approval by the DEP or its agent. The Council may waive these requirements when it determines that the municipality has a plan that will provide water and/or sewer to sufficient sites to address the municipal housing obligation within the substantive certification period.

Prior Round Obligation Summary

The Township of Upper Freehold has a prior round obligation of 43 units, which is met through the following compliance methods:

- 2 Accessory Apartment units
- 22 RCA Units
- 3 Market to Affordable or Habitat units
- Supportive/Special Needs units - 8 units + 8 bonus credits

Third Round Obligation Summary

The Township of Upper Freehold has a Third Round Obligation of 193 units. The Township received a durational adjustment as per N.J.A.C 5:93-4.3(c) through the Settlement

Agreement with Fair Share Housing Center.

The Township has implemented the following mechanisms to address its Third Round prospective need:

TABLE 24: THIRD ROUND OBLIGATION SUMMARY

| Mechanism | Units | Description |
|--|---|---|
| Market to Affordable Program and/or Habitat for Humanity | 4 | Four (4) units applied to the Prospective Need + Gap Obligation. |
| Overlay Zone Block 26, Lot 3 | 67 for sale; or 72 rental units + 40 bonus | The total area of Block 26 Lot 1 is 47.67 acres. The Township has provided overlay zoning permitting 334 total units, including 67, or 20% affordable for sale units; or overlay zoning permitting 477 rental units including 72, or 15% affordable rental units. |
| Overlay Zone Block 15, Lot 36.01 | 51 for sale or 55 rental units+ 40 bonus | The total area of Block 15 Lot 36.01 is 36.7 acres. The Township provided overlay zoning permitting 257 total units, including 51, or 20% affordable for sale units; or overlay zoning permitting 367 rental units including 55 or 15% affordable rental units. |
| Overlay Zone Block 26, Lot 1 | 15 for sale or 21 + 21 bonus | The total area of Block 26 Lot 1 is 12.48 acres. The Township has provided overlay zoning permitting 75 total units, including 15 or 20% affordable for sale units; or overlay zoning permitting 137 rental units including 21, or 15% affordable rental units. |
| Overlay Zone Block 23.02, Lot 21.01 | 7 for sale or 9 + 9 bonus | The total area of Block 23.02 Lot 21.01 is 6.19 acres. The Township has provided overlay zoning permitting 37 total units, including 10, or 20% affordable for sale units; or overlay zoning permitting 62 rental units including 9, or 15% affordable rental units. |
| Overlay Zone Block 15, Lot 37.06 | 6+6 bonus | The total area of Block 15 Lot 37.06 is 3.746 acres. The property owner has provided a letter of intent to develop the parcel for affordable rental housing. The Township has provided overlay zoning permitting 37 rental units including 6, or 15% affordable rental units. T |
| Overlay Zone Block 15, Lot 37.03 | 3+3 bonus | The total area of Block 15 Lot 37.03 is 2.0 acres. The property owner has provided a letter of intent to develop the parcel for affordable rental housing. The Township has provided overlay zoning permitting 20 rental units including 3 or 15% affordable rental units. T |
| Overlay Zone Block 15, Lot 37.04 | 4+4 bonus | The total area of Block 15 Lot 37.04 is 2.341 acres. The property owner has provided a letter |

| | | |
|------------------------------------|------------------------------------|--|
| | | of intent to develop the parcel for affordable rental housing. The Township has provided overlay zoning permitting 23 rental units including 4, or 15% affordable rental units. |
| Overlay Zone Block 15, Lot 38 | 13 for sale or 17 + 17 bonus | The total area of Block 15 Lot 38 is 11.2 acres. The Township has provided overlay zoning permitting 67 total units, including 13 or 20% affordable for-sale units; or overlay zoning permitting rental 112 units including 17, or 15% affordable rental units. |
| Overlay Zone Block 15.02, Lot 2 | 3+3 bonus | The total area of Block 15.02 Lot 2 is 1.855 acres. The property owner has provided a letter of intent to develop the parcel for affordable rental housing. The Township has provided overlay zoning permitting 19 rental units including 3 or 15% affordable rental units. |
| Overlay Zone Block 15.02, Lot 3 | 2+2 bonus | The total area of Block 15.02 Lot 3 is 1.236 acres. The property owner has provided a letter of intent to develop the parcel for affordable rental housing. The Township has provided overlay zoning permitting 12 rental units including 2 or 15% affordable family or age-restricted rental units. |

The Township shall reserve and set aside new water and/or sewer capacity, when it becomes available, for low and moderate-income housing on the site identified on the chart above that have been rezoned for inclusionary multifamily development, on a priority basis. Municipal officials shall endorse all applications to the Department of Environmental Protection (DEP) or its agent to provide water and/or sewer capacity, which shall include, but is not limited to, applications for centralized on-site alternative wastewater treatment options approved by the NJDEP, for the sites designated pursuant to the below-listed sites.

Fourth Round Obligation Summary

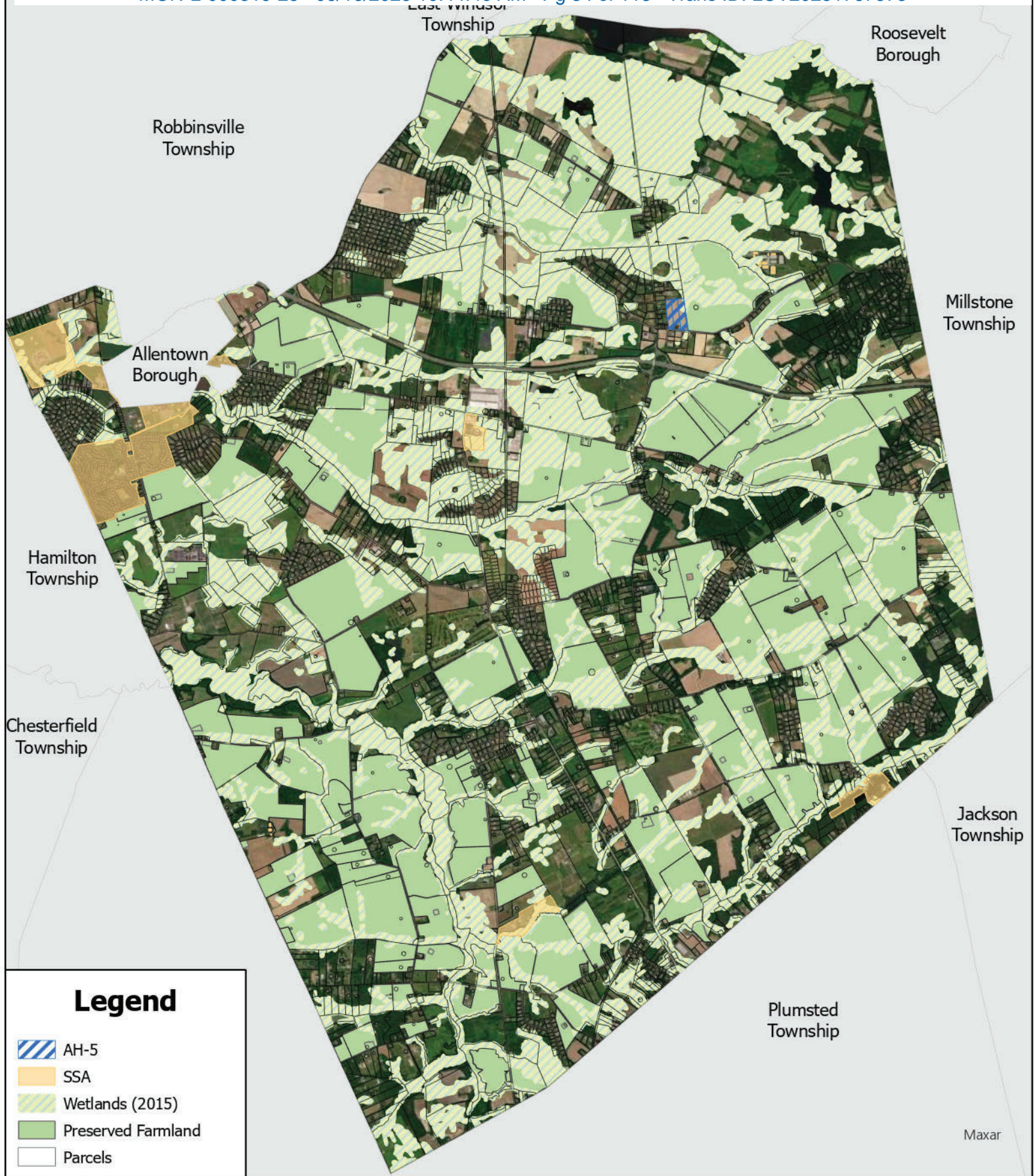
The Township's Fourth Round Prospective Need (2025-2035) Obligation is 70 units. Due to the continued lack of water and sewer to support inclusionary development, the Township will continue to seek a durational adjustment as per N.J.A.C 5:93-4.3(c) until the time at which adequate water and sewer are made available. Upper Freehold has designated the following site that currently lacks adequate water and sewer service to be rezoned for inclusionary residential multifamily development, as follows:

Block 14, Lots 7.12, 7.13, and 7.14

This site consists of approximately 26 acres and is located at 684 Route 524. The property is currently farmed and located within the AR Agricultural Residential Zone District. Upper Freehold is proposing to create a new AH-5 Affordable Housing Overlay Zone District for this property.

APPENDICES

Appendix A. Proposed Affordable Housing Zone Locations



Leon S. Avakian, Inc
Consulting Engineers

Proposed New Affordable Housing Overlay Zone Upper Freehold Township Monmouth County, New Jersey

Source: LSA, NJGIN, and
Monmouth County GIS
Created: June 1, 2025

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

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Appendix B. Spending Plan

TOWNSHIP OF UPPER FREEHOLD AFFORDABLE HOUSING TRUST FUND SPENDING PLAN

The Township of Upper Freehold has a history of compliance with its Mount Laurel affordable housing obligation and has previously implemented all necessary ordinances for establishing an affordable housing trust fund financed through the collection of mandatory development fees to assist in accomplishing the provision of affordable housing.

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

The Township's existing development fee ordinance, codified as Chapter 35, Section 606.19 of the Township's General Legislation, will be updated and continue to require and regulate the collection of residential and non-residential development fees as revenue for the Township's affordable housing trust fund. The sections below outline the Township'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 2035

A projection of anticipated revenues to be collected during the tenure of the Fourth Round has been calculated based on historical annualized trends in the amount of development fees collected to date.

As of December 31, 2024, the Township had a balance of \$2,510,208.56 in the trust fund account. In 2024, the Township expended \$22,925.61 and generated \$64,202.00 in revenue. This figure, in combination with the fund's interest rate, provides a reasonable estimate for anticipated annual development fee revenues through 2035.

The Township of Upper Freehold projects a total of \$1,210,727.77 in revenue and interest to be collected from January 1, 2025, to December 31, 2035. This projected amount, when added to the trust fund balance from December 31, 2024, results in an anticipated total revenue of \$3,720,936.33 available to fund and administer the Township's affordable housing plan and programs. All interest earned on the account shall accrue to the account and be used only for the purposes of affordable housing. See the Projected Revenues Table, appended to the end of this Spending Plan.

II. Administrative Mechanisms for Collecting and Distributing Revenues

The Township's existing Development Fee Ordinance is recorded in Chapter 35, Section 606.19 of Upper Freehold's General Legislation. Procedures for collection, administration, and distribution of development fees as affordable housing trust fund revenues are fully established in this section. The Township'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.

All development fees are deposited in a separate affordable housing trust fund held in an account at Provident Bank. Per stipulations in the Development Fee Ordinance the account and the record of distribution of funds is maintained by the Township's Chief Financial Officer.

III. Anticipated Use of Development Fees

As per the Township'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

The Township of Upper Freehold will dedicate \$600,000 towards rehabilitation opportunities.

Rehabilitation Program

The Township anticipates dedicating \$600,000 to its rehabilitation program. As discussed in the Housing Element and Fair Share Plan, Upper Freehold has a rehabilitation present need obligation of 15 units. To address this need, the Township plans to provide eligible households with the equivalent grant funding to meet this obligation at an estimated cost of \$40,000 per grant. The Township anticipates rehabilitating an average of two (2) units per year for the first four (4) years, and one (1) unit per year for the remaining seven (7) years to satisfy its rehabilitation obligation. See the Projected Expenditures table appended to the end of this spending plan for a yearly breakdown of rehabilitation program expenditures.

Upper Freehold's Rehabilitation Program is managed by the Upper Freehold Township Affordable Housing Administrative Agent. The availability of the program shall be advertised continually on the Township's website.

(B) Affordability Assistance Requirement

As per the requirements of N.J.A.C. 5:93-8.16, at least thirty (30%) percent of all development fees and interest earned shall be used to provide low- and moderate-income households in affordable units with affordability assistance. One-third of the required affordability assistance shall specifically be used to provide affordability assistance to very low-income households (i.e. those households earning thirty percent or less of regional median income). The Township anticipates using a minimum of \$1,116,280.90 from the Affordable Housing Trust Fund towards affordability assistance.

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

Table 1. Minimum Affordability Assistance

| | |
|---|------------------------|
| Trust fund balance as of 01/01/25 | \$ 2,510,208.56 |
| Projected development fees plus interest, 2025-2035 | \$ 1,210,727.77 |
| PROJECTED TOTAL | \$ 3,720,936.33 |
| | |
| Projected minimum affordability assistance requirement (30%) | \$ 1,116,280.90 |
| Projected minimum required for very low-income households (1/3 of total affordability assistance) | \$ 372,093.63 |

(C) Administrative Expenses

Upper Freehold Township 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, to the extent that funds are available after funding the programs outlined above, the Township can use up to twenty (20%) percent of all revenues collected from development fees on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, rehabilitation program, a Housing Element and Fair Share Plan, an affirmative marketing program, income qualification of households, monitoring the turnover of sale and rental units, and/or compliance with monitoring requirements.

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

Table 2. Maximum Administrative Expenditures

| | |
|---|------------------------|
| Trust fund balance as of 01/01/25 | \$ 2,510,208.56 |
| Projected development fees plus interest, 2025-2035 | \$ 1,210,727.77 |
| PROJECTED TOTAL | \$ 3,720,936.33 |
| | |
| Projected maximum administrative expenditures (20%) | \$ 744,187.27 |

Through 2035, Upper Freehold anticipates using a total of \$744,140.00 of the maximum allowable \$744,187.27 for administrative expenses.

IV. Schedule for New or Rehabilitated Housing Units

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

V. Implementation in the Event of Unexpected Shortfalls

The Township of Upper Freehold 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 Township will fill gaps in funding through municipal bond. Any excess funds shall be put toward additional affordability assistance measures.

VI. In Sum

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

Appendix C. Proposed AH-5 Overlay

§ 35-416. AFFORDABLE HOUSING OVERLAY ZONE DISTRICT - 5.

- A. Purpose. In order to meet its Fourth Round Fair Share Housing Obligation, the Township created an affordable housing overlay zoning district on certain lands in the "AR" Agricultural Residential Zoning District permitting the construction of inclusionary developments which include an affordable housing set-aside affordable in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.
- B. Property Description.
 1. The following properties subject to this overlay include:
 - a. Block 14/Lots 7.12, 7.13, and 7.14
- C. Principal Uses Permitted and Required on the Land and in Buildings.
 1. Apartments.
 2. Townhomes.
- D. Accessory Uses Permitted.
 1. Common recreational facilities, recreation centers and/or clubhouses as specifically approved by the Planning Board within specified open space areas in order to satisfy the needs of the residential population of the development.
 2. Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses, as the case may be.
 3. Underground sprinkler systems, provided that the water spray does not extend beyond the landscaped areas or beyond property lines.
 4. Fences and walls shall only be permitted if specifically proposed by the developer and approved by the Planning Board as part of the site plan approval and/or if a standard for the location and type of the fences and/or walls has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents (see § 35-505 for design requirements).
 5. Patios and decks in the rear yard areas of a townhouse dwelling unit, provided that no patio or deck shall be permitted unless a standard for such patios and/or decks has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents.
 6. Off-street car parking and private garages (see Subsection 35-411I herein below for zoning requirements and § 35-511 for design requirements).

7. Signs (see Subsection 35-411K herein below for zoning requirements and § 35-516 for design requirements).
8. Temporary construction trailers and one sign not exceeding 32 square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding one month after the issuance of a certificate of occupancy, provided said trailer(s) and sign are on the site where the construction is taking place, are not on any existing or proposed street or easement, and are set back at least 30 feet from all street and property lines. There shall be at least one working telephone in the trailer.
9. Bicycle parking and related facilities are encouraged.

E. Development Standards.

1. The standards contained in the Affordable Housing Overlay shall supersede the existing AR district standards for density, area, yard, frontage, height, and other bulk requirements. The remaining provisions of the Upper Freehold Township Land Use and Zoning regulations shall apply as appropriate.
 - a. Maximum Building Heights.
 - 1) No principal townhouse or apartment building shall exceed 35 feet in height and 2 1/2 stories.
 - 2) No recreation center building or clubhouse building shall exceed 32 feet in height and 2 1/2 stories.
 - 3) No other accessory building, as may be approved by the Planning Board, shall exceed 25 feet in height and 1 1/2 stories.
 - 4) See Subsection 35-402C for permitted exceptions.
 - b. Yard and Distance Requirements.
 - 1) The minimum distance between any buildings shall be 20 feet.
 - 2) The minimum setback from the tract boundary line for any parking area, loading area, internal roadway or drive aisle, except fencing integrated with the landscaping plan, shall be 20 feet.
 - 3) For townhouse fee simple lots and buildings, a minimum twenty-foot front and rear yard area shall be provided.
 - c. Requirements for Buildings.
 - 1) The exteriors of all buildings in a development, including any accessory buildings, shall be architecturally compatible and shall be constructed of complementary materials.

- 2) Where a building faces a street, driveway or off-street parking area, the building also shall have a front facade facing the street, driveway or off-street parking area.
 - 3) All buildings shall have a dual-pitched, single-ridge roof (such as gable, hip, gambrel or mansard roof) with a minimum pitch of one foot vertical to 12 feet horizontal, and no flat roof shall be permitted.
 - 4) The mechanical equipment serving the building(s) shall be screened from public view by the design of the building and/or by landscaping features integrated with the overall design of the building(s).
 - 5) Efforts should be made to avoid concentrating affordable housing units within a single building, separate from market rate units.
- d. Off-Street Parking, Private Garages, Driveways and Off-Street Loading.
- 1) Notwithstanding any other ordinance provisions to the contrary, each individual use shall be provided off-street parking spaces according to the following minimum provisions, provided that, in accordance with the Residential Site Improvement Standards (RSIS), the Planning Board can grant a de minimus exception and design waiver for a lesser number of parking spaces if the applicant can demonstrate that a lesser number of spaces is sufficient.
 - (a) Townhouses shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.3 spaces for each two-bedroom unit, and 2.4 spaces for each three-bedroom townhouse unit. Where the bedroom count per dwelling unit is not specified, 2.3 spaces per unit shall be provided.
 - (b) Apartments shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.0 spaces for each two-bedroom unit, and 2.1 spaces for each three-bedroom apartment unit. Where the bedroom count per dwelling unit is not specified, 2.0 spaces per unit shall be provided.
 - (c) For any residential unit, each garage space shall be counted as 1.0 off-street parking space, regardless of the length of the driveway.
 - [1] A one-car garage and driveway combination shall count as two off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.
 - [2] A two-car garage and driveway combination shall count as

3 1/2 off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 20 feet in width for a minimum 18 feet in length between the face of the garage door and the right- of-way or between the face of the garage door and a sidewalk, whichever distance is less.

- 2) All off-street parking spaces shall be located within 150 feet of the nearest building entrance of the townhouse unit or the apartment building for which the spaces are provided.
- 3) No residential dwelling unit shall have direct vehicular access to Route 524.

e. Density Requirements.

- 1) On Block 14, Lots 7.12, 7.13, and 7.14, a maximum density of 11 dwelling units per acre shall be permitted for rental housing, and/or a maximum density of six dwelling units per acre for for-sale housing.

F. Affordable Housing Requirements.

1. At least 15% of all rental units shall be set aside for affordable housing as defined in N.J.A.C 5:97.⁴
2. At least 20% of all for-sale units shall be set aside for affordable housing as defined in N.J.A.C 5:97.⁵
3. At least 50% of the affordable units shall be affordable to very-low- and low-income households. If only one affordable unit is created in a project, the unit shall be a very- low- or low-income unit.
4. At least 13% of the total number of affordable rental units shall be affordable to very- low-income households.
5. The affordable units shall be affirmatively marketed to the housing region in accordance with the Township's Affirmative Marketing Plan.
6. Affordability controls shall be maintained for a minimum of 30 years.
7. Rental increases shall be in accordance with percentage approved by COAH and/or its successors and assigned pursuant to applicable laws.
8. All affordable units shall be subject to the provisions of the Township's Affordable Housing Ordinance.

G. Trash and Recycling Requirements. Unless the curbside pickup of trash and recyclable materials is proposed by the applicant and approved by the Planning Board, an indoor or outdoor recycling area for the collection and storage of trash and

recyclable materials shall be provided as follows:

1. The trash and recyclable material collection and pickup location shall be provided either within the building being served or in a nearby location outside the building.
2. If located outside the building, the trash and recyclable materials area shall include a steel-like, totally enclosed trash and garbage container and recyclable bins and shall be located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence or wall finished with materials used to construct the building(s) being served.
3. The dimension of the recycling area shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c.102 (N.J.S.A. 13:1E-99.13), as amended, and shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection.
4. The area provided for the collection and pickup of recyclable materials shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
5. The area provided for the collection and pickup of recyclable materials, and the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.
6. Signs clearly identifying the area provided for the collection and pickup of recyclable materials shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
7. Landscaping, at least six feet in height at maturity, shall be provided around any outdoor trash or recycling area.

H. Permitted Signage.

1. One ground-mounted freestanding sign identifying the name of the development no larger than 50 square feet shall be permitted at the entrance to the development from Route 539.
 - a. The sign shall not exceed 10 feet in height and shall be set back at least 10 feet from all street and property lines.

- b. Any sign illumination shall be external to the sign and shall be designed and oriented to prevent any sight of the lamp from any street or neighboring properties.
 2. Additional signage within the interior of the site may be approved by the Planning Board for directional purposes or for other good cause shown by the applicant as part of the site plan approval.
 - I. Required Recreational Facilities. The development shall provide on-site recreational amenities within the specified open space in order to satisfy the needs of the anticipated residential population of the development.
 1. For Block 14, Lots 7.12, 7.13, 7.14, a minimum area of 5% of the developable area, being at least 50 feet in width with a grade less than 5%, shall be required to be developed for active recreation.
 2. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey.
 - J. General Requirements.
 1. Any development shall be planned and developed with a common architectural theme which shall be subject to review and approval by the Planning Board; the architectural theme shall include the appearance of buildings, signs, fencing, lighting, paving, curbing, and landscaping.
 2. No development or improvements shall be constructed on any critical areas on the property.
 3. Any development shall require that adequate sewage treatment and potable water facilities be provided.
 4. No construction permit shall be issued for any dwelling unit, an addition thereto, or for an accessory structure unless the proposed construction is in accordance with the site plan as approved by the Planning Board. After the initial approval of the site plan, no application for a construction permit will be accepted by the Township for processing unless the application is accompanied by a statement from the master association that the proposed construction has been approved by the master association.
 5. All portions of the tract not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition.

Appendix D. Existing Affordable Housing Overlay Zones

§ 35-411. INCLUSIONARY HOUSING DEVELOPMENT. [Ord. No. 246-11 § 2]**A. Purpose.**

In accordance with N.J.A.C. 5:97-6.4 of COAH's "Third Round Substantive Rules," an "Inclusionary Housing Development" is permitted on certain lands in the "HD" Highway Development Zoning District for the construction of affordable housing units in accordance with the rules of the New Jersey Council On Affordable Housing (COAH) for a site specific "Zoning For Inclusionary Development."

B. Property Description.

1. Based upon Upper Freehold Township Tax Map information, the subject property contains approximately 12.48 acres of land situated within the northwest quadrant of the I-195/Route 539 interchange (i.e. Exit 8).
2. The property is identified as Block 26/Lot 1 on the Upper Freehold Township Tax Maps.

C. Transfer Of "HD" Development Rights From Lot 1 to Adjacent Lot 3.

1. The subject property is situated within the "HD" Highway Development zoning district which permits a variety of nonresidential uses at a floor/area ratio (FAR) of 0.20 for Individual Uses and 0.25 for Shopping Centers.
2. In order to provide added financial incentive for the construction of an Inclusionary Housing Development on Lot 1, it is intended that the "HD" development rights of the subject property not be entirely extinguished with the construction of the "Inclusionary Housing Development," but that, instead, approximately 25% of the "HD" development rights be transferred to the adjacent property (i.e. Block 26/Lot 3), also situated within the northwest quadrant of the I-195/Route 539 interchange.
3. Therefore, while Lot 3 contains approximately 47.67 acres in accordance with Upper Freehold Tax Map information, if an inclusionary development is constructed on Lot 1, three acres of the approximately 12.48 acres of Lot 1 will be added to the acreage of Lot 3 for the purposes of calculating the maximum square footage of nonresidential space that will be permitted to be developed on Lot 3.

D. Principal Uses Permitted And Required On The Land And In Buildings.

1. A total of 85 apartment and/or townhouse units must be constructed within the inclusionary development on Lot 1.
 - a. Assuming that Lot 1 contains 12.48 acres, the density computes to approximately 6.81 dwelling units per acre.
 - b. With a subtraction of the three acres of Lot 1 transferred to Lot 3 for square footage calculation purposes, the net 9.48 acres of Lot 1 computes to a density of approximately 8.97 dwelling units per acre.
2. Of the total 85 units, at least 20%, or 17 units, must be set aside for occupancy by

eligible COAH qualified households.

3. The affordable units shall comply with COAH's rules regarding bedroom distribution, accessibility requirements, and all applicable requirements of the "Third Round Substantive Rules" of the New Jersey Council On Affordable Housing (COAH) and the "Uniform Housing Affordability Controls" (N.J.A.C. 5:80-26-1 et seq.), as may be amended or replaced by new legislation.

E. Accessory Uses Permitted.

1. Common recreational facilities, recreation centers and/or clubhouses as specifically approved by the Planning Board within specified open space areas in order to satisfy the needs of the residential population of the development.
2. Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses, as the case may be.
3. Underground sprinkler systems, provided that the water spray does not extend beyond the landscaped areas or beyond property lines.
4. Fences and walls shall only be permitted if specifically proposed by the developer and approved by the Planning Board as part of the site plan approval and/or if a standard for the location and type of the fences and/or walls has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents (see § 35-505 for design requirements).
5. Patios and decks in the rear yard areas of a townhouse dwelling unit, provided that no patio or deck shall be permitted unless a standard for such patios and/or decks has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents.
6. Off-street parking and private garages (see Subsection 35-411I hereinbelow for zoning requirements and § 35-511 for design requirements).
7. Signs (see Subsection 35-411K hereinbelow for zoning requirements and § 35-516 for design requirements).
8. Temporary construction trailers and one sign not exceeding 32 square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding one month after the issuance of a Certificate of Occupancy, provided said trailer(s) and sign are on the site where the construction is taking place, are not on any existing or proposed street or easement, and are set back at least 30 feet from all street and property lines. There shall be at least one working telephone in the trailer.

F. Maximum Building Heights.

1. No principal townhouse or apartment building shall exceed 35 feet in height and 2.5 stories.
2. No recreation center building or clubhouse building shall exceed 32 feet in height and

2.5 stories.

3. No other accessory building, as may be approved by the Planning Board, shall exceed 25 feet in height and 1.5 stories.
4. See Subsection 35-402C for permitted exceptions.

G. Yard and Distance Requirements.

1. The minimum distance between any buildings shall be 20 feet.
2. The minimum setback from the tract boundary line for any parking area, loading area, internal roadway or drive aisle, except fencing integrated with the landscaping plan, shall be 20 feet.
3. For townhouse fee simple lots and buildings, a minimum twenty-foot front and rear yard area shall be provided.

H. Requirements For Buildings.

1. The exteriors of all buildings in a development, including any accessory buildings, shall be architecturally compatible and shall be constructed of complementary materials.
2. Where a building faces a street, driveway or off-street parking area, the building also shall have a front facade facing the street, driveway or off-street parking area.
3. All buildings shall have a dual pitched, single ridge roof (such as gable, hip, gambrel or mansard roof) with a minimum pitch of one foot vertical to 12 feet horizontal, and no flat roof shall be permitted.
4. The mechanical equipment serving the building(s) shall be screened from public view by the design of the building and/or by landscaping features integrated with the overall design of the building(s).

I. Off-Street Parking, Private Garages, Driveways And Off-Street Loading.

1. Notwithstanding any other ordinance provisions to the contrary, each individual use shall be provided off-street parking spaces according to the following minimum provisions, provided that, in accordance with the Residential Site Improvement Standards (RSIS), the Planning Board can grant a de minimus exception and design waiver for a lesser number of parking spaces if the applicant can demonstrate that a lesser number of spaces is sufficient.
 - a. Townhouses shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.3 spaces for each two-bedroom unit, and 2.4 spaces for each three-bedroom townhouse unit. Where the bedroom count per dwelling unit is not specified, 2.3 spaces per unit shall be provided.
 - b. Apartments shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.0 spaces for each two-bedroom unit, and 2.1 spaces for each three-bedroom apartment unit. Where the bedroom count per dwelling unit is not specified, 2.0 spaces per unit shall be provided.

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- c. For any residential unit, each garage space shall be counted as 1.0 off-street parking space, regardless of the length of the driveway.
 - (1) A one-car garage and driveway combination shall count as two off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.
 - (2) A two-car garage and driveway combination shall count as 3 1/2 off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 20 feet in width for a minimum 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.
2. All off-street parking spaces shall be located within 150 feet of the nearest building entrance of the townhouse unit or the apartment building for which the spaces are provided.
3. No residential dwelling unit shall have direct vehicular access to Route 539.

J. Trash And Recycling Requirements.

Unless the curbside pickup of trash and recyclable materials is proposed by the applicant and approved by the Planning Board, an indoor or outdoor recycling area for the collection and storage of trash and recyclable materials shall be provided as follows:

1. The trash and recyclable material collection and pickup location shall be provided either within the building being served or in a nearby location outside the building.
2. If located outside the building, the trash and recyclable materials area shall include a steel-like, totally enclosed trash and garbage container and recyclable bins and shall be located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence or wall finished with materials used to construct the building(s) being served.
3. The dimension of the recycling area shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c.102 (N.J.S.A. 13:1E-99.13), as amended, and shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection.
4. The area provided for the collection and pickup of recyclable materials shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
5. The area provided for the collection and pickup of recyclable materials, and the bins or

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containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.

6. Signs clearly identifying the area provided for the collection and pickup of recyclable materials shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
7. Landscaping, at least six feet in height at maturity, shall be provided around any outdoor trash or recycling area.

K. Permitted Signage.

1. One ground-mounted freestanding sign identifying the name of the development no larger than 50 square feet shall be permitted at the entrance to the development from Route 539.
 - a. The sign shall not exceed 10 feet in height and shall be set back at least 10 feet from all street and property lines.
 - b. Any sign illumination shall be external to the sign and shall be designed and oriented to prevent any sight of the lamp from any street or neighboring properties.
2. Additional signage within the interior of the site may be approved by the Planning Board for directional purposes or for other good cause shown by the applicant as part of the site plan approval.

L. Required Recreational Facilities.

The development shall provide on-site recreational amenities within the specified open space in order to satisfy the needs of the anticipated residential population of the development.

1. A minimum area of 5,000 square feet in size, at least 50 feet in width with a grade less than 5%, is required to be developed for active recreation.
2. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey.

M. General Requirements.

1. Any development shall be planned and developed with a common architectural theme which shall be subject to review and approval by the Planning Board; the architectural theme shall include the appearance of buildings, signs, fencing, lighting, paving, curbing, and landscaping.
2. No development or improvements shall be constructed on any "critical areas" on the property.
3. Any development shall require that adequate sewage treatment and potable water

facilities be provided.

4. No construction permit shall be issued for any dwelling unit, an addition thereto, or for an accessory structure unless the proposed construction is in accordance with the site plan as approved by the Planning Board. After the initial approval of the site plan, no application for a construction permit will be accepted by the Township for processing unless the application is accompanied by a statement from the master association that the proposed construction has been approved by the master association.
5. All portions of the tract not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition.

§ 35-412. AFFORDABLE HOUSING OVERLAY ZONE DISTRICT - 1. [Added 7-11-2019 by Ord. No. 300-19]

- A. Purpose. In accordance with the executed Settlement Agreement by and between the Township and Fair Share Housing Center dated July 18, 2018, Docket No. MON-L-2536-15, the Township is obligated to create an affordable housing overlay zoning district on certain lands in the "HD" Highway Development Zoning District permitting the construction of inclusionary developments which include an affordable housing set-aside affordable in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.
- B. Property Description.
 1. The following properties subject to this overlay include:
 - a. Block 26/Lots 1 and 3.
 - b. Block 23.02/Lot 21.01.
- C. Principal Uses Permitted and Required on the Land and in Buildings.
 1. Apartments.
 2. Townhomes.
- D. Accessory Uses Permitted.
 1. Common recreational facilities, recreation centers and/or clubhouses as specifically approved by the Planning Board within specified open space areas in order to satisfy the needs of the residential population of the development.
 2. Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses, as the case may be.
 3. Underground sprinkler systems, provided that the water spray does not extend beyond the landscaped areas or beyond property lines.

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4. Fences and walls shall only be permitted if specifically proposed by the developer and approved by the Planning Board as part of the site plan approval and/or if a standard for the location and type of the fences and/or walls has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents (see § 35-505 for design requirements).
5. Patios and decks in the rear yard areas of a townhouse dwelling unit, provided that no patio or deck shall be permitted unless a standard for such patios and/or decks has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents.
6. Off-street car parking and private garages (see Subsection 35-411I herein below for zoning requirements and § 35-511 for design requirements).
7. Signs (see Subsection 35-411K herein below for zoning requirements and § 35-516 for design requirements).
8. Temporary construction trailers and one sign not exceeding 32 square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding one month after the issuance of a certificate of occupancy, provided said trailer(s) and sign are on the site where the construction is taking place, are not on any existing or proposed street or easement, and are set back at least 30 feet from all street and property lines. There shall be at least one working telephone in the trailer.
9. Bicycle parking and related facilities are encouraged.

E. Development Standards.

1. The standards contained in the Affordable Housing Overlay shall supersede the existing HD district standards for density, area, yard, frontage, height, and other bulk requirements. The remaining provisions of the Upper Freehold Township Land Use and Zoning regulations shall apply as appropriate.
 - a. Maximum Building Heights.
 - 1) No principal townhouse or apartment building shall exceed 35 feet in height and 2 1/2 stories.
 - 2) No recreation center building or clubhouse building shall exceed 32 feet in height and 2 1/2 stories.
 - 3) No other accessory building, as may be approved by the Planning Board, shall exceed 25 feet in height and 1 1/2 stories.
 - 4) See Subsection 35-402C for permitted exceptions.
 - b. Yard and Distance Requirements.
 - 1) The minimum distance between any buildings shall be 20 feet.
 - 2) The minimum setback from the tract boundary line for any parking area,

loading area, internal roadway or drive aisle, except fencing integrated with the landscaping plan, shall be 20 feet.

- 3) For townhouse fee simple lots and buildings, a minimum twenty-foot front and rear yard area shall be provided.

c. Requirements for Buildings.

- 1) The exteriors of all buildings in a development, including any accessory buildings, shall be architecturally compatible and shall be constructed of complementary materials.
- 2) Where a building faces a street, driveway or off-street parking area, the building also shall have a front facade facing the street, driveway or off-street parking area.
- 3) All buildings shall have a dual-pitched, single-ridge roof (such as gable, hip, gambrel or mansard roof) with a minimum pitch of one foot vertical to 12 feet horizontal, and no flat roof shall be permitted.
- 4) The mechanical equipment serving the building(s) shall be screened from public view by the design of the building and/or by landscaping features integrated with the overall design of the building(s).
- 5) Efforts should be made to avoid concentrating affordable housing units within a single building, separate from market rate units.

d. Off-Street Parking, Private Garages, Driveways and Off-Street Loading.

- 1) Notwithstanding any other ordinance provisions to the contrary, each individual use shall be provided off-street parking spaces according to the following minimum provisions, provided that, in accordance with the Residential Site Improvement Standards (RSIS), the Planning Board can grant a de minimus exception and design waiver for a lesser number of parking spaces if the applicant can demonstrate that a lesser number of spaces is sufficient.
 - (a) Townhouses shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.3 spaces for each two-bedroom unit, and 2.4 spaces for each three-bedroom townhouse unit. Where the bedroom count per dwelling unit is not specified, 2.3 spaces per unit shall be provided.
 - (b) Apartments shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.0 spaces for each two-bedroom unit, and 2.1 spaces for each three-bedroom apartment unit. Where the bedroom count per dwelling unit is not specified, 2.0 spaces per unit shall be provided.
 - (c) For any residential unit, each garage space shall be counted as 1.0 off-street parking space, regardless of the length of the driveway.

[1] A one-car garage and driveway combination shall count as two off-

street parking spaces for the subject unit, provided that the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.

[2] A two-car garage and driveway combination shall count as 3 1/2 off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 20 feet in width for a minimum 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.

- 2) All off-street parking spaces shall be located within 150 feet of the nearest building entrance of the townhouse unit or the apartment building for which the spaces are provided.
- 3) No residential dwelling unit shall have direct vehicular access to Route 539.

e. Density Requirements.

- 1) On Block 26 Lot 1, a maximum density of 11 dwelling units per acre shall be permitted for rental housing, and/or a maximum density of six dwelling units per acre for for-sale housing.
- 2) On Block 26 Lot 3, a maximum density of 10 dwelling units per acre shall be permitted for rental housing, and/or a maximum density of seven dwelling units per acre for for-sale housing.
- 3) On Block 23.02 Lot 21.01, maximum density of 10 dwelling units per acre shall be permitted for rental housing, and/or a maximum density of six dwelling units per acre for for-sale housing.

F. Affordable Housing Requirements.

1. At least 15% of all rental units shall be set aside for affordable housing as defined in N.J.A.C 5:97.¹
2. At least 20% of all for-sale units shall be set aside for affordable housing as defined in N.J.A.C 5:97.²
3. At least 50% of the affordable units shall be affordable to very-low- and low-income households. If only one affordable unit is created in a project, the unit shall be a very-low- or low-income unit.
4. At least 13% of the total number of affordable rental units shall be affordable to very-low-income households.
5. The affordable units shall be affirmatively marketed to the housing region in accordance

1. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

2. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

with the Township's Affirmative Marketing Plan.

6. Affordability controls shall be maintained for a minimum of 30 years.
 7. Rental increases shall be in accordance with percentage approved by COAH and/or its successors and assigned pursuant to applicable laws.
 8. All affordable units shall be subject to the provisions of the Township's Affordable Housing Ordinance.
- G. Trash and Recycling Requirements. Unless the curbside pickup of trash and recyclable materials is proposed by the applicant and approved by the Planning Board, an indoor or outdoor recycling area for the collection and storage of trash and recyclable materials shall be provided as follows:
1. The trash and recyclable material collection and pickup location shall be provided either within the building being served or in a nearby location outside the building.
 2. If located outside the building, the trash and recyclable materials area shall include a steel-like, totally enclosed trash and garbage container and recyclable bins and shall be located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence or wall finished with materials used to construct the building(s) being served.
 3. The dimension of the recycling area shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c.102 (N.J.S.A. 13:1E-99.13), as amended, and shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection.
 4. The area provided for the collection and pickup of recyclable materials shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
 5. The area provided for the collection and pickup of recyclable materials, and the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.
 6. Signs clearly identifying the area provided for the collection and pickup of recyclable materials shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
 7. Landscaping, at least six feet in height at maturity, shall be provided around any outdoor

trash or recycling area.

H. Permitted Signage.

1. One ground-mounted freestanding sign identifying the name of the development no larger than 50 square feet shall be permitted at the entrance to the development from Route 539.
 - a. The sign shall not exceed 10 feet in height and shall be set back at least 10 feet from all street and property lines.
 - b. Any sign illumination shall be external to the sign and shall be designed and oriented to prevent any sight of the lamp from any street or neighboring properties.
2. Additional signage within the interior of the site may be approved by the Planning Board for directional purposes or for other good cause shown by the applicant as part of the site plan approval.

I. Required Recreational Facilities. The development shall provide on-site recreational amenities within the specified open space in order to satisfy the needs of the anticipated residential population of the development.

1. For Block 26 Lots 1 and 3, a minimum area of 5% of the developable area, being at least 50 feet in width with a grade less than 5%, shall be required to be developed for active recreation.
2. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey.

J. General Requirements.

1. Any development shall be planned and developed with a common architectural theme which shall be subject to review and approval by the Planning Board; the architectural theme shall include the appearance of buildings, signs, fencing, lighting, paving, curbing, and landscaping.
2. No development or improvements shall be constructed on any critical areas on the property.
3. Any development shall require that adequate sewage treatment and potable water facilities be provided.
4. No construction permit shall be issued for any dwelling unit, an addition thereto, or for an accessory structure unless the proposed construction is in accordance with the site plan as approved by the Planning Board. After the initial approval of the site plan, no application for a construction permit will be accepted by the Township for processing unless the application is accompanied by a statement from the master association that the proposed construction has been approved by the master association.
5. All portions of the tract not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs,

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trash enclosures, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition.

§ 35-413. AFFORDABLE HOUSING OVERLAY ZONE DISTRICT - 2. [Added 7-11-2019 by Ord. No. 301-19]

- A. Purpose. In accordance with the executed Settlement Agreement by and between the Township and Fair Share Housing Center dated July 18, 2018, Docket No. MON-L-2536-15, the Township is obligated to create an affordable housing overlay zoning district on certain lands in the "RA-5" Rural Agricultural-5 zoning district permitting the construction of inclusionary developments which include an affordable housing set-aside in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.
- B. Property Description.
 - 1. The following property subject to this overlay include:
 - a. Block 15/Lot 36.01.
- C. Principal Uses Permitted and Required On the Land and in Buildings.
 - 1. Apartments.
 - 2. Townhomes.
- D. Accessory Uses Permitted.
 - 1. Common recreational facilities, recreation centers and/or clubhouses as specifically approved by the Planning Board within specified open space areas in order to satisfy the needs of the residential population of the development.
 - 2. Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses, as the case may be.
 - 3. Underground sprinkler systems, provided that the water spray does not extend beyond the landscaped areas or beyond property lines.
 - 4. Fences and walls shall only be permitted if specifically proposed by the developer and approved by the Planning Board as part of the site plan approval and/or if a standard for the location and type of the fences and/or walls has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents (see § 35-505 for design requirements).
 - 5. Patios and decks in the rear areas of a townhouse dwelling unit, provided that no patio or deck shall be permitted unless a standard for such patios and/or decks has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents.
 - 6. Off-street car parking and private garages (see Subsection 35-411I hereinbelow for zoning requirements and § 35-511 for design requirements).

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7. Signs (see Subsection 35-411K hereinbelow for zoning requirements and § 35-516 for design requirements).
8. Temporary construction trailers and one sign not exceeding 32 square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding one month after the issuance of a certificate of occupancy, provided said trailer(s) and sign are on the site where the construction is taking place, are not on any existing or proposed street or easement, and are set back at least 30 feet from all street and property lines. There shall be at least one working telephone in the trailer.
9. Bicycle parking and related facilities are encouraged.

E. Development Standards.

1. The standards contained in the Affordable Housing Overlay shall supersede the existing RA-5 district standards for density, area, yard, frontage, height, and other bulk requirements. The remaining provisions of the Upper Freehold Township Land Use and Zoning regulations shall apply as appropriate.
 - a. Maximum Building Heights.
 - 1) No principal townhouse or apartment building shall exceed 35 feet in height and 2 1/2 stories.
 - 2) No recreation center building or clubhouse building shall exceed 32 feet in height and 2 1/2 stories.
 - 3) No other accessory building, as may be approved by the Planning Board, shall exceed 25 feet in height and 1 1/2 stories.
 - 4) See Subsection 35-402C for permitted exceptions.
 - b. Yard And Distance Requirements.
 - 1) The minimum distance between any buildings shall be 20 feet.
 - 2) The minimum setback from the tract boundary line for any parking area, loading area, internal roadway or drive aisle, except fencing integrated with the landscaping plan, shall be 20 feet.
 - 3) For townhouse fee simple lots and buildings, a minimum twenty-foot front and rear yard area shall be provided.
 - c. Requirements For Buildings.
 - 1) The exteriors of all buildings in a development, including any accessory buildings, shall be architecturally compatible and shall be constructed of complementary materials.
 - 2) Where a building faces a street, driveway or off-street parking area, the building also shall have a front facade facing the street, driveway or off-street

parking area.

- 3) All buildings shall have a dual-pitched, single-ridge roof (such as gable, hip, gambrel or mansard roof) with a minimum pitch of one foot vertical to 12 feet horizontal, and no flat roof shall be permitted.
- 4) The mechanical equipment serving the building(s) shall be screened from public view by the design of the building and/or by landscaping features integrated with the overall design of the building(s).
- 5) Efforts should be made to avoid concentrating affordable housing units within a single building, separate from market rate units.

d. Off-Street Parking, Private Garages, Driveways and Off-Street Loading.

- 1) Notwithstanding any other ordinance provisions to the contrary, each individual use shall be provided off-street parking spaces according to the following minimum provisions, provided that, in accordance with the Residential Site Improvement Standards (RSIS), the Planning Board can grant a de minimus exception and design waiver for a lesser number of parking spaces if the applicant can demonstrate that a lesser number of spaces is sufficient.
 - (a) Townhouses shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.3 spaces for each two-bedroom unit, and 2.4 spaces for each three-bedroom townhouse unit. Where the bedroom count per dwelling unit is not specified, 2.3 spaces per unit shall be provided.
 - (b) Apartments shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.0 spaces for each two-bedroom unit, and 2.1 spaces for each three-bedroom apartment unit. Where the bedroom count per dwelling unit is not specified, 2.0 spaces per unit shall be provided.
 - (c) For any residential unit, each garage space shall be counted as 1.0 off-street parking space, regardless of the length of the driveway.
 - [1] A one-car garage and driveway combination shall count as two off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.
 - [2] A two-car garage and driveway combination shall count as 3 1/2 off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 20 feet in width for a minimum 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.
- 2) All off-street parking spaces shall be located within 150 feet of the nearest

building entrance of the townhouse unit or the apartment building for which the spaces are provided.

e. Density Requirements.

- 1) On Block 15 Lot 36.01, a maximum density of 10 dwelling units per acre shall be permitted for rental housing, and/or a maximum density of seven dwelling units per acre for for-sale housing.

F. Affordable Housing Requirements.

1. At least 15% of all rental units shall be set aside for affordable housing as defined in N.J.A.C. 5:97.³
2. At least 20% of all for-sale units shall be set aside for affordable housing as defined in N.J.A.C. 5:97.⁴
3. At least 50% of the affordable units shall be affordable to very-low- and low-income households. If only one affordable unit is created in a project, the unit shall be a very-low- or low-income unit.
4. At least 13% of the total number of affordable rental units shall be affordable to very-low-income households.
5. The affordable units shall be affirmatively marketed to the housing region in accordance with the Township's Affirmative Marketing Plan.
6. Affordability controls shall be maintained for a minimum of 30 years.
7. Rental increases shall be in accordance with percentage approved by COAH and/or its successors and assigned pursuant to applicable laws.
8. All affordable units shall be subject to the provisions of the Township's Affordable Housing Ordinance.

G. Trash And Recycling Requirements. Unless the curbside pickup of trash and recyclable materials is proposed by the applicant and approved by the Planning Board, an indoor or outdoor recycling area for the collection and storage of trash and recyclable materials shall be provided as follows:

1. The trash and recyclable material collection and pickup location shall be provided either within the building being served or in a nearby location outside the building.
2. If located outside the building, the trash and recyclable materials area shall include a steel-like, totally enclosed trash and garbage container and recyclable bins and shall be located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence or wall finished with materials used to construct the building(s) being served.

3. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

4. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

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3. The dimension of the recycling area shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c.102 (N.J.S.A. 13:1E-99.13), as amended, and shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection.
4. The area provided for the collection and pickup of recyclable materials shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
5. The area provided for the collection and pickup of recyclable materials, and the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.
6. Signs clearly identifying the area provided for the collection and pickup of recyclable materials shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
7. Landscaping, at least six feet in height at maturity, shall be provided around any outdoor trash or recycling area.

H. Permitted Signage.

1. No more than one ground-mounted freestanding sign identifying the name of the development no larger than 50 square feet shall be permitted at the entrance to the development from Allyson Way or another road that provides direct access to the site.
 - a. The sign shall not exceed 10 feet in height and shall be set back at least 10 feet from all street and property lines.
 - b. Any sign illumination shall be external to the sign and shall be designed and oriented to prevent any sight of the lamp from any street or neighboring properties.
2. Additional signage within the interior of the site may be approved by the Planning Board for directional purposes or for other good cause shown by the applicant as part of the site plan approval.
3. No signage shall be permitted to be visible from I-195.

I. Required Recreational Facilities. The development shall provide on-site recreational amenities within the specified open space in order to satisfy the needs of the anticipated residential population of the development.

1. A minimum area of 5% of the developable area, being at least 50 feet in width with a

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grade less than 5%, shall be required to be developed for active recreation.

2. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey.

J. General Requirements.

1. Any development shall be planned and developed with a common architectural theme which shall be subject to review and approval by the Planning Board; the architectural theme shall include the appearance of buildings, signs, fencing, lighting, paving, curbing, and landscaping.
2. No development or improvements shall be constructed on any critical areas on the property.
3. Any development shall require that adequate sewage treatment and potable water facilities be provided.
4. No construction permit shall be issued for any dwelling unit, an addition thereto, or for an accessory structure unless the proposed construction is in accordance with the site plan as approved by the Planning Board. After the initial approval of the site plan, no application for a construction permit will be accepted by the Township for processing unless the application is accompanied by a statement from the master association that the proposed construction has been approved by the master association.
5. All portions of the tract not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition.

§ 35-414. AFFORDABLE HOUSING OVERLAY ZONE DISTRICT - 3. [Added 7-11-2019 by Ord. No. 302-19]

- A. Purpose. In accordance with the executed Settlement Agreement by and between the Township and Fair Share Housing Center dated July 18, 2018, Docket No. MON-L-2536-15, the Township is obligated to create an affordable housing overlay zoning district on certain lands in the "AR" Agricultural Residential Zoning District permitting the construction of inclusionary developments which include an affordable housing set-aside affordable in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.

B. Property Description.

1. The following property subject to this overlay include:
 - a. Block 15/Lot 38.

C. Principal Uses Permitted and Required on the Land and in Buildings.

1. Apartments.

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2. Townhomes.

D. Accessory Uses Permitted.

1. Common recreational facilities, recreation centers and/or clubhouses as specifically approved by the Planning Board within specified open space areas in order to satisfy the needs of the residential population of the development.
2. Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses, as the case may be.
3. Underground sprinkler systems, provided that the water spray does not extend beyond the landscaped areas or beyond property lines.
4. Fences and walls shall only be permitted if specifically proposed by the developer and approved by the Planning Board as part of the site plan approval and/or if a standard for the location and type of the fences and/or walls has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents (see § 35-505 for design requirements).
5. Patios and decks in the rear yard areas of a townhouse dwelling unit, provided that no patio or deck shall be permitted unless a standard for such patios and/or decks has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents.
6. Off-street car parking and private garages (see Subsection 35-411I hereinbelow for zoning requirements and § 35-511 for design requirements).
7. Signs (see Subsection 35-411K hereinbelow for zoning requirements and § 35-516 for design requirements).
8. Temporary construction trailers and one sign not exceeding 32 square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding one month after the issuance of a certificate of occupancy, provided said trailer(s) and sign are on the site where the construction is taking place, are not on any existing or proposed street or easement, and are set back at least 30 feet from all street and property lines. There shall be at least one working telephone in the trailer.
9. Bicycle parking and related facilities are encouraged.

E. Development Standards.

1. The standards contained in the Affordable Housing Overlay shall supersede the existing AR district standards for density, area, yard, frontage, height, and other bulk requirements. The remaining provisions of the Upper Freehold Township Land Use and Zoning regulations shall apply as appropriate.
 - a. Maximum Building Heights.
 - 1) No principal townhouse or apartment building shall exceed 35 feet in height

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and 2 1/2 stories.

- 2) No recreation center building or clubhouse building shall exceed 32 feet in height and 2 1/2 stories.
- 3) No other accessory building, as may be approved by the Planning Board, shall exceed 25 feet in height and 1 1/2 stories.
- 4) See Subsection 35-402C for permitted exceptions.

b. Yard And Distance Requirements.

- 1) The minimum distance between any buildings shall be 20 feet.
- 2) The minimum setback from the tract boundary line for any parking area, loading area, internal roadway or drive aisle, except fencing integrated with the landscaping plan, shall be 20 feet.
- 3) For townhouse fee simple lots and buildings, a minimum twenty-foot front and rear yard area shall be provided.

c. Requirements For Buildings.

- 1) The exteriors of all buildings in a development, including any accessory buildings, shall be architecturally compatible and shall be constructed of complementary materials.
- 2) Where a building faces a street, driveway or off-street parking area, the building also shall have a front facade facing the street, driveway or off-street parking area.
- 3) All buildings shall have a dual-pitched, single-ridge roof (such as gable, hip, gambrel or mansard roof) with a minimum pitch of one foot vertical to 12 feet horizontal, and no flat roof shall be permitted.
- 4) The mechanical equipment serving the building(s) shall be screened from public view by the design of the building and/or by landscaping features integrated with the overall design of the building(s).
- 5) Efforts should be made to avoid concentrating affordable housing units within a single building, separate from market rate units.

d. Off-Street Parking, Private Garages, Driveways And Off-Street Loading.

- 1) Notwithstanding any other ordinance provisions to the contrary, each individual use shall be provided off-street parking spaces according to the following minimum provisions, provided that, in accordance with the Residential Site Improvement Standards (RSIS), the Planning Board can grant a de minimis exception and design waiver for a lesser number of parking spaces if the applicant can demonstrate that a lesser number of spaces is sufficient.

- (a) Townhouses shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.3 spaces for each two-bedroom unit, and 2.4 spaces for each three-bedroom townhouse unit. Where the bedroom count per dwelling unit is not specified, 2.3 spaces per unit shall be provided.
- (b) Apartments shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.0 spaces for each two-bedroom unit, and 2.1 spaces for each three-bedroom apartment unit. Where the bedroom count per dwelling unit is not specified, 2.0 spaces per unit shall be provided.
- (c) For any residential unit, each garage space shall be counted as 1.0 off-street parking space, regardless of the length of the driveway.

[1] A one-car garage and driveway combination shall count as two off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.

[2] A two-car garage and driveway combination shall count as 3 1/2 off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 20 feet in width for a minimum 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.

- 2) All off-street parking spaces shall be located within 150 feet of the nearest building entrance of the townhouse unit or the apartment building for which the spaces are provided.
- 3) No residential dwelling unit shall have direct vehicular access to Route 524.

e. Density Requirements.

- 1) On Block 15 Lot 38, a maximum density of 10 dwelling units per acre shall be permitted for rental housing, and/or a maximum density of six dwelling units per acre for for-sale housing.

F. Affordable Housing Requirements.

- 1. At least 15% of all rental units shall be set aside for affordable housing as defined in N.J.A.C. 5:97.⁵
- 2. At least 20% of all for-sale units shall be set aside for affordable housing as defined in N.J.A.C. 5:97.⁶
- 3. At least 50% of the affordable units shall be affordable to very-low- and low income households. If only one affordable unit is created in a project, the unit shall be a very-

5. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

6. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

low- or low-income unit.

4. At least 13% of the total number of affordable rental units shall be affordable to very-low-income households.
 5. The affordable units shall be affirmatively marketed to the housing region in accordance with the Township's Affirmative Marketing Plan.
 6. Affordability controls shall be maintained for a minimum of 30 years.
 7. Rental increases shall be in accordance with percentage approved by COAH and/or its successors and assigned pursuant to applicable laws.
 8. All affordable units shall be subject to the provisions of the Township's Affordable Housing Ordinance.
- G. Trash And Recycling Requirements. Unless the curbside pickup of trash and recyclable materials is proposed by the applicant and approved by the Planning Board, an indoor or outdoor recycling area for the collection and storage of trash and recyclable materials shall be provided as follows:
1. The trash and recyclable material collection and pickup location shall be provided either within the building being served or in a nearby location outside the building.
 2. If located outside the building, the trash and recyclable materials area shall include a steel-like, totally enclosed trash and garbage container and recyclable bins and shall be located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence or wall finished with materials used to construct the building(s) being served.
 3. The dimension of the recycling area shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c.102 (N.J.S.A. 13:1E-99.13), as amended, and shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection.
 4. The area provided for the collection and pickup of recyclable materials shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
 5. The area provided for the collection and pickup of recyclable materials, and the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.
 6. Signs clearly identifying the area provided for the collection and pickup of recyclable

materials shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

7. Landscaping, at least six feet in height at maturity, shall be provided around any outdoor trash or recycling area.

H. Permitted Signage.

1. One ground-mounted freestanding sign identifying the name of the development no larger than 50 square feet shall be permitted at the entrance to the development from Route 524.
 - a. The sign shall not exceed 10 feet in height and shall be set back at least 10 feet from all street and property lines.
 - b. Any sign illumination shall be external to the sign and shall be designed and oriented to prevent any sight of the lamp from any street or neighboring properties.
2. Additional signage within the interior of the site may be approved by the Planning Board for directional purposes or for other good cause shown by the applicant as part of the site plan approval.

I. Required Recreational Facilities. The development shall provide on-site recreational amenities within the specified open space in order to satisfy the needs of the anticipated residential population of the development.

1. For Block 15 Lot 38, a minimum area of 5% of the developable area, being at least 50 feet in width with a grade less than 5%, shall be required to be developed for active recreation.
2. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey.

J. General Requirements.

1. Any development shall be planned and developed with a common architectural theme which shall be subject to review and approval by the Planning Board; the architectural theme shall include the appearance of buildings, signs, fencing, lighting, paving, curbing, and landscaping.
2. No development or improvements shall be constructed on any critical areas on the property.
3. Any development shall require that adequate sewage treatment and potable water facilities be provided.
4. No construction permit shall be issued for any dwelling unit, an addition thereto, or for an accessory structure unless the proposed construction is in accordance with the site plan as approved by the Planning Board. After the initial approval of the site plan, no application for a construction permit will be accepted by the Township for processing

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unless the application is accompanied by a statement from the master association that the proposed construction has been approved by the master association.

5. All portions of the tract not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition.

§ 35-415. AFFORDABLE HOUSING OVERLAY ZONE DISTRICT- 4. [Added 7-11-2019 by Ord. No. 303-19]

- A. Purpose. In accordance with the executed Settlement Agreement by and between the Township and Fair Share Housing Center dated July 18, 2018, Docket No. MON-L-2536-15, the Township is obligated to create an affordable housing overlay zoning district on certain lands in the "CC" Community Commercial Zoning District permitting the construction of inclusionary developments which include an affordable housing set-aside affordable in accordance with the applicable rules of the New Jersey Council On Affordable Housing (COAH) in order to meet its constitutional obligation to provide for its fair share of affordable housing.
- B. Property Description.
 1. The following properties subject to this overlay include:
 - a. Block 15/Lots 37.03, 37.04, and 37.06.
 - b. Block 15.02/Lots 2 and 3.
- C. Principal Uses Permitted and Required on the Land and in Buildings.
 1. Apartments.
 2. Townhomes.
 3. For-sale housing is not permitted under this overlay.
- D. Accessory Uses Permitted.
 1. Common recreational facilities, recreation centers and/or clubhouses as specifically approved by the Planning Board within specified open space areas in order to satisfy the needs of the residential population of the development.
 2. Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses, as the case may be.
 3. Underground sprinkler systems, provided that the water spray does not extend beyond the landscaped areas or beyond property lines.
 4. Fences and walls shall only be permitted if specifically proposed by the developer and approved by the Planning Board as part of the site plan approval and/or if a standard for the location and type of the fences and/or walls has been approved by the Planning Board as part of the site plan approval and has been included in the master association

documents (see Section 35-505 for design requirements).

5. Patios and decks in the rear yard areas of a townhouse dwelling unit, provided that no patio or deck shall be permitted unless a standard for such patios and/or decks has been approved by the Planning Board as part of the site plan approval and has been included in the master association documents.
6. Off-street car parking and private garages (see Subsection 35-411I hereinbelow for zoning requirements and § 35-511 for design requirements).
7. Signs (see Subsection 35-411K hereinbelow for zoning requirements and § 35-516 for design requirements).
8. Temporary construction trailers and one sign not exceeding 32 square feet, advertising the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and concluding one month after the issuance of a certificate of occupancy, provided said trailer(s) and sign are on the site where the construction is taking place, are not on any existing or proposed street or easement, and are set back at least 30 feet from all street and property lines. There shall be at least one working telephone in the trailer.
9. Bicycle parking and related facilities are encouraged.

E. Development Standards.

1. The standards contained in the Affordable Housing Overlay shall supersede the existing CC district standards for density, area, yard, frontage, height, and other bulk requirements. The remaining provisions of the Upper Freehold Township Land Use and Zoning regulations shall apply as appropriate.
 - a. Maximum Building Heights.
 - 1) No principal townhouse or apartment building shall exceed 35 feet in height and 2 1/2 stories.
 - 2) No recreation center building or clubhouse building shall exceed 32 feet in height and 2 1/2 stories.
 - 3) No other accessory building, as may be approved by the Planning Board, shall exceed 25 feet in height and 1 1/2 stories.
 - 4) See Subsection 35-402C for permitted exceptions.
 - b. Yard and Distance Requirements.
 - 1) The minimum distance between any buildings shall be 20 feet.
 - 2) The minimum setback from the tract boundary line for any parking area, loading area, internal roadway or drive aisle, except fencing integrated with the landscaping plan, shall be 20 feet.
 - 3) For townhouse fee simple lots and buildings, a minimum twenty-foot front

and rear yard area shall be provided.

c. Requirements for Buildings.

- 1) The exteriors of all buildings in a development, including any accessory buildings, shall be architecturally compatible and shall be constructed of complementary materials.
- 2) Where a building faces a street, driveway or off-street parking area, the building also shall have a front facade facing the street, driveway or off-street parking area.
- 3) All buildings shall have a dual-pitched, single-ridge roof (such as gable, hip, gambrel or mansard roof) with a minimum pitch of one foot vertical to 12 feet horizontal, and no flat roof shall be permitted.
- 4) The mechanical equipment serving the building(s) shall be screened from public view by the design of the building and/or by landscaping features integrated with the overall design of the building(s).
- 5) Efforts should be made to avoid concentrating affordable housing units within a single building, separate from market rate units.

d. Off-Street Parking, Private Garages, Driveways and Off-Street Loading.

- 1) Notwithstanding any other ordinance provisions to the contrary, each individual use shall be provided off-street parking spaces according to the following minimum provisions, provided that, in accordance with the Residential Site Improvement Standards (RSIS), the Planning Board can grant a de minimus exception and design waiver for a lesser number of parking spaces if the applicant can demonstrate that a lesser number of spaces is sufficient.
 - (a) Townhouses shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.3 spaces for each two-bedroom unit, and 2.4 spaces for each three-bedroom townhouse unit. Where the bedroom count per dwelling unit is not specified, 2.3 spaces per unit shall be provided.
 - (b) Apartments shall be provided 1.8 off-street spaces for each one-bedroom unit, 2.0 spaces for each two-bedroom unit, and 2.1 spaces for each three-bedroom apartment unit. Where the bedroom count per dwelling unit is not specified, 2.0 spaces per unit shall be provided.
 - (c) For any residential unit, each garage space shall be counted as 1.0 off-street parking space, regardless of the length of the driveway.
- [1] A one-car garage and driveway combination shall count as two off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.

[2] A two-car garage and driveway combination shall count as 3 1/2 off-street parking spaces for the subject unit, provided that the driveway measures a minimum of 20 feet in width for a minimum 18 feet in length between the face of the garage door and the right-of-way or between the face of the garage door and a sidewalk, whichever distance is less.

2) All off-street parking spaces shall be located within 150 feet of the nearest building entrance of the townhouse unit or the apartment building for which the spaces are provided.

3) No dwelling shall have direct access to Route 524.

e. Density Requirements.

1) A maximum density of 10 dwelling units per acre shall be permitted for rental housing only.

F. Affordable Housing Requirements.

1. At least 15% of all rental units shall be set aside for affordable housing as defined in N.J.A.C. 5:97.⁷
2. At least 50% of the affordable units shall be affordable to very-low- and low-income households. If only one affordable unit is created in a project, the unit shall be a very-low- or low-income unit.
3. At least 13% of the total number of affordable rental units shall be affordable to very-low-income households.
4. The affordable units shall be affirmatively marketed to the housing region in accordance with the Township's Affirmative Marketing Plan.
5. Affordability controls shall be maintained for a minimum of 30 years.
6. Rental increases shall be in accordance with percentage approved by COAH and/or its successors and assigned pursuant to applicable laws.
7. All affordable units shall be subject to the provisions of the Township's Affordable Housing Ordinance.

G. Trash and Recycling Requirements. Unless the curbside pickup of trash and recyclable materials is proposed by the applicant and approved by the Planning Board, an indoor or outdoor recycling area for the collection and storage of trash and recyclable materials shall be provided as follows:

1. The trash and recyclable material collection and pickup location shall be provided either within the building being served or in a nearby location outside the building.
2. If located outside the building, the trash and recyclable materials area shall include a

7. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

steel-like, totally enclosed trash and garbage container and recyclable bins and shall be located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence or wall finished with materials used to construct the building(s) being served.

3. The dimension of the recycling area shall be consistent with the district recycling plan adopted pursuant to Section 3 of P.L. 1987, c.102 (N.J.S.A. 13:1E-99.13), as amended, and shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection.
4. The area provided for the collection and pickup of recyclable materials shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
5. The area provided for the collection and pickup of recyclable materials, and the bins or containers placed therein, shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered so as to keep the paper or cardboard dry.
6. Signs clearly identifying the area provided for the collection and pickup of recyclable materials shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
7. Landscaping, at least six feet in height at maturity, shall be provided around any outdoor trash or recycling area.

H. Permitted Signage.

1. One ground-mounted freestanding sign identifying the name of the development no larger than 50 square feet shall be permitted at the entrance to the development from Route 524.
 - a. The sign shall not exceed 10 feet in height and shall be set back at least 10 feet from all street and property lines.
 - b. Any sign illumination shall be external to the sign and shall be designed and oriented to prevent any sight of the lamp from any street or neighboring properties.
2. Additional signage within the interior of the site may be approved by the Planning Board for directional purposes or for other good cause shown by the applicant as part of the site plan approval.

I. Required Recreational Facilities. The development shall provide on site recreational

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amenities within the specified open space in order to satisfy the needs of the anticipated residential population of the development.

1. A minimum area of 5% of the developable area, being at least 50 feet in width with a grade less than 5%, shall be required to be developed for active recreation.
2. All recreational facilities shall adhere to the standards set forth in the Barrier Free Subcode of the Uniform Construction Code of the State of New Jersey.

J. General Requirements.

1. Any development shall be planned and developed with a common architectural theme which shall be subject to review and approval by the Planning Board; the architectural theme shall include the appearance of buildings, signs, fencing, lighting, paving, curbing, and landscaping.
2. No development or improvements shall be constructed on any critical areas on the property.
3. Any development shall require that adequate sewage treatment and potable water facilities be provided.
4. No construction permit shall be issued for any dwelling unit, an addition thereto, or for an accessory structure unless the proposed construction is in accordance with the site plan as approved by the Planning Board. After the initial approval of the site plan, no application for a construction permit will be accepted by the Township for processing unless the application is accompanied by a statement from the master association that the proposed construction has been approved by the master association.
5. All portions of the tract not covered by buildings or structures (e.g., parking lots, parking spaces, loading areas, access aisles, driveways, sidewalks, walkways, curbs, trash enclosures, etc.) shall be suitably landscaped with grass, shrubs, and trees and shall be maintained in good condition.

Appendix E. Affordable Housing Ordinance

§ 35-606. AFFORDABLE HOUSING. [Ord. No. 34-97 § 81-606; Ord. No. 54-1999; Ord. No. 2001-78; Ord. No. 137-04 § 1; Ord. No. 146-05 § 1; Ord. No. 167-2006 § 1; Ord. No. 216-08 § 1; amended 7-11-2019 by Ord. No. 304-19]

§ 35-606.1. Purpose.

- A. This section is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability and that low- and moderate-income households shall occupy these units. This section shall apply except where inconsistent with applicable law.
- B. The Township of Upper Freehold Planning Board has adopted a Housing Plan Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Fair Share Plan has been adopted by the Planning Board and endorsed by the governing body. The Fair Share Plan describes how the Township of Upper Freehold shall address its fair share for low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Township of Upper Freehold and Fair Share Housing Center (FSHC).
- C. This section implements the Township's Fair Share Plan and addresses the requirements of the Court and the terms of the Settlement Agreement.
- D. The Township of Upper Freehold shall track the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at the Township's Municipal Building.

§ 35-606.2. General Provisions.

- A. Definitions. The following terms when used in this section shall have the meanings given in this section:

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

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

ADMINISTRATIVE AGENT — The entity designated by the Township to administer affordable units in accordance with this section, N.J.A.C. 5:93,¹ and UHAC (N.J.A.C. 5:80-26).

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

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

AFFORDABLE — A sales price or rent level that is within the means of a very-low-, low- or moderate-income household as defined within N.J.A.C. 5:93-7.4,² and, in the case of an

1. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

2. Editor's Note: The provisions of N.J.A.C. 5:93 expired 10-16-2016.

ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE HOUSING DEVELOPMENT — A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing development.

AFFORDABLE HOUSING PROGRAM(S) — Any mechanism in a municipal Fair Share Plan prepared or implemented to address a Township's fair share obligation.

AFFORDABLE UNIT — A housing unit proposed or created pursuant to the Act, credited pursuant to applicable COAH regulations, the FSHC Settlement Agreement, or an order of the Superior Court.

AGE-RESTRICTED UNIT — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the head of household is a minimum age of either 62 years, or 55 years and meets the provisions of the 42 U.S.C. § 3601 et seq., except that due to death, a remaining spouse of less than 55 years of age shall be permitted to continue to reside.

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

ALTERNATIVE LIVING ARRANGEMENT — A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

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

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

COAH — The New Jersey Council on Affordable Housing and/or its successors and assigned pursuant to applicable laws.

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

DEFICIENT HOUSING UNIT — A housing unit with health and safety code violations that requires 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.

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

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

INCLUSIONARY DEVELOPMENT — A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a nonresidential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

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

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

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

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

MEDIAN-INCOME — The median income by household size for the applicable housing region, as updated annually by COAH or through a court-approved process.

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

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

MULTIFAMILY UNIT — A structure containing five or more dwelling units.

MUNICIPAL HOUSING LIAISON — The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Township of Upper Freehold.

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

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

REGIONAL ASSET LIMIT — The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted Regional Income Limits published annually by COAH, a successor entity, or established by the Court.

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

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

RESTRICTED UNIT — A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented.

UHAC — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26 et seq.

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

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

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

B. Applicability.

1. The provisions of this section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Upper Freehold pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.
2. In addition, any property in the Township of Upper Freehold that is currently zoned for nonresidential uses and that is subsequently rezoned for residential purposes or receives a zoning change or a use variance to permit residential development, or receives a zoning change or a density variance to permit higher density residential development, and provided such residential development provides a sufficient compensatory benefit in terms of the density of development permitted, shall provide an affordable housing set-aside as set forth in § 35-606.1E. The determination of a "sufficient compensatory benefit" shall be made by the reviewing authority based upon prevailing legislation and/or case law.

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3. The following sections shall apply to all developments that contain affordable housing units, as defined herein, including any currently unanticipated future developments that will provide affordable housing units.

C. Alternative Living Arrangements.

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8³ and UHAC, with the following exceptions:
 - a. Affirmative marketing (N.J.A.C. 5:80-26.15); provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
 - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
2. With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
3. The service provider for the alternative living arrangement shall act as the administrative agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

- D. Phasing Schedule for Inclusionary Zoning. In inclusionary developments the following schedule shall be followed:

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

E. New Construction.

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13% of all restricted rental units shall be very-low-income units (affordable to a household earning 30% or less of

3. Editor's Note: The provisions of N.J.A.C. 5:93 expired 10-16-2016.

median income). The very-low-income units shall be counted as part of the required number of low-income units within the development. At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families. A maximum of 25% may be age-restricted. At least half of the units in total shall be available to families.

- b. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
 - c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - 1) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total affordable units;
 - 2) At least 30% of all affordable units shall be two-bedroom units;
 - 3) At least 20% of all affordable units shall be three-bedroom units; and
 - 4) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
 - d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age- restricted very-low-, low- and moderate-income units within the inclusionary development. This standard may be met by having all one- bedroom units or by having a two-bedroom unit for each efficiency unit.
2. Accessibility Requirements:
- a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
 - b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - 1) An adaptable toilet and bathing facility on the first floor; and
 - 2) An adaptable kitchen on the first floor; and
 - 3) An interior accessible route of travel on the first floor; and
 - 4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - 5) If not all of the foregoing requirements in Subsection E2b1) through 4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsection E2b1) through 4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

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- 6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Upper Freehold 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 person with disabilities 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 Township of Upper Freehold's 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 under Subsection E2b6) above shall be used by the Township of Upper Freehold 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 a design plan and cost estimate to the Construction Official of the Township of Upper Freehold for the conversion of adaptable to accessible entrances.
 - (e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in care of the Township Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- 7) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

3. Design:

- a. In inclusionary developments, very-low-, low- and moderate-income units (also to be called "affordable units") shall be integrated with the market units to the extent possible.
- b. In inclusionary developments, affordable units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

- a. In establishing rents and sales prices of affordable housing units, the administrative

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agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.

- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
- c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for very-low-, low- and moderate-income units, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very-low-income households, earning 30% or less of the regional median household income.
- d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one-and-one-half-person household;
 - 3) A two-bedroom unit shall be affordable to a three-person household;
 - 4) A three-bedroom unit shall be affordable to a four-and-one-half-person household; and
 - 5) A four-bedroom unit shall be affordable to a six-person household.
- f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - 1) A studio shall be affordable to a one-person household;
 - 2) A one-bedroom unit shall be affordable to a one-and-one-half-person household; and
 - 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

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- g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Freddie Mac thirty-year fixed-rate mortgage rate (formerly Federal Reserve H.15), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant-paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- i. Income limits for all units that are part of the Township's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the UHAC pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Township annually within 60 days of the publication of determinations of median income by HUD as follows:
 - 1) Regional income limits shall be established for Region 4 based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
- j. The income limits are the result of applying the percentages set forth in Subsection E4:1) above to HUD's determination of median income for the current fiscal year and shall be utilized by the Township until the Township updates the income limits after HUD has published revised determinations of median income for the next

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fiscal year.

- k. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to Subsection E4:1) above over the previous year's income limits and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
5. Affordable Housing Set-Asides. Any residential or mixed-use development within a future public sewer service area of the Township that produces five or more housing units shall be required to provide for affordable housing set-asides of at least 20% of the total housing units in for-sale developments and 15% of the total housing units in rental developments. When the application of the set-aside requirement results in a set-aside requirement that is not a whole number, the set-aside requirement shall be rounded up to the next whole number.
6. Payments in lieu of providing affordable housing is not permitted within the Township.

§ 35-606.3. Minimum Floor Area Requirements for Low- and Moderate-Income Housing Units.

The minimum floor area requirements for low and moderate-income housing units shall be as follows:

| Unit Type | Minimum Floor Area |
|-------------------------|---------------------------|
| 0-bedroom unit (studio) | 500 square feet |
| 1-bedroom unit | 675 square feet |
| 2-bedroom unit | 900 square feet |
| 3-bedroom unit | 1,100 square feet |

§ 35-606.4. Utilities.

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ 35-606.5. Occupancy Standards.

In referring certified households to specific restricted units, the administrative agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- A. Provide an occupant for each bedroom;

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- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

§ 35-606.6. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this section for a period of at least 30 years, until the Township of Upper Freehold takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the nonrestricted fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay the Township, upon the first nonexempt sale after the unit's release from the restrictions set forth in this section, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 35-606.7. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

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

- A. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

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- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by very-low-, low- and moderate-income purchasers and those paid by market purchasers.
- D. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See § 35-606.10.

§ 35-606.8. Buyer Income Eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income. In addition, in accordance with the A500 ACS amendment to the Act, very-low-income ownership units shall be reserved for households with a gross household income less than or equal to 30% of median income.
- B. Notwithstanding the foregoing, however, the administrative agent may, upon approval by the Township Committee, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the administrative agent determines that there are an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.
- C. 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.
- D. The administrative agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's eligible monthly income.

§ 35-606.9. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- A. 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.
- B. With the exception of first purchase money mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined

by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).

§ 35-606.10. Capital Improvements to Ownership Units.

- A. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. 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. 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, which shall be subject to ten-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 owner 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.

§ 35-606.11. Control Period for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this section for a period of at least 30 years, until Upper Freehold takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. 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, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very-low-, low or moderate income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this section despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or

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3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 35-606.12. Rent Restrictions for Rental Units; Leases.

- A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the developer and/or landlord or to the administrative agent, to be applied only to the costs of administering the controls applicable to the unit as set forth in this section.
- D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this section.

§ 35-606.13. Tenant Income Eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 1. Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income by household size.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income by household size.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income by household size.
- B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 1. The household currently pays more 35% 40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

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3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents 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.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection B1 through 5 above with the administrative agent, who shall counsel the household on budgeting.

§ 35-606.14. Municipal Housing Liaison.

- A. The Township of Upper Freehold shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted administrative agent. Upper Freehold shall adopt an ordinance creating the position of Municipal Housing Liaison. Upper Freehold shall adopt a resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee of Upper Freehold. The Municipal Housing Liaison shall be reported to the Superior Court and thereafter posted on the Township website, and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Upper Freehold, including the following responsibilities which may not be contracted out to the administrative agent:
1. Serving as Upper Freehold's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 2. The implementation of the Affirmative Marketing Plan and affordability controls;
 3. When applicable, supervising any contracting administrative agent;
 4. Monitoring the status of all restricted units in Upper Freehold's Fair Share Plan;
 5. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
 6. Coordinating meetings with affordable housing providers and administrative agents, as needed; and
 7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.

- C. Subject to the approval of the Court, the Township of Upper Freehold shall designate one or more administrative agent(s) to administer and the affirmatively market the affordable units constructed in the Township in accordance with UHAC and this section. An operating manual for each affordable housing program shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The operating manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the administrative agent(s). The Municipal Housing Liaison shall supervise the contracting administrative agent(s).

§ 35-606.15. Administrative agent.

The administrative agent may be an independent entity serving under contract to and reporting to the Township. For new sale and rental developments, all of the fees of the administrative agent shall be paid by the owners of the affordable units for which the services of the administrative agent are required. For resales, single-family homeowners and condominium homeowners shall be required to pay 3% of the sales price for services provided by the administrative agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the administrative agent. The administrative agent shall perform the duties and responsibilities of an administrative agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

A. Affirmative Marketing:

1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Upper Freehold and the provisions of N.J.A.C. 5:80-26.15; and
2. 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.

B. Household Certification:

1. Soliciting, scheduling, conducting and following up on interviews with interested households;
2. 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;
3. Providing written notification to each applicant as to the determination of eligibility or noneligibility;
4. 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 Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
5. 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

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region where the units are located;

6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Upper Freehold when referring households for certification to affordable units; and
7. Notifying the following entities of the availability of affordable housing units in the Township of Upper Freehold: FSHC, the New Jersey State Conference of the NAACP, the Trenton, Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, and Greater Long Branch branches of the NAACP, Shiloh Baptist Church, the Latino Action Network, and the Supportive Housing Association.

C. Affordability Controls:

1. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
2. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
4. Communicating with lenders regarding foreclosures; and
5. Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Rerentals:

1. Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
2. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.

E. Processing Requests from Unit Owners:

1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this section;
2. 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;
3. Notifying the Township of an owner's intent to sell a restricted unit; and

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4. Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

1. Securing annually from the Township a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
2. 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;
3. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent or other charges can be made;
4. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
5. Establishing a program for diverting unlawful rent payments to the Township's Affordable Housing Trust Fund; and
6. Creating and publishing a written operating manual for each affordable housing program administered by the administrative agent, to be approved by the Township Committee and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

1. The administrative agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
2. The administrative agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
3. The administrative agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

§ 35-606.16. Affirmative Marketing Requirements.

- A. The Township of Upper Freehold shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. 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 marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.

- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.
- D. The Affirmative Marketing Plan shall provide a veterans preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties. All rules will be in accordance with N.J.S.A. 52:27D-311(j).
- E. The Township has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The administrative agent designated by the Township of Upper Freehold shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- F. In implementing the Affirmative Marketing Plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- G. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the administrative agent shall consider the use of language translations where appropriate.
- H. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- I. Applications for affordable housing 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 the municipal library in the Township in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.
- J. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 35-606.17. Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the Township shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a low- or

moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the Township may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The Township 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 adjudged by the Court to have violated any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
 - a. A fine of not more than \$2,000 per day or imprisonment for a period not to exceed 90 days, or both, 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;
 - b. In the case of an owner who has rented a very-low-, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Upper Freehold Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - c. In the case of an owner who has rented a very-low-, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
2. The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such 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. The judgment shall be enforceable, at the option of the Township, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the Township, including attorney's fees. The violating owner shall have his right to possession terminated as well as his 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- and moderate-income unit. The excess, if any, shall be applied to reimburse the Township 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 Township 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 Township in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Township

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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 Township 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 Township. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the owner or forfeited to the Township.

- c. Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- 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 Township may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- e. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Township shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the Township, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- f. The 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.

§ 35-606.18. Appeals.

Appeals from all decisions of an administrative agent appointed pursuant to this section shall be filed in writing with the Court.

§ 35-606.19. Development Fees for Affordable Housing.

A. Purpose.

1. In *Holmdel Builder's Ass'n v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey

Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council On Affordable Housing's (COAH) adoption of rules.

2. Pursuant to P.L. 2008, c.46 section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH approved spending plan may retain fees collected from nonresidential development.
3. This section establishes standards for the collection, maintenance and expenditure of development fees pursuant to COAH's rules and in accordance P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this section shall be used for the sole purpose of providing very-low-, low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.⁴

B. Basic Requirements.

1. This section shall not be effective until approved by the Court, COAH, or a successor agency.
2. The Township of Upper Freehold shall not spend development fees until the Court, COAH, or a successor agency has approved a plan for spending such fees (spending plan).

C. Definitions.

1. The following terms, as used in this section, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT — A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

COAH or THE COUNCIL — The New Jersey Council on Affordable Housing and/or its successors and assigned pursuant to applicable laws.

DEVELOPER — 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 FEE — Money paid by a developer for the improvement of property as permitted by applicable COAH regulations.

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current average ratio of assessed to true value for the Township in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123

4. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

(N.J.S.A. 54:135a through 54:1-35c).

GREEN BUILDING STRATEGIES — Those 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.

D. Residential Development Fees.

1. Imposition of Fees.

- a. Within the Township of Upper Freehold, all residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- b. When an increase in residential density pursuant to a "d" variance is granted under N.J.S.A. 40:55D-70d(5) (known as a "d" variance), developers shall be required to pay a "bonus" development fee of 6% 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 filing of the "d" variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the development fees will equal 1 1/2% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two non-age-restricted additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.
 - 1) Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.
 - (a) Affordable housing developments and developments where the developer is providing for the construction of affordable units elsewhere in the Township, if permitted by ordinance or by agreement with the Township of Upper Freehold, shall be exempt from development fees.
 - (b) Developments that have received preliminary or final site plan approval prior to the adoption of the first development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval is not applicable, 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 exemption. In all cases, the applicable fee percentage shall be

determined based upon the development fee ordinance in effect on the date that building permit is issued.

- (c) In addition to the construction of new principal and/or accessory buildings, development fees shall be imposed and collected when an existing structure is demolished and replaced, 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 new structure. Furthermore:

- [1] No development fee shall be collected for a demolition and replacement of a residential building resulting from a natural disaster.

- [2] No development fee shall be collected for the construction of an "accessory structure" which is not a "building" as these terms are defined in the Upper Freehold Township Land Use Regulations Ordinance.

- (d) Nonprofit organizations which have received tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the 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.

- (e) Federal, state, county, and local governments shall be exempted from paying a development fee.

E. Nonresidential Development Fees.

1. Imposition of Fees.

- a. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to 2.5% of the increase in equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- b. Within all zoning districts, nonresidential 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 nonresidential purposes.
- c. Eligible exactions, ineligible exactions and exemptions for nonresidential development:
 - 1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.
 - 2) The 2.5% fee shall not apply to an increase in equalized assessed value

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resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

- 3) Nonresidential projects that have received a certificate of occupancy or general development plan approval or have entered into a developer's agreement or a redevelopment agreement, all prior to July 17, 2008 (the effective date of P.L. 2008, c.46), shall be exempt from the payment of nonresidential development fees, provided that an affordable housing fee of at least 1% of the equalized assessed value of the improvements is included in the development plan, developer's agreement or redevelopment agreement.
- 4) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required as specified in the Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- 5) A developer of a nonresidential development exempted from the nonresidential Township development fee shall be subject to the fee at such time the basis for the exemption no longer applies and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- 6) If a property which was exempted from the collection of a nonresidential 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 nonresidential development fees under these circumstances may be enforceable by Upper Freehold Township as a lien against the real property of the owner.

F. Collection Procedures. The Township of Upper Freehold shall collect development fees for affordable housing in accordance with the following:

1. 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 Township Construction Code Official responsible for the issuance of a building permit of the applicable approval.
2. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption," to be completed by the developer as per the instructions provided. The Township Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Township Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
3. The Township Construction Official responsible for the issuance of a building permit

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shall notify the Township Tax Assessor of the issuance of the first building permit for a development that is subject to a development fee.

4. Within 90 days of receipt of that notice, the Township Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
5. The Construction Official responsible for the issuance of a final certificate of occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property that is subject to a development fee.
6. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should the Township 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).
8. Fifty percent of the initially calculated development fee shall be collected at the time of the issuance of the building permit. The remaining portion shall be tendered to Upper Freehold Township at the time of the issuance of a certificate of occupancy. The developer shall be responsible for paying any difference between the fee calculated at the issuance of the building permit and the fee determined at issuance of certificate of occupancy.
9. Upon tender of the remaining development fee, provided the developer is in full compliance with all other applicable laws and regulations, the Township shall issue a final certificate of occupancy for the subject property.
10. Regardless of the time of collection of the development fee, the fee shall be based upon the percentage that applies on the date that the construction permit is issued.
11. The Construction Code Official shall forward all collected development fees to Upper Freehold Township's Chief Financial Officer who shall deposit such fees into the established Housing Trust Fund.

G. Appeal of Development Fees.

1. A developer may challenge residential development fees imposed due to a disagreement as to the equalized assessed value of the property by filing a challenge with the County Board of Taxation. Such a challenge must be made within 45 days from the issuance of the certificate of occupancy. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by Upper Freehold Township. 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, N.J.S.A. 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. Other challenges to the

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imposition of a residential development fee must be brought in the Superior Court as a prerogative writ challenge.

2. A developer may challenge nonresidential 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 Upper Freehold Township. 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, N.J.S.A. 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.

H. Affordable Housing Trust Fund.

1. All collected development fees and any proceeds from the sale of units with extinguished controls shall be deposited by the Chief Financial Officer of the Township of Upper Freehold into a separate designated interest-bearing Housing Trust Fund, which shall be maintained by the Township Chief Financial Officer.
2. The following additional funds shall be deposited in the "Housing Trust Fund" and shall at all times be identifiable by source and amount:
 - a. Recapture funds;
 - b. Proceeds from the sale of affordable units;
 - c. Rental income from municipally operated units;
 - d. Affordable housing enforcement fines and application fees;
 - e. Developer contributed funds for barrier free affordable housing pursuant to N.J.A.C. 5:97-8.5⁵;
 - f. Repayments from affordable housing program loans; and
 - g. Any other funds collected in connection with the Township's affordable housing program.
3. Interest accrued in the Affordable Housing Trust Fund shall only be used on eligible affordable housing activities approved by the Court.

I. Use of Funds.

1. The expenditure of all funds shall conform to a spending plan approved by the Court, COAH, or its successor agency. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to:
 - a. A housing rehabilitation program;

5. Editor's Note: The provisions of N.J.A.C. 5:97 expired 6-2-2015.

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- b. New construction of affordable housing units and related costs; in the case of inclusionary developments, eligible costs shall be prorated based on the proportion of affordable housing units included in the development;
 - c. Accessory apartment, market to affordable, or regional affordable housing partnership programs;
 - d. Financial assistance designed to increase affordability;
 - e. Conversion of existing nonresidential buildings to create new affordable units;
 - f. Purchase of and/or improvement of land to be used for affordable housing;
 - g. Purchase of existing market rate or affordable housing for the purpose of maintaining or implementing affordability controls;
 - h. Extensions or improvements of roads and infrastructure directly serving affordable housing sites; in the case of inclusionary developments, costs shall be prorated based on the proportion of affordable housing units included in the development;
 - i. Green building strategies designed to be cost-saving and in accordance with accepted national or state standards;
 - j. Administration necessary for implementation of the Housing Plan Element and Fair Share Plan, or any other activity as specified in the approved spending plan and as permitted by the Court and specified in the approved Spending Plan.
2. Funds shall not be expended to reimburse the Township of Upper Freehold for past housing activities.
3. At least 30% 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 Housing Element and Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income for Housing Region 4, in which Upper Freehold is located.
- a. 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. The specific programs to be used for affordability assistance shall be identified and described within the spending plan.
 - b. Affordability assistance to households earning 30% or less of median income may include 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. The specific programs to be used for very-low-income affordability assistance shall be identified and described within the spending plan.
 - c. Payments in lieu of constructing affordable units on site, if permitted by ordinance or by agreement with the Township of Upper Freehold, and funds from the sale of

units with extinguished controls shall be exempt from the affordability assistance requirement.

4. The Township of Upper Freehold may contract with a private or public entity to administer any part of its Housing Plan Element and Fair Share Plan, including the requirement for affordability assistance.
5. No more than 20% of development fee revenues collected in any given year from the development fees may be expended on administration, including, but not limited to, the salaries and benefits for Upper Freehold Township employees or consultant fees necessary to develop or implement a new affordable housing program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program.
 - a. In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of the collected development fees that may be expended on administration.
 - b. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH and or its successor agency, and/or Court monitoring requirements. All other housing rehabilitation costs are considered programmatic and not administrative. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.
- J. **Monitoring.** The Upper Freehold Township Municipal Housing Liaison shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all 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. Such reporting shall include an accounting of development fees collected from residential and nonresidential developers, payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the Township), funds from the sale of units with extinguished controls, barrier-free escrow funds, repayments from affordable housing program loans, and any other funds collected in connection with the Township's housing program, as well as an accounting of the expenditures of the revenues and implementation of the Spending Plan approved by the Court.
- K. **Ongoing Collection of Development Fees.** The ability for the Township of Upper Freehold to impose, collect and expend development fees shall expire with its substantive certification unless Upper Freehold Township has filed an adopted Housing Element and Fair Share Plan with the Court, COAH or its successor agency, has petitioned for substantive certification, and has received the Court's or COAH's approval of its development fee ordinance. If the Township of Upper Freehold fails to renew its ability to impose and collect development fees prior to the date of expiration of substantive certification, it may be subject to forfeiture of

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any or all funds remaining within its municipal 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 (N.J.S.A. 52:27D-320). The Township of Upper Freehold shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification, or judgment of compliance.

§ 35-606.20. Moratorium on Affordable Housing.

When any combination of affordable for-sale and/or rental units reaches 189 credits as identified in the Settlement Agreement executed July 23, 2018, the Township of Upper Freehold will rescind all overlay zoning that permits inclusionary affordable housing developments.

Appendix F. Housing Rehab and Affordable Accessory Apartments Ordinance

§ 35-609. HOUSING REHABILITATION PROGRAM. [Ord. No. 2001-76 § 1 [81-609]]**A. Owner Eligibility.**

Owners of houses within the Township of Upper Freehold are eligible for the technical and financial assistance made available through the "Housing Rehabilitation Program," provided the following:

1. The owner must be a "low" or "moderate" income household in accordance with the applicable provisions of the "Substantive Rules" of the New Jersey Council On Affordable Housing (COAH) at N.J.A.C. 5:93-1 et seq. or must agree to rent the house to be rehabilitated to either a "low" or "moderate" income household;
2. The unit proposed to be rehabilitated must be a housing unit with health and safety code violations that require the repair or replacement of a "major system" as determined in writing by the Township Construction Code Official upon inspection of the unit relative to the prevailing standards of the "BOCA National Existing Structures Code." The term "major system" includes a roof, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems) and/or a load bearing structural system;
3. The proposed rehabilitation activity shall be limited to the repair or replacement of a "major system" as defined hereinabove, and shall not include luxury improvements, the purchase of appliances or improvements that are strictly cosmetic;
4. The proposed rehabilitation activity shall be deemed by the Township Construction Code Official, in writing, to be sufficient to remove the applicable existing health and safety code violation(s) and bring the unit up to the standards of the "BOCA National Existing Structures Code"; and
5. The owner must agree, in writing, to comply with all of the applicable requirements of this section "Housing Rehabilitation Program" provisions.

B. Conditions.

1. The rehabilitated housing unit shall be occupied only by a household which is either a "low" or a "moderate" income household at the time of initial occupancy of the unit subsequent to its rehabilitation.
2. Each rehabilitated housing unit shall, for a period of at least six years from the date of the issuance of a Certificate of Occupancy in the case of an owner-occupied unit, or for a period of at least 10 years in the case of a rental unit, be occupied only by a "low" or "moderate" income household.
3. Rents of rehabilitated housing units shall be affordable to "low" or "moderate" income households in accordance with the applicable provisions at N.J.A.C. 5:93-7.4 of COAH's "Substantive Rules", and shall specifically include an allowance for utilities in accordance with N.J.A.C. 5:93-7.4(f).
4. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the rehabilitated housing unit is located running with the land and limiting its subsequent rental or sale within the requirements of Subsections

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35-609B2 and 35-609B3 hereinabove.

5. The "Housing Rehabilitation Program" shall be affirmatively marketed to the "East Central Housing Region" consisting of Monmouth, Mercer and Ocean counties in accordance with the "Affirmative Marketing Plan" provisions in Subsection 35-609I of this section hereinbelow.

C. Administration Of The "Housing Rehabilitation Program".

The Township of Upper Freehold designates (an "administrative entity" to be named by the Township Committee) to administer the "Housing Rehabilitation Program" in accordance with the following:

1. The administrative entity shall administer the "Housing Rehabilitation Program" including advertising, income qualifying prospective renters, setting rents and annual rental increases, maintaining a waiting list, distributing the grants and/or low interest loans, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports, and affirmatively marketing the "Affordable Accessory Apartment" program.
2. The administrative entity shall develop the necessary application and financial statement forms as approved by COAH to be used by an owner of a substandard housing unit applying for a grant or loan for the purpose of rehabilitating the unit.
3. The administrative entity shall develop a "Rehabilitation Manual" that complies with COAH's "Substantive Rules" and summarizes the administration of the Upper Freehold Township "Housing Rehabilitation Program". The "Rehabilitation Manual" shall include a sample copy of the deed or declaration of covenants and restrictions to be applied to property, and also shall describe the following:
 - a. The Housing Rehabilitation Program's staff and its responsibilities;
 - b. The procedures for the marketing of the Housing Rehabilitation Program;
 - c. Eligible repairs and improvements;
 - d. The amount of money available for the rehabilitation;
 - e. Financing terms;
 - f. Income qualification criteria;
 - g. The procedures for filing applications;
 - h. The procedures for review and approval of the rehabilitation work, including interim inspections; and
 - i. The length of the affordability controls on the rehabilitated unit.
4. The administrative entity shall maintain a file on each applicant of the Upper Freehold Township "Housing Rehabilitation Program", including the following information:

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- a. The name of the applicant;
- b. If the application is not approved, the reasons for the disapproval;
- c. If the application is approved, the following shall be noted:
 - 1) Proof of income eligibility (Federal tax return);
 - 2) The initial inspection report of the Township Construction Official;
 - 3) The bids submitted by interested contractors;
 - 4) The final contract(s) to do the required work;
 - 5) Periodic reports as to the progress of the required work;
 - 6) A copy of the final inspection report of the Township Construction Official; and
 - 7) A copy of the recorded deed or declaration of covenants and restrictions applied to the subject property.
5. The administrative entity shall report quarterly to the Upper Freehold Township Committee on the status of the "Housing Rehabilitation Program" in the Township, including the following information:
 - a. The number of applications who have filed for participation in the "Housing Rehabilitation Program";
 - b. The number of units found to be substandard housing units which are occupied by "low" or "moderate" income households; and
 - c. A financial statement for each rehabilitated housing unit and each unit to be rehabilitated, including the amount of money expended or to be expended for actual rehabilitation activities versus administrative costs.

D. Funding And Phasing Of Funding.

1. The Township of Upper Freehold shall provide approximately \$10,000 per unit for up to the maximum 11 units to be rehabilitated during the course of the "Housing Rehabilitation Program". In accordance with COAH's "Substantive Rules", no more than 20% of the rehabilitation costs may be expended for administrative expenses, and the actual rehabilitation costs shall average at least \$8,000 per unit in order to maintain eligibility for rehabilitation credits for COAH for all of the assisted dwelling units.
2. The Township of Upper Freehold shall provide \$30,000 of the total \$110,000 to fund the "Housing Rehabilitation Program" within one year of the date it receives "Substantive Certification" from the COAH.
3. During each subsequent year, for a period of four additional years, the Township of Upper Freehold shall provide \$20,000 to fund the "Housing Rehabilitation Program" provided that:

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- a. No more than \$20,000 need be in the "Housing Rehabilitation Program" fund during each year subsequent to the first year's funding; and
- b. Any unused moneys from a prior year remaining in the fund may be carried forth and credited towards the following year's funding requirement.

E. Application Procedures.

1. Interested owners shall secure information and application packets from the administrative entity via the Township Clerk by visiting the Upper Freehold Township Municipal Building during the Township Clerk's regularly scheduled office hours.
2. Interested owners shall submit a completed application to the administrative entity via the Township Clerk.
3. The administrative entity shall review the application for completeness and, once an application is complete, determine whether the owner is eligible in accordance with the criteria set forth in Subsection 35-609A of this section hereinabove.
4. Upon a determination by the administrative entity that the owner is eligible, the Township Construction Code Official shall inspect the subject unit to determine whether it has the required health and safety code violations that require the repair or replacement of a "major system" as defined in Subsection 35-609A2 of this chapter hereinabove, and whether or not the proposed description and cost of the work needed to improve the unit will meet the parameters of the "Housing Rehabilitation Program". The Construction Code Official's determination shall be submitted in writing to the Housing Authority.
5. If the Township Construction Code Official determines that the unit is eligible for rehabilitation, but recommends an amended description and cost estimate of the work necessary to rehabilitate the unit, the applicant will be asked to revise the application to satisfactorily address the comments of the Construction Code Official.
6. When the Township Construction Code Official determines that the unit is eligible for rehabilitation and that the agreed upon work plan to rehabilitate the unit is satisfactory, the Construction Code Official shall notify the administrative entity in writing.
7. Once the Construction Code Official has notified the administrative entity in writing that the agreed upon work plan to rehabilitate the unit is satisfactory, the administrative entity shall arrange, in consultation with the Upper Freehold Township Committee, for a grant and/or a low interest loan in accordance with Subsection 35-609F of this chapter hereinbelow. The rehabilitation work may begin as soon as the applicant and the appropriate representative of the administrative entity have signed all necessary agreements.
8. During the course of the completion of the rehabilitation construction, the Township Construction Code Official periodically shall inspect the unit to make certain that the construction is proceeding satisfactorily in accordance with the approved work plan.
9. After completion of the rehabilitation construction, the Township Construction Code

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Official shall inspect the unit and, if the rehabilitation construction has been completed satisfactorily, shall certify in writing to the administrative entity that the rehabilitation work has been completed in accordance with the approved work plan.

10. Should the Township Construction Code Official find upon inspection that the rehabilitation work has not been completed in accordance with the approved work plan, the Construction Code Official shall so notify the administrative entity which will determine a suitable remedy.

F. Low Interest Loans.

An eligible owner may receive a grant and/or a low interest loan for the rehabilitation.

1. If a low interest is given to the property owner, the administrative entity shall work with the owner to establish a realistic loan repayment schedule.
2. If the applicant does not meet the established loan repayment schedule, the administrative entity shall collect the uncollected funds as well as the accumulated interest at the time of the sale of the unit.

G. Terms Of Low Interest Loans.

The following terms shall apply to low interest loans made for the rehabilitation of an eligible housing unit.

1. The administrative entity may make a loan to an applicant for all or a part of the total amount of the cost of rehabilitation. Although the loan will be made to the applicant, the proceeds of the loan will be paid to the individual(s) or business(es) who sell the material and/or labor for the project. Owners who contribute "sweat equity" will not receive financial remuneration for their efforts.
2. The interest rate will be fixed at an annual rate not to exceed 2%.
3. Payments on the loan principal and interest will be deferred for a ten-year period, since all units are to be rental units.
4. Payments of the loan principal and the interest due will become payable in full at the end of 10 years, unless the owner elects to continue the affordability controls on the "Affordable Unit" for an appropriate period of time, in which case the loan principal and the interest due will become payable when the affordability controls cease. No interest will be charged after the tenth year if the owner chooses to defer repayment of the loan principal in exchange for extending the affordability controls on the "Affordable Unit".

H. Priority For Financial Assistance.

In the event that sufficient funds are not available to provide grants and/or low interest loans to every eligible owner, at least 50% of the available assistance shall be awarded to applications that will result in the rehabilitation of housing units occupied by "low" income households.

I. Rehabilitation Marketing Plan.

The administrative entity shall be responsible to prepare and execute a "Rehabilitation Marketing Plan" which shall, at a minimum, consist of the following:

1. At least one well publicized public meeting to be held in the Upper Freehold Township Municipal Building to discuss and explain the "Housing Rehabilitation Program";
2. A large poster highlighting the main features of the "Housing Rehabilitation Program" to be prepared and hung in the Upper Freehold Township Municipal Building at all times;
3. The issuance of periodic press releases to the Messenger Press and the Asbury Park Press, the official newspapers of Upper Freehold Township, regarding the "Housing Rehabilitation Program" in order to promote interest in the "Housing Rehabilitation Program"; and
4. Program marketing materials will be prepared by the administrative entity which shall summarize the "Housing Rehabilitation Program". Marketing materials shall be mailed to all residents of the Township of Upper Freehold prior to March 31st of each calendar year included in COAH's "Substantive Certification" of Upper Freehold Township. The marketing materials will discuss all terms, conditions and eligibility criteria, including the following:
 - a. The administrative entity and its responsibilities regarding the "Housing Rehabilitation Program";
 - b. The eligible repairs and improvements to a substandard housing unit;
 - c. The amount of money available for the repairs and improvements;
 - d. The financing terms of low interest loans;
 - e. The criteria for owner eligibility;
 - f. The application procedures;
 - g. The procedures for review and approval of the repairs and improvements by the Township Construction Code Official, including periodic inspections of the work in progress; and
 - h. The duration of the affordability controls to be contained within the deed or the declaration of covenants and restrictions.

§ 35-610. AFFORDABLE ACCESSORY APARTMENTS. [Ord. No. 2001-77 § 1 ; 81-610]

A. Where Permitted.

Notwithstanding any provision of this Land Use Regulations chapter to the contrary, "Affordable Accessory Apartments" shall be permitted in the "AR" District on lots which meet the following requirements:

1. The lot must have a single-family detached dwelling situated thereon;

2. The lot must be at least two acres in size; and
3. The lot must have the applicable minimum "Lot Frontage" specified for "Detached Dwellings" in the "AR" District in accordance with Subsection 35-405D of this chapter and the applicable footnotes thereto.

B. Definition.

For the purpose of this section, the definition of an "Affordable Accessory Apartment" shall be as follows:

An "Affordable Accessory Apartment" shall be a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance which is created to be occupied by a "low" or "moderate income household in accordance with the applicable provisions of the "Substantive Rules" of the New Jersey Council On Affordable Housing (COAH) at N.J.A.C. 5:93-1 et seq. The "Affordable Accessory Apartment" may be created within an existing dwelling unit, may be created within an existing structure on the lot or be an addition to an existing home or accessory building.

C. Conditions.

All "Affordable Accessory Apartments" shall meet the following conditions:

1. The following yard requirements shall be applicable to an "Affordable Accessory Apartment" which is created within the principal single-family detached dwelling or is within an addition to the principal single-family detached dwelling:

| | |
|------------|---|
| Front Yard | 75 feet, except that the front yard setback shall be 125 feet for any County road |
| Rear Yard | 75 feet |
| Side Yards | 40 feet each |

2. If the "Affordable Accessory Apartment" is not created as part of the principal single-family detached dwelling and is created within an accessory structure on the lot, the subject accessory structure must be located in the rear yard area only and the following distance requirements shall apply:

| | |
|----------------------------|---------|
| Distance To Side Line | 30 feet |
| Distance To Rear Line | 30 feet |
| Distance To Other Building | 20 feet |

3. All "Affordable Accessory Apartments" shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all local building codes.
4. The "Affordable Accessory Apartment" shall be rented only to a household which is either a "low" or a "moderate" income household at the time of initial occupancy of the unit.

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5. The "Affordable Accessory Apartment" shall, for a period of at least 30 years from the date of the issuance of a Certificate Of Occupancy, be rented only to "low" or "moderate" income households.
6. Rents of "Affordable Accessory Apartments" shall be affordable to "low" or "moderate" income households in accordance with the applicable provisions at N.J.A.C. 5:93-7.4 of COAH's "Substantive Rules", and shall specifically include an allowance for utilities in accordance with N.J.A.C. 5:93-7.4(f).
7. No more than 11 "Affordable Accessory Apartments" shall be permitted within the Township of Upper Freehold.
8. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the "Affordable Accessory Apartment" is located running with the land and limiting its subsequent rental or sale within the requirements of Subsections 35-610C5 and 35-610C6 hereinabove.
9. Each "Affordable Accessory Apartment" shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom.
10. The "Affordable Accessory Apartment" shall have a separate door with direct access to the outdoors.
11. The potable water supply and sewage disposal system for the "Affordable Accessory Apartment" shall be adequate as determined by the Upper Freehold Township Board of Health prior to the issuance of any Construction Permit.
12. The "Affordable Accessory Apartment" program shall be affirmatively marketed to the "East Central Housing Region" consisting of Monmouth, Mercer and Ocean counties in accordance with the "Affirmative Marketing Plan" provisions in Subsection 35-610F of this chapter hereinbelow.
13. In the case of an "Affordable Accessory Apartment" previously created illegally on the subject property, the owner is entitled to legitimize the accessory apartment as an "Affordable Accessory Apartment" under this chapter, provided that all of the requirements of this chapter and all related COAH criteria shall apply, except that no subsidy need be provided by the Township of Upper Freehold.

D. Administration Of The "Affordable Accessory Apartment" Program.

The Township Committee of the Township of Upper Freehold shall designate an "administrative entity" to administer the "Affordable Accessory Apartment" program in accordance with the following:

1. The administrative entity shall administer the "Affordable Accessory Apartment" program including advertising, income qualifying prospective renters, setting rents and annual rental increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed

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restrictions and monitoring reports, and affirmatively marketing the "Affordable Accessory Apartment" program;

2. The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the provisions of this chapter. All denials shall be in writing with the reasons clearly stated; and
3. In accordance with COAH requirements, the Township of Upper Freehold shall provide at least \$10,000 to subsidize the physical creation of an "Affordable Accessory Apartment" conforming to the requirements of this chapter section and COAH requirements. Prior to the grant of such subsidy, the property owner shall enter into a written agreement with the Township of Upper Freehold insuring that 1) the subsidy shall be used to create the accessory apartment and 2) the apartment shall meet the requirements of this chapter and COAH regulations.

E. Application Procedures.

Each application for the creation of an "Affordable Accessory Apartment" shall submit the following information to the administrative entity:

1. A sketch of floor plan(s) showing the location, size and relationship of both the "Affordable Accessory Apartment" and the primary dwelling within the building or in another structure;
2. Rough elevations showing the modification of any exterior building facade to which changes are proposed; and
3. A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition if any, along with the minimum building setback lines; the required parking spaces for both dwelling units and any natural or man-made conditions which might affect construction.

F. Affirmative Marketing Plan.

The administrative entity shall be responsible to prepare and execute an "Affordable Accessory Apartment" marketing plan which shall, at a minimum, consist of the following:

1. At least one well publicized public meeting to be held in the Upper Freehold Township Municipal Building to discuss and explain the "Affordable Accessory Apartment" program;
2. A large poster highlighting the main features of the "Affordable Accessory Apartment" program to be prepared and hung in the Upper Freehold Township Municipal Building at all times; and
3. The issuance of periodic press releases to the Messenger Press and the Asbury Park Press, the official newspapers of Upper Freehold Township, regarding the "Affordable Accessory Apartment" program in order to further inform the public regarding the program.