

ORDINANCE 347-26

**AN ORDINANCE AMENDING AFFORDABLE HOUSING OVERLAY
ZONE DISTRICT-3 IN FURTHERANCE OF THE TOWNSHIP'S
FOURTH ROUND AFFORDABLE HOUSING OBLIGATION**

WHEREAS, the Township of Upper Freehold, County of Monmouth, State of New Jersey, (hereinafter, "Township" or "Upper Freehold") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations and in fact obtained a Final Round Three Judgment of Compliance and Repose from the Court in the matter captioned In the Matter of the Application of the Township of Upper Freehold, County of Monmouth, Superior Court of New Jersey, Law Division, Docket No. MON-L-002536-15 thereby immunizing the Township from builder remedy litigation until July 1, 2025 (the "Third Round Litigation"); and

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

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

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

WHEREAS, the Township Council adopted Resolution 68-2025 accepting the DCA calculation of the Township Fourth Round affordable housing obligation of a Present Need Obligation of 15 units and a Fourth Round Prospective Need obligation of 70 affordable housing units, subject to the Township's right to a Durational Adjustment in accordance with N.J.S.A 52:27D-311 of the Amended Act; and

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

WHEREAS, the Township filed a timely declaratory judgment complaint in accordance with AOC Directive #14-24 known as In the Matter of the Application of the Township of Upper Freehold, County of Monmouth, State of New Jersey, Docket No. MON-L-000319-25 seeking a declaration as to the Township's Fourth Round affordable housing obligation and the approval of the Township's Housing Element and Fair Share Plan ("HESP") which sets forth the affordable housing mechanisms the Township will implement to satisfy its Fourth Round affordable housing obligation; and

WHEREAS, the Court entered an order on April 1, 2025 setting the Township’s Fourth Fair Share obligations of a Present Need of zero units and a prospective need of 70 units and ordered the Borough to file a Housing Element and Fairs Plan by June 30, 2025; and

WHEREAS, the Township filed its HESP with the Court after the Planning Board approved and the Township Council endorsed the HESP setting forth the Borough is entitled to a Vacant Land Adjustment adjusting the Borough’s Realistic Development Potential to zero with an unmet need of 70 units, and

WHEREAS, Fair Share Housing enter having filed a letter pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) seeking additional information before the HESP may be approved; and

WHEREAS, the Township and Fair Share having entered into a Consent Order approving the Borough’s amended HESP subject to certain conditions which must be met under the Amended FHA by March 15, 2026.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Upper Freehold, County of Monmouth, and State of New Jersey that it hereby amends Section 35-414 of the Township Code as follows:

35-414 AFFORDABLE HOUSING OVERLAY ZONEDISTRICT - 3.

A. **Purpose**

[No change].

B. **Property Description**

[No change].

C. **Principal Uses Permitted And Required On The Land And In Buildings**

[No change].

D. **Accessory Uses Permitted**

[No change].

E. **Development Standards**

[No change].

F. **Affordable Housing Requirements**

At least twenty percent ~~fifteen percent (15%)~~ (20%) of all rental units shall be set aside for affordable housing as defined in N.J.A.C 5:97.

2. At least twenty percent (20%) of all for-sale units shall be set aside for affordable housing as defined in N.J.A.C 5:97.

3. All affordable housing units shall comply with the regulations in the Township’s Affordable Housing Ordinance and the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et. seq.) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et. seq.).

- 3. ~~At least fifty (50%) percent of the affordable units shall be affordable to very low and low income households. If only one (1) 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**

[No change]

H. **Permitted Signage**

[No change}

I. **Required Recreational Facilities**

[No change]

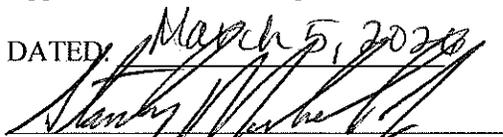
J. **General Requirements**

[No change]

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Approved on First Reading: February 5, 2026

Approved, Passed & Adopted: March 5, 2026

DATED: March 5, 2026

 Stanley Moglowski Jr, Mayor

ATTEST:

 Dana L. Tyler, RMC
 Municipal Clerk/Administrator