



*2025*

*Denville, New Jersey  
Affordable Housing &  
Fair Share Plan*

HOUSING ELEMENT & FAIR SHARE PLAN ELEMENT  
OF THE  
MASTER PLAN  
TOWNSHIP OF DENVILLE, NEW JERSEY

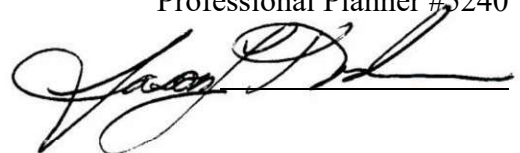
PREPARED FOR  
THE PLANNING BOARD  
OF THE  
TOWNSHIP OF DENVILLE, NJ

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The original document was signed and sealed on June 25, 2025, in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

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A handwritten signature in black ink, appearing to read "Jason L. Kasler", written over a horizontal line.

This report was developed, in part, 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.

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## SECTION 12 - HOUSING ELEMENT AND FAIR SHARE HOUSING PLAN

In 1975, the New Jersey Supreme Court handed down its first Mount Laurel decision. In that decision, the Court imposed an obligation on "developing municipalities" to provide an opportunity for the provision of its "Fair Share" of low and moderate-income housing through its master plan and development regulations. In 1983, the Court handed down a second decision, which has been referred to as Mount Laurel II. In that decision, the Court opined that the obligation to provide affordable housing was not limited to "developing municipalities" but to all municipalities within the state. Mount Laurel II related this obligation to the State Development Guide Plan, which delineated the State into various planning areas. The Township of Denville, like other municipalities in the State are required to provide and plan for the provision of affordable housing for the local community and a portion of the region's population.

In January of 1985, New Jersey adopted the Fair Housing Act ("Act"), which was the Legislature's response to the Supreme Court affordable housing decisions. The act established the Council on Affordable Housing (COAH) and assigned to COAH the responsibility for monitoring affordable housing activity throughout the State. Included within COAH's responsibilities were the establishment of housing regions, the determination of state and regional low and moderate income housing needs and the promulgation of guidelines and criteria for determination of municipal shares of the regional need for affordable housing. The Act also strongly links municipal planning and zoning to the provision of affordable housing. Under the Act, a municipal zoning ordinance is valid only if the municipality adopts a housing element as part of its master plan, and only if the zoning ordinance is substantially consistent with the housing element.

Subsequent to the adoption of the Act, COAH adopted procedural and substantive rules which set forth the requirements for municipalities under the Act. The rules determined the local and regional need for affordable housing units and allocated a "fair share" of the regional need to each municipality in the region for the period of 1987 through 1993. In May 1994, COAH amended its substantive rules and established revised affordable housing requirements for municipalities for the period of 1987 through 1999. COAH determined Denville's total affordable housing obligation to be three hundred and twenty-five (325) affordable housing units. The Township received credit for three hundred and twenty-seven (327) units, thereby creating a surplus of two (2) units.

In December of 2004, COAH once again amended its rules (Third Round), which adjusted the prior fair share obligations and promulgated a new methodology for determining a municipality's future obligation to plan for affordable housing. The new methodology determined the municipal obligation on the basis of development activity, or growth, in the municipality during the period from January 1, 2004 to December 31, 2013, as measured by certificates of occupancy issued. The rules required that municipalities provide a plan for one new affordable housing unit for every increase of eight (8) market-rate housing units and for every twenty-five (25) jobs (as estimated using various use groups and employment/floor area ratios).

On January 25, 2007, however, the courts found that the methodology used was not valid and ordered COAH to come up with amended rules within six (6) months. Subsequently, there were further extensions of time granted by the courts, and COAH was once ordered to revise the methodology used as well as recalculate obligations to municipalities.

In December 2007, COAH released, yet again, new draft third round rules which were ultimately adopted in May 2008. Major provisions of the revised rules required that municipalities provide one affordable unit among every five (5) residential units built and one (1) affordable unit for every sixteen (16) jobs generated. As part of the revision, COAH provided projected affordable housing numbers based on estimated growth. The rules required that municipalities had to plan for the construction of those units but only were obligated to construct affordable units based on actual growth.

The third-round rules, however, were further amended based on revisions proposed on June 16, 2008, and adopted on September 22, 2008. Established presumptive densities and affordable housing set-asides for inclusionary developments were based on the State Development and Redevelopment Plan. Higher density standards were established in Planning Areas 1 and 2 as well as Centers and lower densities outside of these growth areas.

The rules were subject to change once again based on Bill A500 which was passed in June 2008 that became effective July 17, 2008. This rule change had substantial impacts to provisions for affordable housing. Some of the major modifications were the eliminated Regional Contribution Agreements (RCA's); restrictions on payments in lieu of constructing affordable units; as well as creation of a statewide development fee bank for fees collected from non-residential developers in non-COAH participating towns.

The revised rules were further changed as a result of Executive Order #114, which was signed on September 5, 2008. The major provisions of this change included the creation of and regulations concerning the Highlands Water Protection and Planning Act and the Highlands Council. On September 22, 2008, COAH also voted to propose an amendment to N.J.A.C. 5:97-2.5 regarding the exclusion of the demolition and replacement of owner-occupied residential structures from the growth share obligation.

In 2010, the Appellate Division invalidated a large portion of the revised third round regulations which suffered from "many of the same deficiencies as the original Third Round Rules". In June of 2011, Governor Christie issued Reorganization Plan No. 001 which abolished COAH and transferred its functions to the Department of Community Affairs. Two years later, in July of 2013, the Supreme Court held that the Governor had no authority to abolish COAH.

In November 2014, the Supreme Court granted COAH's motion for an extension for enacting the Third Round Rules to be completed within eight (8) months. Revised Third Round Rules were published in the New Jersey Register in June 2014. The members of the Council On Affordable Housing voted on these revised third round regulations and were deadlocked at a three to three vote.

In March of 2015, the Supreme Court issued its decision in re. N.J.A.C. 5:96 and 5:97, 221 NJ (2015) ("Mt. Laurel IV"), and found that the administrative process before COAH for reviewing municipal compliance with affordable housing obligations had become nonfunctional and, as a result returned primary jurisdiction over affordable housing matters to the trial courts.

As a result of Mt. Laurel IV, the Township of Denville filed a timely Declaratory Judgement Action (“DJ Action”) on July 2, 2015, which sought (1) a judicial determination of its “fair share” obligation; and (2) asked the trial judge assigned to the case to review and approve the Township’s Affordable Housing Plan to address those obligations. In addition, the Township sought and secured an order protecting the Township from all Mount Laurel lawsuits during the review and approval process.

Thereafter, the Township engaged in extensive negotiations with the Fair Share Housing Center (FSHC) and multiple interveners, aided by two Court Appointed Special Masters, Phillip B. Canton, FAICP, PP (retired), and James Kyle, AICP, PP. After five years of negotiation between all parties, on July 31, 2020, the Township of Denville entered into an agreement with FSHC, which, among other things, established the Township’s third round fair share obligation and set forth how the Township will meet this obligation.

	<u># of Units</u>
Rehabilitation Share	46
Prior Round Obligation (1987-1999)	325
Third Round Obligation (1999-2025)	848

The Township’s five years of negotiations included an exhaustive vacant land analysis wherein all vacant and “under-utilized” properties were evaluated to determine each individual lot’s development capacity to determine the Township’s overall Realistic Development Potential (RDP). A summary of the vacant land analysis can be found in Chart 15-16 and yields a town wide realistic development potential of one hundred and eighty-nine (189) units. (See 2019 Comprehensive Response for Affordable Housing for the Township of Denville, New Jersey last revised though November 27, 2019 consisting of 191 pages).

The one hundred and eighty-nine (189) units that Denville was capable of developing would result in an “Unmet Need” of six hundred and fifty-two (652) units. On December 16, 2020, the Honorable Judge Gaus entered an Order approving the Settlement Agreement and Granting Preliminary Judgement of Compliance and Repose after a duly noticed “Fairness Hearing” on December 4, 2020. A Fairness Hearing is required under Mount Laurel law to secure a judicial determination that the terms of the Settlement Agreement were fair and reasonable to the low and moderate income households in the region.

Denville’s third round Housing Element and Fair Share plan was consistent with the Township’s Settlement Agreement with FSHC, Settlement Agreements with intervening developers, and Judge Gaus’ Order. The third round Housing Element and Fair Share Plan set forth the manner in which the Township of Denville had addressed it’s affordable housing obligation. This action taken by the Township and the Planning Board is yet another example of the longstanding commitment to create affordable housing opportunities, which complied with the constitutional obligation established by the Mount Laurel doctrine.

On March 20, 2024, Governor Phil Murphy signed P.L. 2024, c.2., into law, which established a new framework for determining and enforcing municipality’s fourth (4<sup>th</sup>) round affordable housing obligations. The law required Non-Qualified Urban Aide Municipalities (QUAMs) to adopt a



binding resolution on or before January 31, 2025, either accepting the Department of Community Affairs (DCA) calculated obligation (which was 485 units for Denville) or come up with an alternative calculation pursuant to a three (3) factor formula.

The three factors of this new affordable housing formula is (1) the amount of developable land as compared to vacant land in the region; (2) Income Capacity (municipalities with higher median household incomes would be required to assume a larger proportion of the region's affordable housing obligation) and (3) Equalized Non-Residential Valuation (municipalities with a larger non-residential tax base would be required to assume a larger proportion of the regions affordable housing obligation). Therefore, based upon the DCA calculation in accordance with the formula established in P.L. 2024, c.2., Denville's obligation would have been 219 affordable units if there were no vacant land.

Based upon a comprehensive and careful review of the data supplied by the DCA the Township's Elected Officials and Professionals challenged the calculations for all three factors of the affordable housing obligation formula. In doing so, Denville was the only municipality in the State of New Jersey to challenge more than one element of the DCA's calculations. At its January 21, 2025 meeting, the Township Council adopted the binding resolution as required by State law, establishing the municipal fourth (4<sup>th</sup>) round prospective need obligation at 230 units.

In accordance with the State law, parties had until February 28, 2025, to challenge a municipality's adopted numbers. The New Jersey Builders Association (NJBA) challenged all 156 municipalities that challenged the DCA-assigned obligations, and the Fair Share Housing Center (FSHC) challenged a large percentage of municipalities, including Denville. Pursuant to the law, a Judge assigned from a statewide panel would have until April 1, 2025, to either mediate a resolution between the parties or ultimately assign an obligation to each of the municipalities whose obligations were challenged.

As part of their challenge, the NJBA held firm that Denville's obligation should remain at 485 affordable units where the FSHC demanded the municipal obligation be set at 414 units. A comprehensive report was submitted to the Judge overseeing Denville's case. Besides challenging the Income Capacity and Equalized Non-Residential Valuation factors, the report included a lot-by-lot analysis demonstrating that Denville had less than twenty (20) developable acres in the entire municipality.

After our first meeting with the honorable Judge Hansbury and a court appoint Special Adjudicator (nonpartisan professional planner, James Kyle, AICP, PP) it became apparent that the two parties were very far apart with their numbers. The Judge set a hearing date for the next week and asked the Special Adjudicator, the Fair Share Housing Center planner, and Denville's professionals, to meet separately to see if we could get the two parties closer together. This meeting occurred and ended with the two parties still far apart. Over the next couple of days negotiations and arguments had been made via phone calls, emails and texts with the Special Adjudicator. Ultimately, Denville's self-calculated obligation of 230 was raised and the municipality settled with the objectors at an obligation of 277 units. This has been memorialized in a decision signed by his honor, Stephan Hansbury, on March 31, 2025.

### Inventory of Municipal Housing Stock

A municipal housing element must include an inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated, and in conducting this inventory the municipality shall have access, on a confidential basis for the sole purpose of conducting the inventory, to all necessary property tax assessment records and information in the assessor's office, including but not limited to the property record cards;

This section of the Housing Element of the Township of Denville provides an inventory of the community's housing stock including:

- a) Number of Year Round and Seasonal Housing Units;
- b) Housing Age;
- c) Housing Condition;
- d) Purchase and Rental Value;
- e) Occupancy Characteristics and Type.

a) Year Round and Seasonal Housing Units

The Bureau of the Census in 2010 reported, as depicted on Table 12-1 a total of the six thousand seven hundred and thirty-four (6,734) housing units contained a total of three hundred and two (302) vacant units at the time of the Census - a vacancy rate of 4.5 percent. Morris County had a vacancy rate of 4.9 percent at the time of the 2010 census. Occupied housing in Denville totaled six thousand four hundred and thirty-two (6,432) dwelling units. Of this number, five thousand five hundred and nineteen (5,519) were owner-occupied, and nine hundred and thirteen (913) were renter-occupied.

The Bureau of the Census in 2020 reported, as depicted on Table 12-2 in 2020 there was an total of six thousand eight hundred and thirty-four (6,834) year-round housing units in the Township and a total of three hundred and ninety-two (392) vacant units - a vacancy rate of 5.7 percent which is similar to Morris County. Of this number, six thousand four hundred and forty-two (6,442) were owner-occupied, and one thousand and thirty-five (1,035) were renter-occupied.

Table 12 – 1  
Housing Characteristics  
Township of Denville and the Morris County  
2010

	Denville		Morris	
	Township	Percentage	County	Percentage
Total Year-Round Housing Units	6,734	100.0	189,842	100.0
Total Occupied Housing Units	6,432	97.5	180,534	95.1
Owner-occupied	5,519	85.8	135,316	75.0
Renter-occupied	913	14.2	45,218	25.0
Total Year-Round Vacant Housing Units	302	4.5	9,308	4.9

Source: U.S. Department of Commerce, Bureau of the Census, Table DP-1 Profile of General Demographic Characteristics, 2010.

Table 12 – 2  
Housing Characteristics  
Township of Denville and the Morris County  
2020

	Denville		Morris	
	Township	Percentage	County	Percentage
Total Year-Round Housing Units	6,834	100.0	197,722	100.0
Total Occupied Housing Units	6,442	94.3	188,496	95.3
Owner-occupied	5,407	79.1	136,144	68.86
Renter-occupied	1,035	15.1	52,352	26.5
Total Year-Round Vacant Housing Units	392	5.7	9,226	4.7

Source: U.S. Department of Commerce, Bureau of the Census, 2020.

b) Housing Age

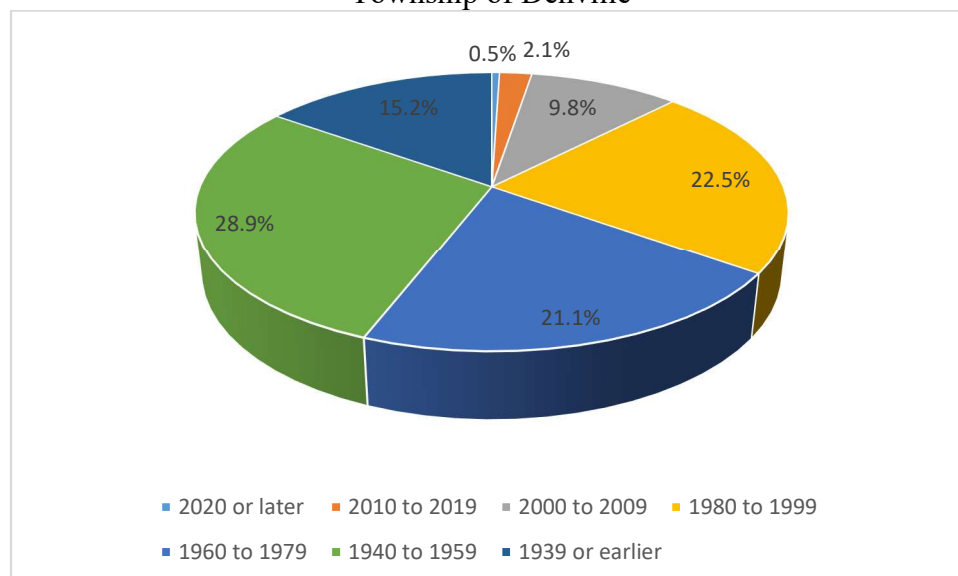
Table 12-3 below provides an analysis of the age of housing in Denville as reported in the 2010 Census and 2020 estimates from the American Community Survey 5-year estimates. The data indicated that in 2020 approximately 15.2 percent of all housing in the community was built before 1940. In 2020, housing built between 1940 and 1979 accounted for three thousand one hundred and sixty-seven (3,167) housing units, totaling fifty percent (50) percent of all housing in the Township. In 2020, housing built between 1980 and 1999 accounted for one thousand four hundred and twenty-four (1,424) housing units totaling 22.5 percent of all housing in Denville. In 2020, housing constructed after 2000 totaled seven hundred and eighty-five (785) homes representing 12.4 percent of all housing in the community.

Table 12 – 3 Year Structure Built  
Township of Denville  
2010 & 2020

<i>Year Structure Built</i>	<i>Number of Units 2010</i>	<i>2010 Percent</i>	<i>Number of Units 2020</i>	<i>2020 Percent</i>
2020 or later			30	0.5
2010 to 2019			135	2.1
2000 or 2009	592	8.8	620	9.8
1980 to 1999	1,482	22.0	1,424	22.5
1960 to 1979	1,771	26.3	1,335	21.1
1940 to 1959	1,737	25.8	1,832	28.9
1939 or earlier	1,152	17.1	964	15.2

Source: U.S. Department of Commerce, Bureau of the Census, Summary Tape File 3, 2010, 2023 American Community Survey 5-year estimates

2020 Estimated Year Structure Built  
Township of Denville



c) Housing Conditions

Table 12-4 below provides a variety of additional housing characteristics relating to utility services and heating facilities supplied to the housing stock found in the municipality for 2010 and estimated 2020. In 2020, more than half of all of the housing units (69.8 percent) in Denville are served by gas or oil heat. Another 19.3 percent of homes utilize fuel oil or kerosene, 6.9 percent utilize electricity, and 3.3 percent utilized bottled, tank or LP gas for heating. Less than one (1) percent of the homes have less than complete plumbing facilities (16 homes), and two (2.2) percent lack complete kitchen facilities (140 homes).

Table 12 – 4 Equipment and Plumbing Facilities  
Township of Denville, New Jersey  
2010 & 2020

	2010		2020	
	Number	Percentage	Number	Percentage
<b>House Heating Fuel</b>				
Utility gas	4,101	60.9	4,424	69.8
Bottled, tank, or LP gas	163	02.4	212	3.3
Electricity	444	6.6	439	6.9
Fuel oil, kerosene, etc.	1,981	29.4	1,226	19.3
Coal or coke	0	0.0	0	0.0
Wood	0	0.0	39	0.6
Solar energy	0	0.0	0	0.0
Other fuel		0.8	4,424	1.1
No fuel used	54	0.0	212	0.2
<b>Selected Characteristics</b>				
Lacking complete plumbing facilities	40	0.6	16	0.3
Lacking complete kitchen facilities	54	0.8	140	2.2

Source: U.S. Department of Commerce, Bureau of the Census, Summary Tape File 3, 2023 American Community Survey 5-year estimates

d) Purchase and Housing Values

The 2010 Census of Housing and the 2023 American Community Survey 5-year estimates detail owner- and renter-occupied housing values. Table 12-5 below indicates the distribution of housing costs of owner-occupied units. The median sales value of owner-occupied units in 2010 is noted to be four hundred and twenty-three thousand two hundred dollars (\$423,200) while renter occupied housing units were identified with a median rental value of one thousand two hundred and eighty-one dollars (\$1,281) per month. The estimated 2020 median sales value of owner-occupied units is noted to be five hundred and fifty-five thousand seven hundred dollars (\$555,700) while renter occupied housing units were identified with a median rental value of one thousand six hundred and ninety-eight dollars (\$1,698) per month.

Table 12 – 5: Specified Owner Occupied  
Housing Units by Value  
Township of Denville New Jersey  
2010 & 2020

	2010		2020	
	Number	Percentage	Number	Percentage
<b>Specified owner-occupied units</b>	<b>5,647</b>		<b>5,295</b>	
<b>VALUE</b>				
Less than \$50,000	46	0.81	45	0.8
\$50,000 to \$99,999	53	0.94	58	1.1
\$100,000 to \$149,999	31	0.55	9	0.2
\$150,000 to \$199,999	73	1.29	13	0.2
\$200,000 to \$299,999	558	9.88	92	1.7
\$300,000 to \$499,999	2,921	51.73	2,064	38.2
\$500,000 to \$999,999	1,730	30.64	2,834	52.4
\$1,000,000 or more	235	4.16	293	5.4
Median (dollars)	423,200		555,700	

Source : U.S. Department of Commerce, Bureau of the Census, Summary Tape File 3, 2010, 2023 American Community Survey 5-year estimates

e) Occupancy Characteristics and Types

Table 12-6 provides an analysis of the number of housing units in structures in the community in 2010 and estimates for 2020. The data indicates that the vast majority of housing is located in single-family detached structures. In 2020, there were a total of five thousand twenty-two (5,022) units located in single-family housing, representing 74.1 percent of all housing in the community. The second largest housing size is categorized as “1-unit attached” at six hundred and eighty-three (683) units or 10.1 percent of the community.

Table 12 – 6: Units in Structure  
Township of Denville, New Jersey  
2010 & 2020

Units in Structure	2010		2020	
	Number	Percentage	Number	Percentage
1-unit, detached	5,071	74.19	5,022	74.1
1-unit, attached	763	11.16	683	10.1
2 units	65	0.95	111	1.6
3 or 4 units	80	1.17	50	0.7
5 to 9 units	117	1.71	175	2.6
10 to 19 units	113	1.65	155	2.3
20 or more units	619	9.06	580	8.6
Mobile home	7	0.10	0	0.0
Boat, RV, van, etc.	0	0.0	0	0.0

Source : U.S. Department of Commerce, Bureau of the Census, Summary Tape File 3, 2023 American Community Survey 5-year estimates

Table 12-7 identifies the number of rooms per dwelling unit in the community. In general, most residences provide an ample number of rooms per dwelling, a measure of significance in computing overcrowded conditions. In 2010, the Township of Denville had a mean value of 6.7 rooms per house and in 2020 it is estimated that the median number of rooms rose to 7 rooms. In the year 2020, the Township of Denville had 71.90 percent of homes classified as having six (6) rooms or more.

Table 12 – 7: Number of Rooms  
In Housing Units  
Township of Denville, New Jersey  
2010 & 2020

ROOMS	2010		2020	
	Number	Percentage	Number	Percentage
1 room	56	0.82	237	3.5
2 rooms	74	0.11	15	0.2
3 rooms	483	7.04	309	4.6
4 rooms	654	9.54	670	9.9
5 rooms	868	12.66	665	9.8
6 rooms	1,074	15.67	1,025	15.1
7 rooms	952	13.89	868	12.8
8 rooms	1,050	15.32	1,121	16.5
9 or more rooms	1,644	23.98	1,866	27.5
Median (rooms)	6.7		7	

Source: U.S. Department of Commerce, Bureau of the Census, Summary Tape File 3, 2023 American Community Survey 5-year estimates

### Housing Projections

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

The prior ten year period (2014 through 2024) building permits are displayed below. Data for construction permits is kept by the Department of Community Affairs for the past five (5) years. Prior to that the data is summarized and approximations are necessary. This time period must be reviewed through a lens of the times. On March 21, 2020 the governor of New Jersey, in response to the COVID-19 pandemic, announced a statewide stay-at-home order, requiring that all non-essential businesses be closed indefinitely by 9 p.m. that day. In the following months, the stay-at-home order was gradually lifted, however other measures such as social distancing requirements, capacity limits, and requirements that people wear face masks remained in place for some time. Most of these restrictions were lifted by March 2022 when the governor ended the state's public health emergency due to COVID-19. The economy was devastated and there were supply chain issues. Development during this time period clearly was impacted by this worldwide event.



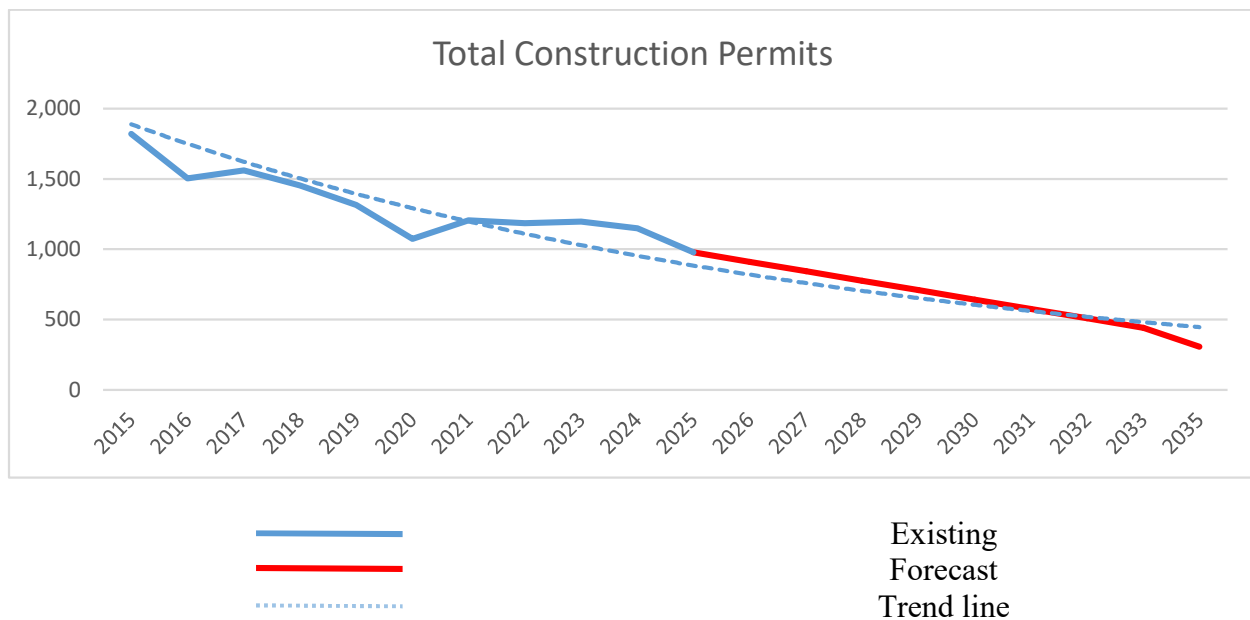
The prior round obligation was based upon a vacant land analysis and adjustment. The data found on the chart on the following page shows a drastic decline in forecasted building permits. More likely, the number of permits will decline, but probably not at the rate illustrated. It is expected that even though the number of permits will diminish, it is more likely that the type of permit will change, less new construction and more alterations.

Table 12 – 8: Permits per year  
Township of Denville, New Jersey  
2015 through 2024

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
Demolitions	10	6	5	5	7	76	76	90	68	92
Additions	52*	45*	47*	42*	38*	45	43	43	24	25
Alterations	1,682	1,450	1,508	1,406	1,270	1,091	1,215	1,137	1,158	1,139
New	97	15	12	12	15	14	24	95	82	78

Source: New Jersey Department of Community Affairs - Division of Codes & Standards; NJ Construction Permit Data, accessed 4.14.25. New Jersey Department of Community Affairs - Building Permits: Yearly Summary Data (2015-2019); UCC permits issued, Denville Township (2015-2019).  
\* Approximation

Total Construction Permits  
Township of Denville  
2015 – 2035



### Population Analysis

A municipal housing element must include an analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age. This section of the Housing Element of the Township of Denville provides an analysis of the following characteristics of the community:

- a) Population Size;
- b) Rate of Population Growth;
- c) Age and Gender Characteristics;
- d) Income Levels;
- e) Household Size.

a) Population Size

In 1980, the Township of Denville had a population of fourteen thousand three hundred and eighty (14,380) according to the United States Census of Population. In 1990, Denville's population stood at thirteen thousand eight hundred and twelve (13,812) people; a decrease of five hundred and sixty eight (568) people. The year 2000 census reported a total population of fifteen thousand eight hundred and twenty-four (15,824) people, an increase of two thousand and twelve (2,012) people. The year 2010 census reported a total population of sixteen thousand six hundred and thirty five (16,635) people, an increase of eight hundred and eleven (811) people. The 2020 census indicates a total population of seventeen thousand one hundred and seven (17,107) persons which represents a slight population increase of 2.8 percent from the prior census.

b) Rate of Population Growth

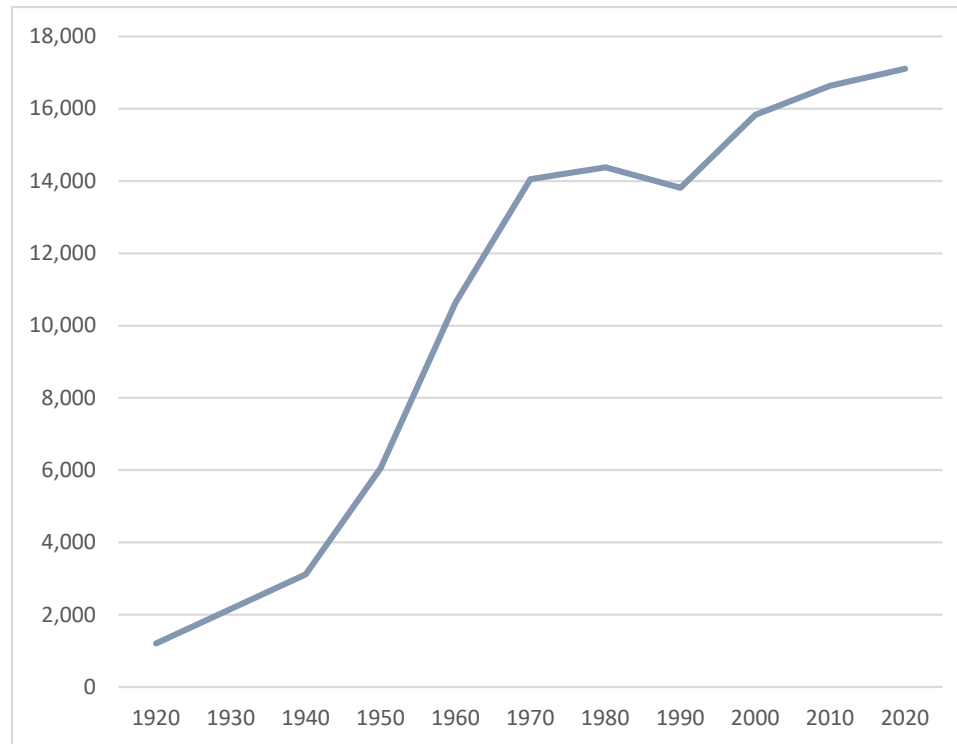
Table 12-9 presents the rate of growth for Denville from 1920 through 2020. In 1920, the population stood at one thousand two hundred and four (1,204) people. From 1930 to 1980, the community's population expanded from two thousand one hundred and sixty two (2,162) people to fourteen thousand three hundred and eighty (14,380) people. The Township experienced a decrease in population from 1980 to 1990, losing five hundred and sixty eight (568) persons. From 1990 to 2010, the Township has expanded from thirteen thousand, eight hundred and twelve (13,812) persons to sixteen thousand six hundred and thirty five (16,635) persons. The 2020 census indicates a total population of seventeen thousand one hundred and seven (17,107) persons which represents a slight population increase of 2.8 percent from the prior census.

Table 12 – 9: Rate of Population Growth  
Township of Denville, New Jersey  
1920–2020

<u>Year</u>	<u>Population</u>	<u>Population Change</u>	<u>Percentage Change</u>
1920	1,204		
1930	2,162	958	79.6%
1940	3,117	955	44.2%
1950	6,055	2,938	94.3%
1960	10,632	4,577	75.6%
1970	14,045	3,413	32.1%
1980	14,380	335	2.4%
1990	13,812	-568	-3.9%
2000	15,824	2,012	14.6%
2010	16,635	811	5.1%
2020	17,107	472	2.8%

Source : 1920-2020 U.S. Census of Population

A century of Population  
Township of Denville, New Jersey  
1920–2020



c) Age Characteristics

The U.S. Census indicates that in 2010, 52.3 percent of the population was female, and 47.7 percent were male. The data in Table 12 – 10 also indicates the population distribution by age cohorts for 2010. In 2020 females reduced in percentage of population from 52.3 to 49.56 percent. The data in Table 12 – 11 also indicates the population distribution by age cohorts for 2020.

Table 12 – 12 indicates change in population per cohort from the 2000 through the 2020 Census. The number of children under nine (9) fluctuated through the years. Young people aged ten (10) through twenty-four (24) has also fluctuated as a percentage of the total population from almost 15 percent in 2000 to almost 18 percent in 2010 and back down to about 17 percent in 2020. People aged twenty-five (25) through forty-four (44) decreased by seven percent. Between 2000 and 2020, the population in the Township aged forty-five (45) years to sixty-nine (69) years old increased from 29 percent of the total population to almost 35 percent.

Table 12 – 10 Age and Gender Characteristics  
 - 2010 Census of Population  
 Township of Denville

Age	<u>Number</u>			<u>Percent</u>		
	<u>Both sexes</u>	<u>Male</u>	<u>Female</u>	<u>Both sexes</u>	<u>Male</u>	<u>Female</u>
Total population	16,635	7,942	8,693	100	47.7	52.3
Under 5 years	865	448	417	5.2	5.6	4.8
5 to 9 years	1,098	550	548	6.6	6.9	6.3
10 to 14 years	1,264	618	646	7.6	7.8	7.4
15 to 19 years	1,029	543	486	6.2	6.8	5.6
20 to 24 years	671	356	315	4	4.5	3.6
25 to 29 years	647	310	337	3.9	3.9	3.9
30 to 34 years	785	371	414	4.7	4.7	4.8
35 to 39 years	1,021	454	567	6.1	5.7	6.5
40 to 44 years	1,370	669	701	8.2	8.4	8.1
45 to 49 years	1,562	776	786	9.4	9.8	9
50 to 54 years	1,356	642	714	8.2	8.1	8.2
55 to 59 years	1,255	636	619	7.5	8	7.1
60 to 64 years	1,094	512	582	6.6	6.4	6.7
65 to 69 years	768	353	415	4.6	4.4	4.8
70 to 74 years	502	240	262	3	3	3
75 to 79 years	433	187	246	2.6	2.4	2.8
80 to 84 years	361	139	222	2.2	1.8	2.6
85 to 89 years	554	138	416	3.3	1.7	4.8

Source : 2010 U.S. Census of Population

Table 12 – 11: Age and Gender Characteristics  
 - 2020 Census of Population Estimate  
 Township of Denville

	Number			Percent		
	Both Sexes	Male	Female	Both Sexes	Male	Female
Total population	17,110	8,631	8,479	100%	50.44%	49.56%
AGE						
Under 5 years	936	605	331	5.50%	7.00%	3.90%
5 to 9 years	1,043	569	474	6.10%	6.60%	5.60%
10 to 14 years	954	513	441	5.60%	5.90%	5.20%
15 to 19 years	735	396	339	4.30%	4.60%	4.00%
20 to 24 years	1,224	423	801	7.20%	4.90%	9.40%
25 to 29 years	1,062	485	577	6.20%	5.60%	6.80%
30 to 34 years	740	483	257	4.30%	5.60%	3.00%
35 to 39 years	1,507	727	780	8.80%	8.40%	9.20%
40 to 44 years	743	298	445	4.30%	3.50%	5.20%
45 to 49 years	1,166	615	551	6.80%	7.10%	6.50%
50 to 54 years	1,085	606	479	6.30%	7.00%	5.60%
55 to 59 years	1,313	735	578	7.70%	8.50%	6.80%
60 to 64 years	1,457	625	832	8.50%	7.20%	9.80%
65 to 69 years	952	513	439	5.60%	5.90%	5.20%
70 to 74 years	707	380	327	4.10%	4.40%	3.90%
75 to 79 years	706	307	399	4.10%	3.60%	4.70%
80 to 84 years	261	99	162	1.50%	1.10%	1.90%
85 years and over	519	252	267	3.00%	2.90%	3.10%

Source : 2023 American Community Survey

# Age of Population by Age and Gender Township of Denville, New Jersey 2020

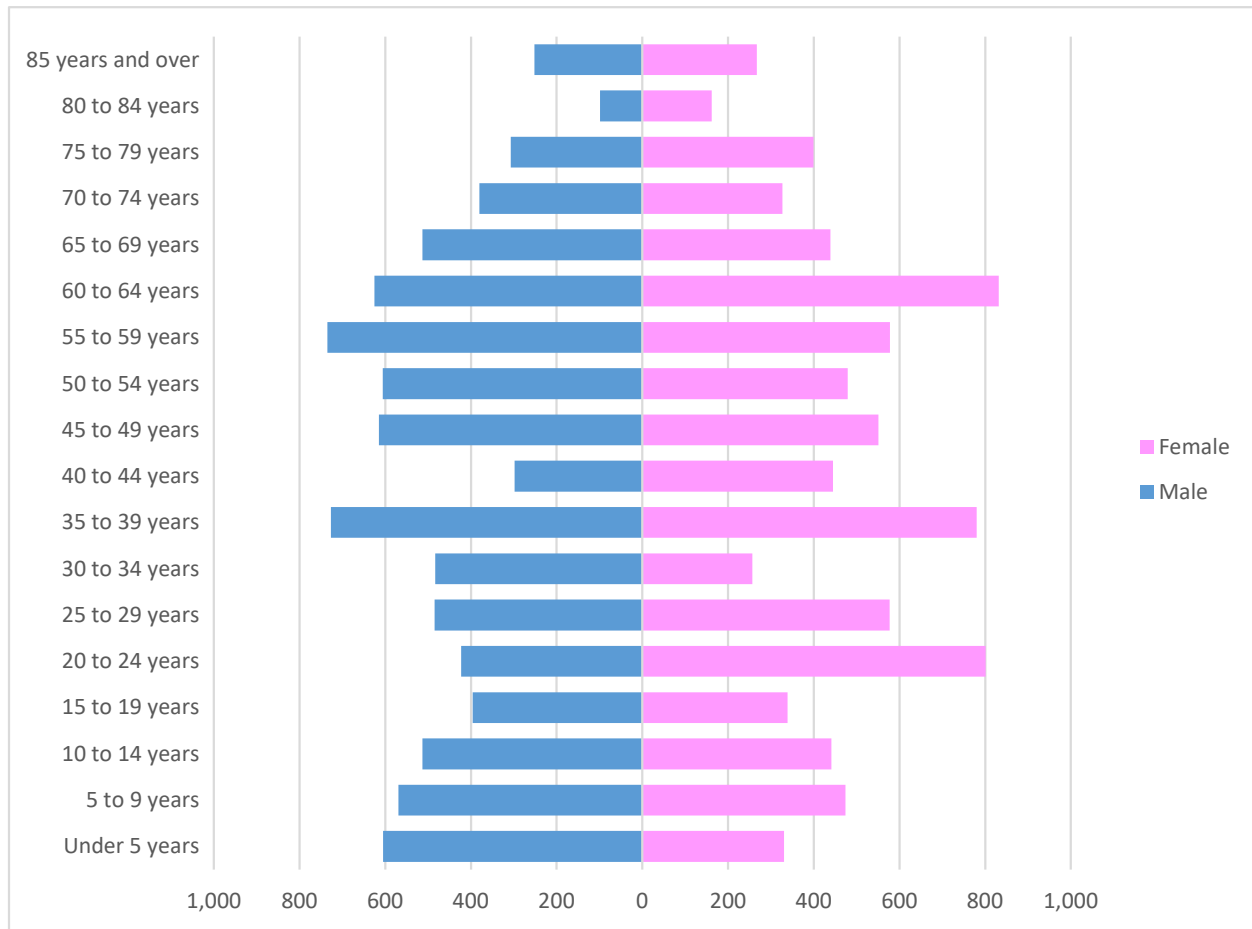
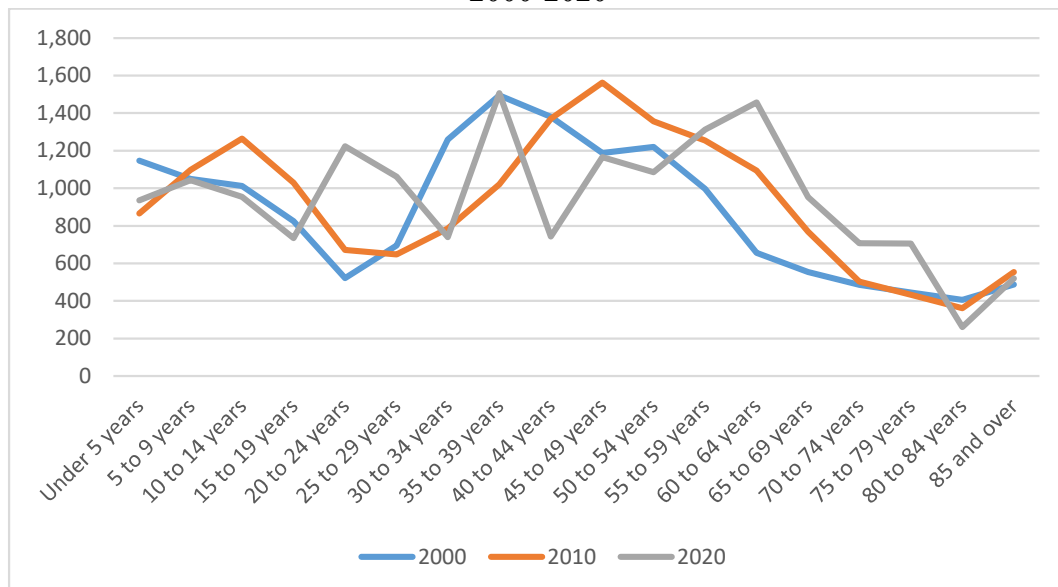


Table 12 – 12: Age Characteristics  
Township of Denville, New Jersey  
2000–2020

	2000	2010	2020
Under 5 years	1,147	865	936
5 to 9 years	1,049	1,098	1,043
10 to 14 years	1,012	1,264	954
15 to 19 years	825	1,029	735
20 to 24 years	522	671	1,224
25 to 29 years	696	647	1,062
30 to 34 years	1,260	785	740
35 to 39 years	1,495	1,021	1,507
40 to 44 years	1,380	1,370	743
45 to 49 years	1,187	1,562	1,166
50 to 54 years	1,221	1,356	1,085
55 to 59 years	997	1,255	1,313
60 to 64 years	657	1,094	1,457
65 to 69 years	554	768	952
70 to 74 years	485	502	707
75 to 79 years	445	433	706
80 to 84 years	405	361	261
85 and over	487	554	519

Source : U.S. Census of Population, 2000, 2010, 2023 American Community Survey

Change in Population by Age Group  
Township of Denville  
2000-2020





d) Income Levels

Table 12-13 identifies household income for the Township of Denville in 2010 and 2020. In 2010, 62.76 percent of the households earned over one hundred thousand (\$100,000) dollars. This number rose significantly to 72.3 percent in 2020. The median household income was listed at \$163,276 in 2020.

Table 12 – 13: Family and Household Income  
Township of Denville

Income	2010		2020	
	Households	Percent	Households	Percent
	6,271	100.00%	6,368	100%
Less than \$10,000	186	2.97%	89	1.4%
\$10,000 to \$14,999	104	1.66%	120	1.9%
\$15,000 to \$24,999	336	5.36%	127	2.0%
\$25,000 to \$34,999	269	4.29%	203	3.2%
\$35,000 to \$49,999	522	8.32%	139	2.2%
\$50,000 to \$74,999	775	12.36%	539	8.5%
\$75,000 to \$99,999	771	12.29%	533	8.4%
\$100,000 to \$149,999	1,546	24.65%	1,179	18.6%
\$150,000 to \$199,999	1,762	28.10%	1,154	18.2%
\$200,000 or more			2,251	35.5%

Source : U.S. Census of Population, 2010, 2023 American Community Survey

e) Household Size

The 2020 Census has indicated that Denville has a large percentage of its population living in one (1) or two (2) person households. This is typically indicative of a population high in young families, empty nesters or populations experiencing a growth in the older age cohorts. In 2020, the average household size of was 2.59 people per household in Denville which is similar to the 2.6 persons per household and 2.61 persons for the State of New Jersey.

Table 12 – 14: Family Household Size  
New Jersey, Morris County and Township of Denville  
2020

	New Jersey		Morris County, New Jersey		Denville, New Jersey	
	<u>Number</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
<b>Total Households</b>	2,395,738		138,350		4,905	
2-person household	938,940	39.2%	55,212	39.9%	1,949	39.7%
3-person household	585,045	24.4%	36,601	26.5%	1,553	31.7%
4-person household	513,878	21.4%	31,708	22.9%	942	19.2%
5-person household	220,929	9.2%	10,322	7.5%	176	3.6%
6-person household	77,383	3.2%	3,657	2.6%	184	3.8%
7-or-more-person household	59,563	2.5%	850	0.6%	101	2.1%

Source : 2023 American Community Survey

Table 12 – 15: Non - Family Household Size  
New Jersey, Morris County and Township of Denville  
2020

	New Jersey		Morris County, New Jersey		Denville, New Jersey	
	<u>Number</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
<b>Total Households</b>	1,142,719		54,842		1,435	
1-person household	927,733	81.2%	45,345	82.7%	1,217	84.8%
2-person household	183,833	16.1%	8,894	16.2%	218	15.2%
3-person household	18,133	1.6%	155	0.3%	0	0.0%
4-person household	7,023	0.6%	343	0.6%	0	0.0%
5-person household	3,172	0.3%	105	0.2%	0	0.0%
6-person household	1,100	0.1%	0	0.0%	0	0.0%
7-or-more-person household	1,725	0.2%	0	0.0%	0	0.0%

Source: 2023 American Community Survey

### Existing and Probable Future Employment Characteristics

A municipal housing element must include an analysis of the existing and probable future employment characteristics of the municipality.

Table 12 – 16: Number of Employers and Employees  
Township of Denville (2014-2023)

Description	2014		2015		2016		2017		2018		2019		2020		2021		2022		2023	
	Employers	Employees	Employers	Employees	Employers	Employees	Employers	Employees	Employers	Employees	Employers	Employees	Employers	Employees	Employers	Employees	Employers	Employees	Employers	Employees
FEDERAL GOVT TOTALS	1	31	4	120	1	32	1	33	1	32	1	31	1	30	1	29	1	29	1	29
STATE GOVT TOTALS	.	.	1	9	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
LOCAL GOVT TOTALS	7	639	4	516	7	664	7	698	7	701	7	701	7	656	7	674	7	698	7	699
LOCAL GOVT EDUCATION	4	388	1	350	4	409	4	443	4	450	4	446	4	424	4	437	4	460	4	452
Agriculture	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Construction	65	410	52	315	63	414	57	386	60	407	64	445	63	401	60	436	60	434	56	405
Manufacturing	24	513	.	.	29	510	29	505	30	512	31	540	28	479	27	504	30	561	28	578
Wholesale Trade	33	291	28	362	33	235	33	264	30	245	32	253	36	243	36	242	35	230	33	222
Retail Trade	99	1,219	69	1,084	96	1,209	98	1,229	95	1,185	91	1,116	94	1,023	91	1,038	85	1,050	81	1,018
Transp/Warehousing	.	.	29	651	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Information	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Finance/Insurance	30	217	20	188	30	146	28	144	30	142	29	138	24	132	25	127	24	121	26	122
Real Estate	.	.	13	40	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Professional/Technical	94	446	46	489	92	534	91	583	88	536	87	469	97	598	96	640	98	672	99	657
Management	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Admin/Waste Remediation	52	937	36	1,010	45	723	44	747	48	761	47	709	47	679	45	687	48	688	48	675
Education	14	53	.	.	13	57	14	64	.	.	.	.	.	.	.	.	.	.	.	.
Health/Social	108	2,279	55	1,819	107	2,169	102	2,424	107	2,582	113	2,331	.	.	116	2,016	125	2,098	125	2,445
Arts/Entertainment	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Accommodations/Food	55	782	46	380	55	752	52	750	53	759	53	768	56	615	55	633	61	813	62	757
Other Services	84	410	55	150	82	441	77	461	78	485	80	524	77	431	75	471	73	492	75	547
Unclassifieds	.	.	9	10	14	21	11	16	10	15	19	44	9	13	8	11	15	20	15	19
PRIVATE SECTOR TOTALS	688	8,045	500	7,898	687	7,674	670	8,071	677	8,354	694	8,088	699	7,193	690	7,451	711	7,892	705	8,243

Source: New Jersey Department of Community Affairs - Division of Codes & Standards, access 4.15.25

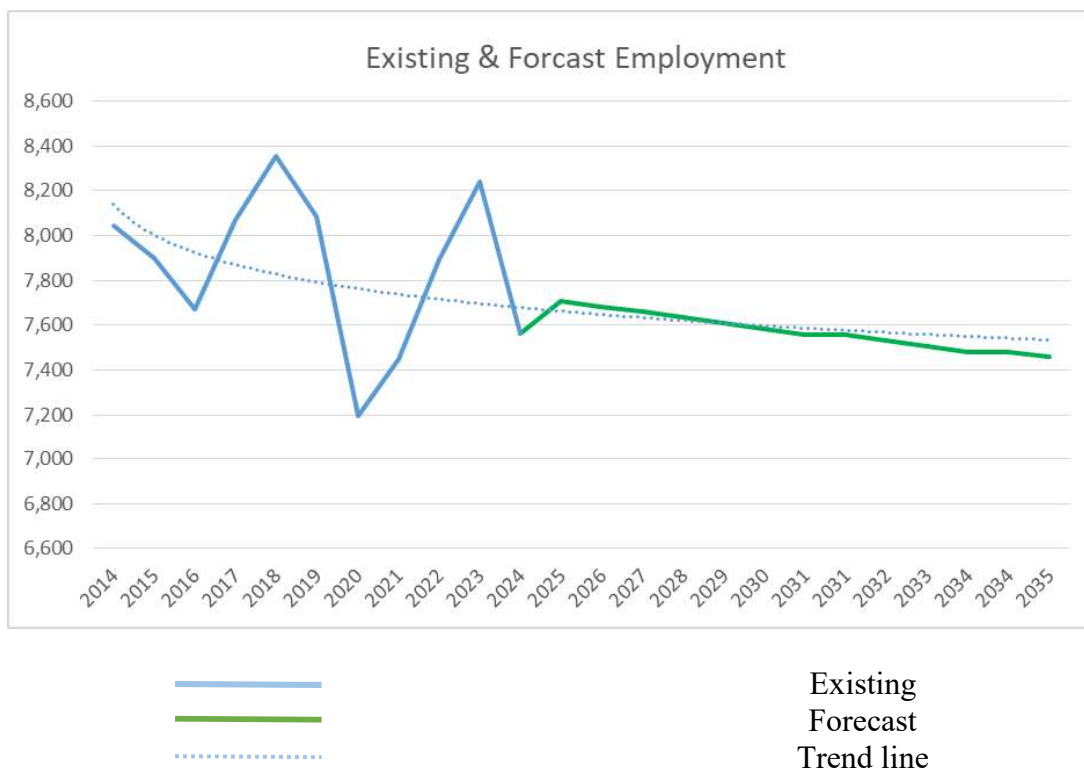
The table above and chart on the following page illustrates the existing number of employers located within the Township of Denville. The orange solid line represents actual data, the green solid line represents forecasted number of employers up until 2035, and the dashed orange line represents a trend line.

To forecast future events, linear regression was utilized to determine the relationship between the existing data points. This analysis then finds the line that best fits the historical data and projects a future value along that line. The trend line is an additional line that indicates the trend in the data and is also known as a line of best fit. A polynomial trend line was utilized as it is a curved line used when data fluctuates.

The data shows the impact of the closing of the St. Francis Residential Community in 2015. This data shows the loss of 460 jobs associated with the closing of this facility. It would appear that the loss of these jobs were temporary, as the number of jobs returned to the previous level. The analysis suggested that in 2035 Denville may have between 800 (trend line) and 850 (regression) employers wherein currently there are 730 employers.

Furthermore, the data illustrates the loss of persons employed in 2015 as well as in conjunction with the COVID-19 pandemic. Currently there are just under 7,600 private sector workers in Denville. The analysis suggested that in 2035 Denville may have between 7,450 (trend line) and 7,550 (regression) employees.

### Number of Employers and Employees Township of Denville (2014-2023)



### Multigenerational Housing

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

No recommendations from this commission as of this date.

### Highlands Water Protection and Planning Council

For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), a municipal housing element must also include an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities.

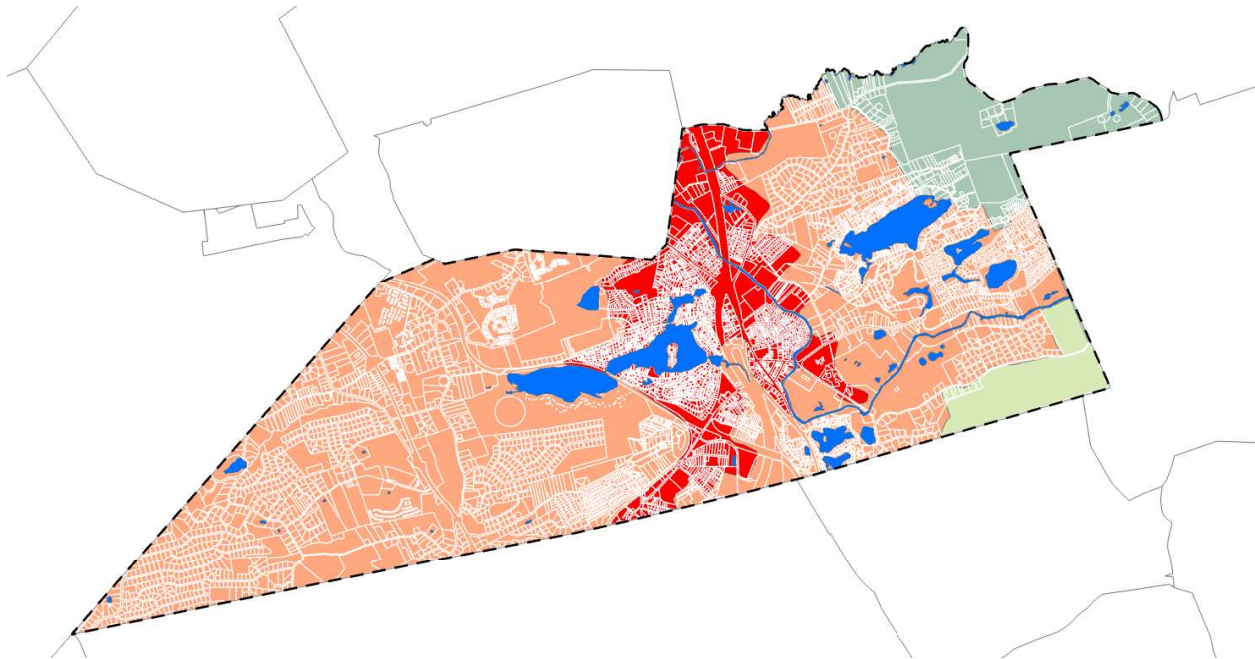
The Township of Denville is almost 99.99 percent located within the Planning Area of the Highlands and is not a conforming municipality. The small portion of the Town that is in the preservation area is from the midpoint of the Beaver Brook (which is the municipal boundary) and the river's edge. Therefore, the only portion of the Township which is located within the preservation area is water.





## State Development and Redevelopment Plan

The state is in the process of adopting a new State Development and Redevelopment Plan (SDRP). The last time this document was updated and adopted was 2001, some 24 years ago. The state divides the Township of Denville into four planning areas. This accurately reflects the suburban character of this community. This housing element and fair share plan is substantially consistent with the goals and objectives found within the draft plan now being reviewed for upcoming adoption.

Table 12 –20: Analysis of  
State Development and Redevelopment Plan

<u>Planning Area</u>	<u>Description</u>	<u>Acres</u>
1	Metropolitan	1,344.7
2	Suburban	5,727.3
5	Environmentally Sensitive	792.0
8	Open Space	272.1



	<u>Planning Area</u>	<u>Description</u>
	1	Metropolitan
	2	Suburban
	5	Environmentally Sensitive
	8	Open Space



DENVILLE AFFORDABLE HOUSING OBLIGATION:Prior Round Obligations

As part of its housing element and fair share plan, the municipality shall include an assessment of the degree to which the municipality has met its fair share obligation from the prior rounds of affordable housing obligations as established by prior court approval, or approval by the council, and determine to what extent this obligation is unfulfilled or whether the municipality has credits in excess of its prior round obligations.

In May 1994, COAH amended its substantive rules and established revised affordable housing requirements for municipalities for the period of 1987 through 1999. COAH determined Denville's total affordable housing obligation to be three hundred and twenty-five (325) affordable housing units. On September 29, 2016, Judge Stephan C. Hansbury, entered an order confirming the Township of Denville's (Docket No. MRS-L1641-15) satisfaction of its prior round (1987-1999) affordable housing obligation. This confirms that Denville has satisfied its prior round obligation of three hundred and twenty-five (325). Therefore, the Township received credit for three hundred and twenty-seven (327) units, thereby creating a surplus of two (2) units.

Name of Development	# of AH units/credits	# of Bonus Credits	Total Credits	Comments
RCA with Newark	136		136	Completed
187 Morris Avenue (YCS)	3	3	6	Completed
Cook's Pond (age-restricted)	64	7	71	Completed
Peer Place - MCHA (family housing)	57	57	114	Completed
Total	260	67	327	

Third Round Obligation (2000-2025)

The last round of affordable housing was based upon legal proceedings as the Council On Affordable Housing (COAH) was declared a non-productive state agency. The Township settled round three after years of negotiation. The Settlement Agreement between Denville and FSHC for round three, as approved by the court by order dated December 16, 2020, established that the Township had a third round obligation of eight hundred and forty-eight (848) units. However, the Township undertook an exhaustive vacant land analysis wherein every vacant and "under-utilized" property was evaluated to determine each lot's development capacity. This was done to determine the Township's overall Realistic Development Potential (RDP). A summary of the vacant land analysis can be found in Table 12-18 and yields a municipal wide RDP of one hundred and eight nine (189) units. The full vacant land adjustment is included in a report entitled "2019 Comprehensive Response for Affordable Housing for the Township of Denville, New Jersey." Revised through November of 2019 and can be found on the municipal website.

Table 12 – 18 : Summary Prior Round Vacant Land Analysis  
Realistic Development Potential

Name	Block	Lot(s)	Acres	Developable Acres	Development Constraints	RDP
Glenmont Commons	10002	2	13.52	11.5	Exceptional Wetlands	11.1
40 Shongum Road	10501	3	3.0.	1.11	Wetlands / Shape/ Power Lines	1.33
3150 Route 10 (Quick Check)	20801	26	3	3		3.6
3176 Route 10	20801	35	0.99	0.99		1.18
382 Franklin Rd (Bacala)	21101	5 & 9	8.9	8.9		16
30 Estling Village	30601	6	7	4.85	Wetlands	15
7 Lake Lenore	31109	13.01	1.66	0.5	Steep Slopes	4
495 E. Main (Redmond Press)	31207	16 & 17	2.095	2.095		12
Toll Brothers	40001	4	36.42	16	Steep Slopes, Wetlands	24
360 Franklin (Toll Brothers)	40203	1	5.07	2	Steep Slopes, Shape	1.3
3 Philips Lane	60101	1.02	1.16	1.16		1.39
1 Philips Lane	60101	1.03	2.41	2.41		2.89
26 Broad Street	41301	8.01	1.22	1.22		1.44
30 Cedar Lake Road	60203	5	0.9	0.9		1.08
370 Morris	62101	2.02	2.01	2.01		3.21
100 Ford Road	70101	9	9.05	5.3	Wetlands	6.36
68 Mount Pleasant	20202	12	6	6		7.2
85 Cooper	21101	11	5	3		3.6
Parks Road	30805	34 & 35	8.55	6.98	Steep Slopes	8.3
Lennar	30501 30601 30607 30611	8, 32, 33, 34, 36 16,15, 16, 17 1, 2, 3, 4, 5	18	10.7	Steep Slopes	24
New Hope Church	30102	4	6.9	1.2	Other Development	5
33 Smith Road (Morris County Farms)	21301	8	7.8	6.89	Power Lines	11
Silver Spring Manor	21401	1, 2, 3	20.2	12.5	Steep Slopes	24
<b>TOTAL</b>			<b>167.9</b>	<b>111.2</b>		<b>188.98</b>



If a prior round obligation remains unfulfilled, the municipality shall address such unfulfilled prior round obligation in its housing element and fair share plan. In addressing prior round obligations, the municipality shall retain any sites that, in furtherance of the prior round obligation, are the subject of a contractual agreement with a developer, or for which the developer has filed a complete application seeking subdivision or site plan approval prior to the date by which the housing element and fair share plan are required to be submitted. The following actions/sites have been implemented by the municipality and still represents a realistic opportunity to provide affordable housing. Table 12-19 below illustrates that of the multitude of developments utilized to meet the third round obligation, only three do not have municipal approval.

Table 12 – 19  
Compliance Program  
(2015-2025)

Name of Development	Status	Density DU/AC	Market Rate Units	AH Units	Bonus credits	Total Credits
Surplus from Prior Round	Complete			2		2
Habitat for Humanity	Complete			2		2
Morris County Housing Authority	Complete			6		6
883 Miller Road	Complete			5		5
Palmar Subdivision	Complete			3		3
Orchard Street (2 Clark St.)	Complete			1		1
Estling Village	Complete	14.3	85	15	15	30
RAM Associates/ Toll Bros	Under Construction	2.8	94	24		24
Glenmont Commons	Approved	4.8	55	10	10	20
Redmond Press	Under Construction	28.6	51	9	9	18
Lake Lenore	Zoned	2.4		4		4
19 Zeek Road	Complete			4		4
Accessory Apartments	Rezoned			6		6
New Hope Church	Rezoned	4.3	25	5		5
Bacala Group	Under Construction	7	50	12		12
Silver Spring Manor	Under Construction	6	96	24		24
Lennar Homes	Approved	6.27	106	16	14	30
				148	48	196

Denville's third round obligation, concluded with a program which would produce 196 affordable housing units, wherein the realistic development potential was calculated to be 189. This leaves a surplus of seven (7) units.

The rezoning of these sites occurred during a worldwide pandemic. In 2025, only three years later, the zoning for this property is still valid, providing a realistic opportunity to produce Denville's affordable housing. These three programs have been reviewed below:

### Third Round Sites that have been rezoned but do not have municipal approvals

#### Lake Lenore

Denville's round three housing element and fair share plan identified this site for a four bedroom group home. The previous Housing Element and Fair Share Plan stipulated that "The municipality will work with a developer to insure the construction of a four-bedroom group home. The site, by its nature of ownership by the municipality will only require a site plan application. ... Should the development of the site become problematic the Township will offer to swap this site with another site so long as the development yields four (4) affordable housing units."

The Township continues to own this property along Lake Lenore Road which is identified by municipal tax records as Block 31109 Lot 13.01. The property comprises a total of approximately one and one-half (1.66) acres. The zoning for this site, and its ownership by the municipality has not changed since the last round of affordable housing (2015-2025). On March 21, 2020 the governor of New Jersey, in response to the COVID-19 pandemic, announced a statewide stay-at-home order, requiring that all non-essential businesses be closed indefinitely by 9 p.m. that day. In the following months, the stay-at-home order was gradually lifted, however other measures such as social distancing requirements, capacity limits, and requirements that people wear face masks remained in place for some time. Most of these restrictions were lifted by March 2022 when the governor ended the state's public health emergency due to COVID-19. This worldwide pandemic has put development, the workforce, and the lives of New Jersey residence in uncharted waters. The affordable housing "rounds" span ten years, to some extent, to account for the fluctuations in the market. In 2025, only three years later, the zoning for this property is still valid, providing a realistic opportunity to produce Denville's affordable housing. To further support this development, the municipality has proposed additional financial incentives, including a commitment of \$250,000 toward the construction of a four-bedroom group home on the site.

### New Hope Church

In May of 2021 the Township passed Ordinance 20-21 which established a single lot zone, designating Lot 4 in Block 30102 to allow additional uses on the same property with the existing House of Worship. The site was zoned R-1 residential. This site has been rezoned and removed from its previous R-1 zone and has been reclassified into a HW House of Worship Multi Use zone. This zoning permits the existing house of worship to continue as well as adding the ability to construct either age restricted housing or group homes on site.

The zoning for this site, and its ownership has not changed. The municipality has been in contact with the owners and they are reviewing their options as it relates to the Church's mission. On March 21, 2020 the governor of New Jersey, in response to the COVID-19 pandemic, announced a statewide stay-at-home order, requiring that all non-essential businesses be closed indefinitely by 9 p.m. that day. In the following months, the stay-at-home order was gradually lifted, however other measures such as social distancing requirements, capacity limits, and requirements that people wear face masks remained in place for some time. Most of these restrictions were lifted by March 2022 when the governor ended the state's public health emergency due to COVID-19. This worldwide pandemic has put development, the workforce, and the lives of New Jersey residence in uncharted waters. In 2025, only three years later, the zoning for this property is still valid, providing a realistic opportunity to produce Denville's affordable housing. The affordable housing "rounds" span ten years, to some extent, to account for the fluctuations in the market.

### Accessory Apartment Ordinance

During the time between the fairness hearing and the scheduled compliance hearing of the third round (2015-2025), the municipality was informed that two of the group homes located in town were sold and were no longer in operation. The municipality, FSHC and the special master discussed the issue and determined that it was acceptable to replace the 6 group home units with 6 units of accessory apartments. In May of 2021 the Township passed Ordinance 15-21 which allows six accessory apartments on residentially improved lots. The Ordinance states that the Township will subsidize the creation of the accessory apartments by providing at least \$30,000 for each moderate income unit, at least \$40,000 for each low income unit and at least \$50,000 for each very low income unit. The ordinance also outlines the applicable regulations and circumstances required for the creation of affordable accessory apartments and has a cap of six such units. Most zoning ordinances of this type allocate \$10,000 per accessory apartments. By allocating three to five times the average appropriation per unit, Denville has clearly demonstrated its unwavering dedication to ensuring the success of this endeavor.

The zoning for this type of use has not changed. On March 21, 2020 the governor of New Jersey, in response to the COVID-19 pandemic, announced a statewide stay-at-home order, requiring that all non-essential businesses be closed indefinitely by 9 p.m. that day. In the following months, the stay-at-home order was gradually lifted, however other measures such as social distancing requirements, capacity limits, and requirements that people wear face masks remained in place for some time. Most of these restrictions were lifted by March 2022 when the governor ended the

state's public health emergency due to COVID-19. This worldwide pandemic has put development, the workforce, and the lives of New Jersey residence in uncharted waters.

Furthermore, the legislature is currently (at the time of this master plan) considering a bill (NJ S1106) that would permit accessory dwelling units as of right in all residential zones. This legislation provides insight that accessory apartments are still a viable use in 2025. Therefore the zoning for this type of use is still valid, providing a realistic opportunity to produce Denville's affordable housing. The affordable housing "rounds" span ten years, to some extent, to account for the fluctuations in the market.

Denville has contracted with CGP&H to help market this program. CGP&H is a New Jersey Department of Community Affairs approved Affordable Housing Administrative Agent. With continued program marketing, particularly via the Municipality's website, social media accounts, etc. it is anticipated that more homeowners will show interest and apply.

#### Fourth Round Obligation

On March 20, 2024, Governor Phil Murphy signed P.L. 2024, c.2., into law, which established a new framework for determining and enforcing municipalities 4th round affordable housing obligations. The law required non-Qualified Urban Aid Municipalities (QUAMs) municipalities to adopt a binding resolution on or before January 31, 2025, either accepting the Department of Community Affairs calculated obligation or come up with an alternative calculation. The DCA calculated number for Denville was 485 prospective need affordable housing units.

The 485 unit prospective need calculated by the DCA was based upon three factors. These three factors in this formula are (1) the amount of developable land as compared to vacant land in the region; (2) an Income Capacity analysis (municipalities with higher median household incomes would be required to assume a larger proportion of the region's affordable housing obligation) and (3) Equalized Non-Residential Valuation (municipalities with a larger non-residential tax base would be required to assume a larger proportion of the regions affordable housing obligation). Therefore, based upon the DCA calculation in accordance with the formula established in P.L. 2024, c.2., Denville's obligation would have been 219 affordable units if there was no vacant land.

Based upon a comprehensive and careful review of the data supplied by the DCA Denville challenged the calculations for all three factors of the affordable housing obligation formula. At its January 21, 2025 meeting, the Township Council adopted the binding resolution required by State law, establishing the municipal 4th Round prospective need obligation at 230 units.

In accordance with the State law, parties had until February 28, 2025, to challenge a municipality's adopted numbers. The New Jersey Builders Association (NJBA) challenged all 156 municipalities that did not utilize the DCA-assigned obligations, and the Fair Share Housing Center (FSHC) challenged a large percentage of municipalities, including Denville. Pursuant to the law, a Judge assigned from a statewide panel would have until have until April 1, 2025, to either mediate a

resolution between the parties or ultimately assign an obligation to each of the municipalities whose obligations were challenged.

As part of their challenge, the NJBA held firm Denville's obligation should remain at 485 affordable units where the FSHC demanded the municipal obligation to be set at 414 units. A comprehensive report was submitted to the Judge overseeing Denville's case. Besides challenging the Income Capacity and Equalized Non-Residential Valuation factors, the report included a lot-by-lot analysis that Denville had less than 20 developable acres in the entire municipality.

After our first meeting with the Judge and a court appointed Special Adjudicator (nonpartisan professional planner) it became apparent that the two parties were very far apart with their numbers. The Judge set a hearing date for the next week and asked the Special Adjudicator, the Fair Share Housing Center planner, and Denville representatives, to meet separately to see if we could get the two parties closer together. This meeting occurred and ended with the two parties still far apart. Ultimately, the 230 the municipality originally argued was raised and the municipality settled at a prospective need obligation of 277 units.

### Summary Obligation

As set forth in the Settlement Agreement reached with FSHC in April of 2025, the Township's fourth round (from 2025 through 2035) Present Need and Prospective Need obligations are as follows:

		<u>Number of Units</u>
Present Need	(rehabilitation)	58
Prospective Need	(2025-2035)	277

### Fair Share Housing Plan

#### Rehabilitation Share

The Township of Denville has been active in rehabilitating homes. Since at least 1999, the Township has participated in the Morris County Rehabilitation Program which has rehabilitated over fifty (50) homes. Denville continues to participate in the County program but also has separately established its own Rehabilitation Program that is administered by CGP&H.

Denville will continue with its rehabilitation program to address its present need obligation through the municipal rehabilitation program which is administered by CGP&H, as well as participating in the County program. CGP&H is a New Jersey Department of Community Affairs approved Affordable Housing Administrative Agent.

### Meeting the Prospective Need

A municipal housing element must include 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.

The Township of Denville, in November of 2019, completed a comprehensive review of all vacant and “under utilized” property within the municipal boundary. A present-day review of the court approved Round 3 Vacant Land Analysis reveals that an additional property that was previously occupied has become vacant. In 2015 the Saint Francis Residential Community closed its doors. In 2022 the buildings on this 17.66 acre site were demolished and this site became available. This additional 17.66 acre site has been added to the prior vacant land analysis, and at six (6) units per acre would produce 106 housing units. With a twenty percent (20%) affordable housing set-a-side, the RDP to add to the previous realistic development potential (RDP) is twenty two (22) affordable housing units.

The Township of Denville proposes to satisfy its fourth round prospective needs on a single site; lots 3 and 4 in block 20801. This site is similar, in size, to the recently vacated 17.66 acres found at the St. Francis residential community.

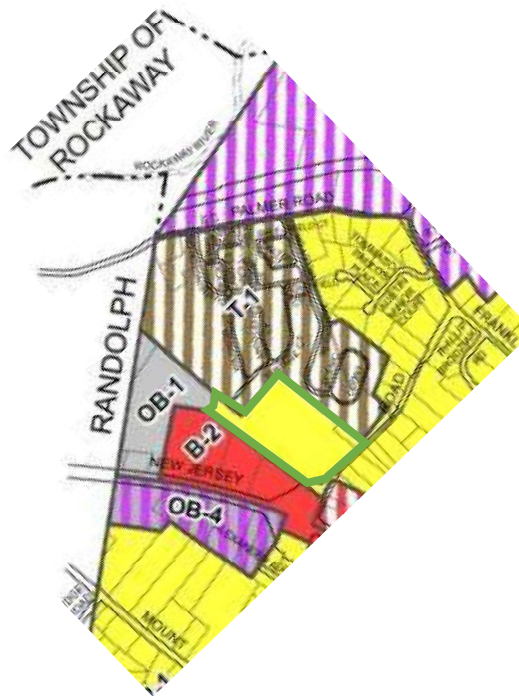
## Denville Hills

Block	20801
Lots	3 & 4
Address:	Franklin Road
Owner:	Vision Properties
Current Zoning	R-1
Acres:	16.75 acres
Proposed:	110 rental units with a 20 percent set-a-side.
Yield:	23 affordable housing units
	2 age-restricted affordable housing units
	1 bonus credit for the two age-restricted units
	20 family affordable housing units

## Subject Properties Outlined in Green

Current Zoning : R-1

Portion of Tax Map 208





Block: 20801 Lot: 4

Street Address: 385 FRANKLIN

Zoning: I-2

Land Assessment: \$670,100

Slope Analysis: 0-14.9% 6.20

Environmental: Open Waters 0.16

Neighborhood (within 200 feet)

Total Developable Acres: 6.79

Minimum Lot Size:

Building Assessment:

15-19.9% 3.13

Easements

54 Homes

87,120 Sq. Feet

\$222,600

20-24.9% 2.49

Wetlands

Total Acres:

Net Taxable Value

24-29.9 1.70

Flood Prone

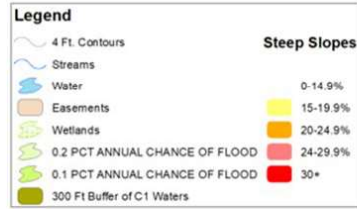
C1 Buffer

16.12

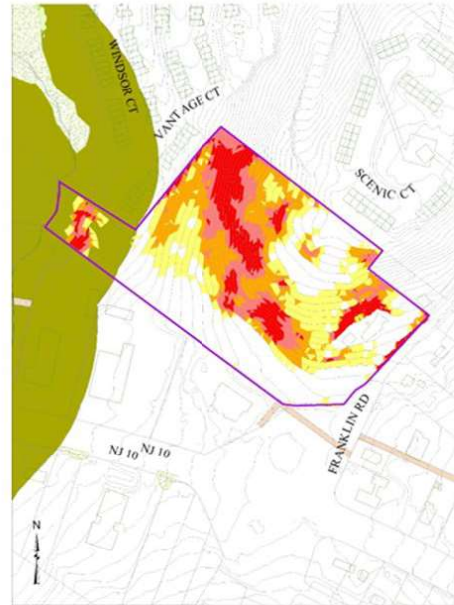
\$892,700

30+ 1.73

1.06



Street/Aerial View::





The subject properties are seventeen and three quarter (17.66) acres in size and contains a C-1 water body buffer on site, and steep slopes that restrict the developable area of the site to almost seven acres (6.79). The constraints on these properties dictate the size and location of any proposed buildings on site. In an effort to preserve the environmental features on this site, this zone is proposed to allow a singular building consisting of four stories of apartments over parking. This configuration works with the topographic features of the site. The compact form of development would contain a limit of disturbance just over four (4) acres of the 17.66. Any land which is not developed in conjunction with this development shall be placed into a conservation easement. This preservation easement will protect the C-1 water body, protect as many trees as possible, as well as protection of the remaining steep slopes. The proposed zoning ordinance (found in the appendix) would produce 23 affordable housing units; meeting the prospective need for Denville's fourth round (2025-2035). The zoning calls for two (2) age-restricted affordable housing units; with one (1) bonus credit and twenty (20) family affordable housing units for a total of twenty three (23) affordable housing units.



## Realistic Zoning

Any municipality that receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a lack of vacant land shall, as part of the process of adopting and implementing its housing element and fair share plan, identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so.

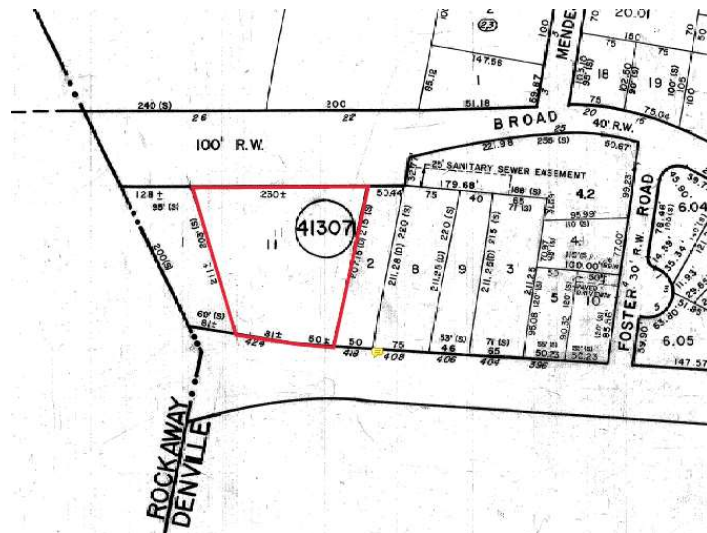
The Township of Denville, in November of 2019, prepared a vacant land adjustment pursuant to N.J.A.C. 5:93-4.2 for round three (2015 – 2025). A present-day review of the court approved Round 3 Vacant Land Analysis reveals that an additional property that was previously occupied has become vacant. In 2015 the Saint Francis Residential Community closed its doors. In 2022 the buildings on this 17.66 acre site were demolished and this site became available. The last affordable housing round ended with a vacant land adjustment, which is still valid today.

The regulations require Denville to identify sufficient parcels likely to redevelop during the current round (2025 – 2035) of obligations to address at least 25 percent of the prospective need obligation that has been adjusted and adopt realistic zoning. Following these regulations, Denville must prepare zoning overlays for six (6) affordable housing units. (25 percent of 22 units (RDP) = 5.5; round up to 6)

The following sites are being proposed to address the municipality's realistic prospective need of six (6) units. Proposed draft ordinances can be found in the appendix of this housing element

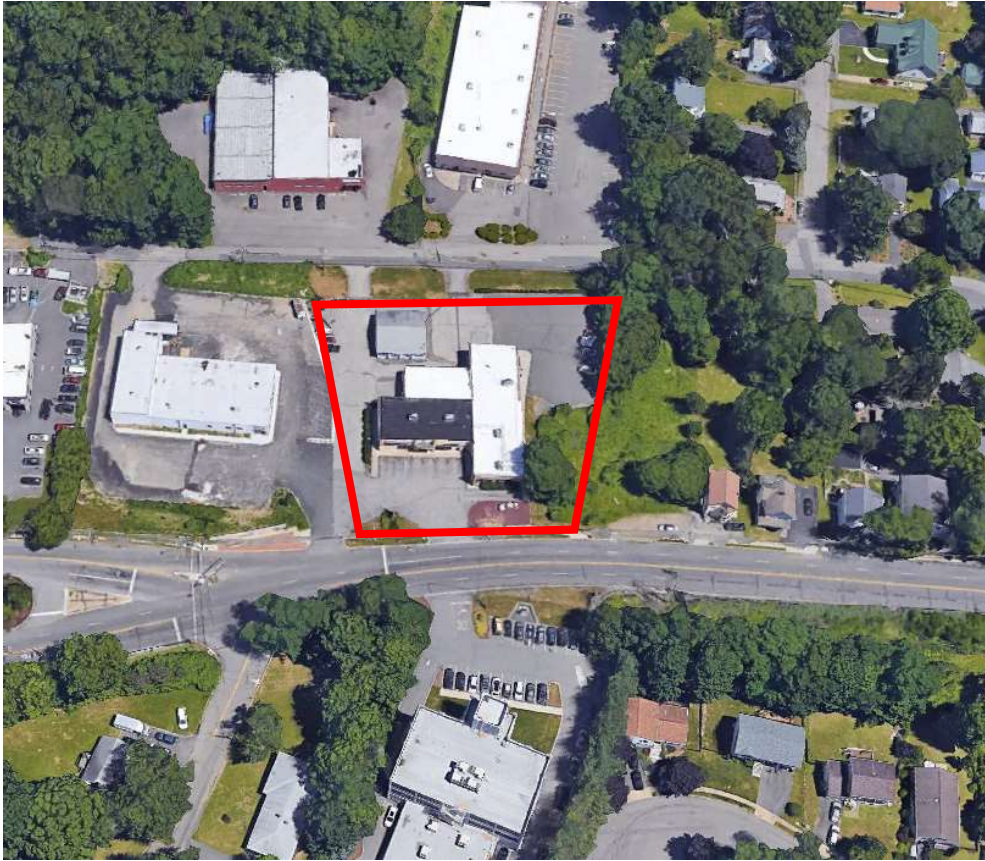
### Site #1

Lot 11 in Block 41307 = 0.8 acres at 10 units an acre = 2 affordable housing units





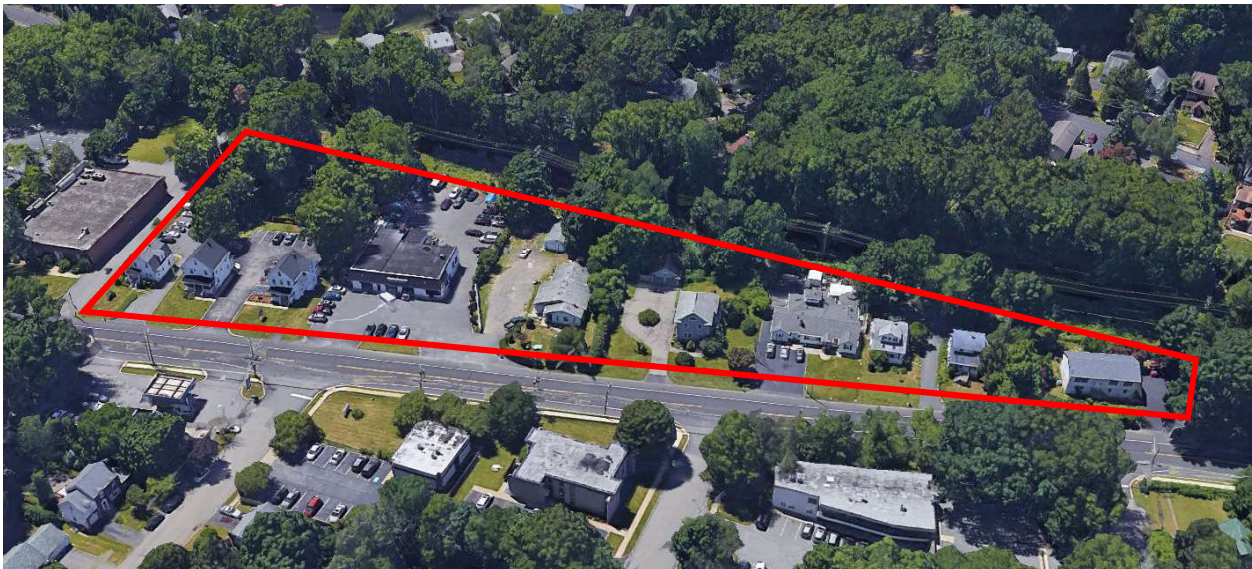
Lot 11 in Block 41307





Lots 1, 2, 3, 4, 5, 6, 9, 10 and 11 in Block 41102  
RT 46 East

3.34 acres at 6 units an acre = 20 units with 20 percent set a side = 4 affordable housing units.



Lots 3 & 5 in Block 41102



Lot 9 in Block 41102





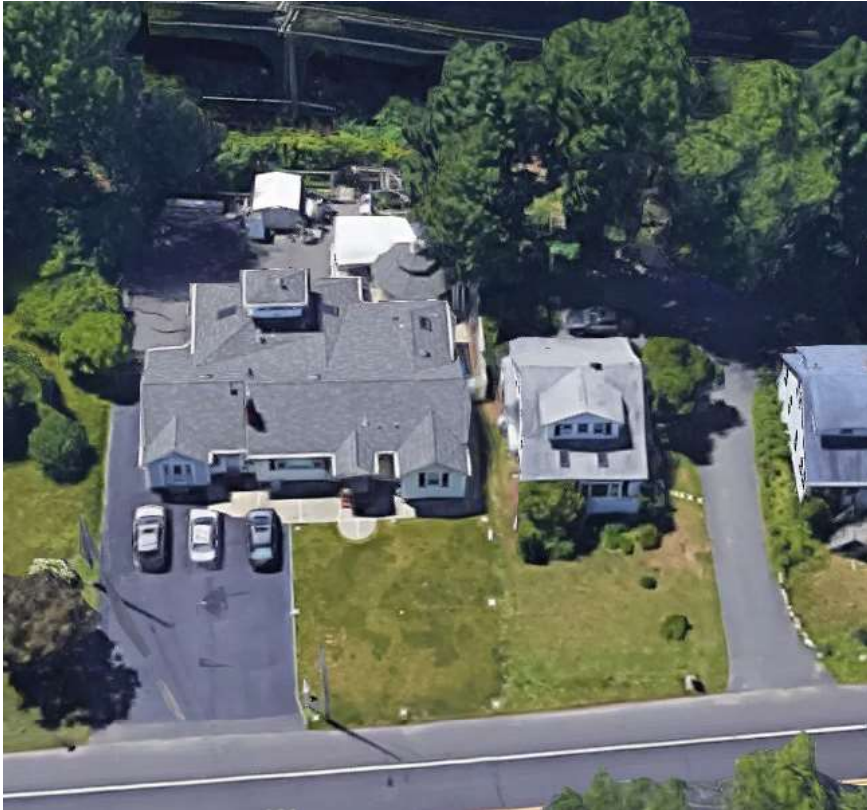
Lot 4 in Block 41102



Lot 3 in Block 41102



Lots 2 and 10 in Block 41102



Lot 11 in Block 41102





Lot 1 in Block 41102

Round four compliance:

<u>Need</u>	<u>Block</u>	<u>Lots</u>	<u>Acres</u>	<u>Total Units</u>	<u>Affordable Units</u>
Prospective	20801	3 & 4	16.75	110	23*
Realistic zoning	41102	1,2,3,4,5, 6,9,10, 11	3.34	20	4
	41307	11	0.8	8	2

\* The proposed zoning ordinance proposes two age-restricted affordable housing units, which affords the municipality one (1) bonus credit and twenty family affordable housing units; which totals twenty three (23) total affordable housing units.



# APPENDIX

Binding Resolution on Round 4 Obligation

R-25-29

**RESOLUTION OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY COMMITTING TO ROUND 4 PRESENT AND PROSPECTIVE NEED AFFORDABLE HOUSING OBLIGATIONS**

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**WHEREAS**, the Township of Denville, County of Morris, State of New Jersey, (hereinafter, “Denville”) has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations; and

**WHEREAS**, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter “Amended FHA” or “Act”); and

**WHEREAS**, the Amended FHA requires the Department of Community Affairs (“DCA”) to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20, 2024 based upon the criteria on the Amended FHA; and

**WHEREAS**, the DCA issued a report on October 18, 2024 (“DCA Report”) wherein it reported its estimate of the fair share affordable housing obligation for all municipalities based upon its interpretation of the standards in the Act; and

**WHEREAS**, the DCA Report calculates Denville’s Round 4 (2025-2035) fair share affordable housing obligations as follows: a Present Need (Rehabilitation) Obligation of 58 and a Prospective Need (New Construction) Obligation of 485; and

**WHEREAS**, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and

**WHEREAS**, the Amended FHA gives municipalities the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA on October 18, 2024 based upon the standards in Sections 6 and 7 of the Act; and

**WHEREAS**, the Amended FHA further provides that “[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing (“COAH”) unless those regulations are contradicted by statute, including the Act, or binding court decisions” (N.J.S.A 52:27D-311 (m)); and

**WHEREAS**, COAH regulations empower municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and

**WHEREAS**, Denville has accepted the Present Need (Rehabilitation) Obligation of 58 as reported by the DCA in its October 18, 2024 Report; and

**WHEREAS**, Denville has exercised its right to demonstrate that the data, when correctly applied, supports a lower Round 4 Prospective Need obligation than that reported by the DCA on October 18, 2024; and

**WHEREAS**, more specifically, Denville maintains that its Round 4 prospective need number is 230 based upon its examination of the data used to calculate each of the three (3) allocation factors; and

**WHEREAS**, as to the **Equalized Nonresidential Allocation Factor**, Denville has examined the data the DCA used to establish this factor and concluded that DCA has neglected to account for specific mixed-use properties such that this factor should be reduced from 1.65% to 1.64% for the reasons set forth in the Denville Professional Planner's Report attached hereto as Exhibit A; and

**WHEREAS**, as to the **Income Capacity Allocation Factor**, Denville has examined the data the DCA used to establish this factor and concluded that DCA neglected to account for a substantial margin of error in the income data source such that this factor should be reduced from 1.56% to 1.42% for the reasons set forth in the in Denville's Professional Planner's Report, attached hereto as Exhibit A; and

**WHEREAS**, as to the **Land Capacity Allocation Factor**, Denville notes that the DCA belatedly provided the data it used to establish this factor, i.e., on or about November 27, 2024 instead of by October 20, 2024; and

**WHEREAS**, Denville further notes that the link to the DCA GIS data that the DCA belatedly made available to municipalities includes the following language:

"The land areas identified in this dataset are based on an the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. **It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing Dispute Resolution Program.**" (emphasis added); and

**WHEREAS**, Denville maintains that the areas the DCA identified as developable are indeed over inclusive and, consequently, its Professional Planner has prepared a report, attached hereto as Exhibit A, showing the lands that Denville contends should be removed from the inventory of sites used to fashion the **Land Capacity Allocation Factor**; and

**WHEREAS**, it is therefore important that Denville not commit to an incorrect obligation; and

**WHEREAS**, correcting the allocation factors results in Denville’s Round 4 Prospective Need Obligation being 230 rather than the obligation established by DCA; and

**WHEREAS**, the Amended FHA provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of the Act; and

**WHEREAS**, Denville’s calculation of need is entitled to a “presumption of validity” because it complies with Sections 6 and 7 of the Act; and

**WHEREAS**, in addition to setting forth its Round 4 fair share affordable housing obligations for the reasons summarized above, substantial activity has occurred and is ongoing that warrants the reservation of certain rights to avoid any claim that it has waived them; and

**WHEREAS**, for example, the New Jersey Institute of Local Government Attorneys (NJILGA) has expressed its support for proposed legislation (hereinafter “NJILGA Legislation”) would reduce Denville’s Round 4 Prospective Need to 83 and would give Denville “90 days from receipt of revised fair share obligations from the [DCA] to provide amended Housing Element and Fair Share Plans addressing the new number); and

**WHEREAS**, Denville supports the NJILGA Legislation and would have the right to reduce its Round 4 obligation in the event that the Legislature enacts the NJILGA Legislation; and

**WHEREAS**, similarly, a number of municipalities, led by the Borough of Montvale, have filed suit (MER-L-1778-24) (hereinafter “Montvale Litigation”) challenging the validity of the Act and other aspects deriving from the Act, including, without limitation, Directive 14-24, issued by the Acting Director of the Administrative Office of the Courts (hereinafter, respectively, “Director” and “AOC”), as further referenced below; and

**WHEREAS**, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for litigation over the obligations of the municipality; and

**WHEREAS** the court approved a vacant land adjustment (hereinafter, “VLA”) and a realistic development potential (hereinafter, “RDP”) for Denville in Round 3; and

**WHEREAS**, because there has been minimal change in vacant land in Denville since the approval of its VLA and RDP, and because Denville provided a realistic opportunity for the satisfaction of its RDP approved by the Court in Round 3, Denville is entitled to a VLA in Round 4 and a minimal RDP in Round 4 that will be fully addressed and included in the HEFSP it submits by the June 30, 2025 deadline; and

**WHEREAS**, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025 as to its obligations; and

**WHEREAS**, in light of the above, Denville finds that it is in its best interest to declare its obligations in accordance with this binding resolution in accordance with the Act; and

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

**WHEREAS**, pursuant to Directive #14-24, a municipality seeking compliance certification with the Act shall file an 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**, Denville seeks a compliance certification with the Act and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

**NOW, THEREFORE, BE IT RESOLVED** on this 21st day of January, 2025 by the Governing Body of the Township of Denville, County of Morris, State of New Jersey, as follows:

1. The preamble of this resolution is incorporated into the operative clauses of this resolution as if set forth in full.
2. For the reasons set forth in this resolution and its attachments, Denville commits to a Round 4 Present Need (Rehabilitation) Obligation of 58 and a Round 4 Prospective Need (New Construction) obligation of 230, as set forth in Exhibit A to this Resolution, subject to all reservations of all rights, which specifically include, without limitation, the following:
  - a) The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted in accordance with the Act and COAH regulations;
  - b) The right to comply with the NJILGA Legislation if enacted, including the right to adjust its fair share obligations
  - c) The right to adjust its fair share obligation in the event of any future legislation that adjusts the fair share obligations that the DCA reported on October 18, 2024;

Order on Round 4 Obligation

MRS-L-000183-25 03/31/2025 Pg 1 of 10 Trans ID: LCV20251021539

## PREPARED BY THE COURT:

IN THE MATTER OF THE  
DECLARATORY JUDGMENT  
ACTION OF THE  
TOWNSHIP OF DENVILLE  
BOROUGH OF MORRIS  
COUNTY PURSUANT TO P.L.  
2024, CHAPTER 2

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION— CIVIL PART  
MORRIS COUNTY  
DOCKET NO. MRS-C-183-25

Civil ActionMt. Laurel Program

DECISION AND ORDER ON FAIR  
SHARE OBLIGATION

THIS MATTER, having come before the Affordable Housing Dispute Resolution Program pursuant to a challenge/s filed by NJ BUILDERS ASSOC. and FAIRSHARE HOUSING CENTER, an interested party/parties disputing the determination of present and prospective fair share obligation established by DENVILLE TOWNSHIP, on January 21, 2025, and;

The Program, having considered the submissions of counsel representing the DENVILLE TOWNSHIP, as well as any submissions filed thereto by interested party/parties NJ BUILDERS ASSOC., FAIRSHARE HOUSING CENTER, hereby recommends an ORDER as follows:

☐ The challenge/s is/are summarily dismissed for failure to:

Page | 1

- ☐ state with particularity how the municipal calculation fails to comply with Sections 6 and 7 of N.J.S.A. 52:27D-301, et al.
- ☐ include the challenger's own calculation of the fair share obligations in compliance with sections 6 and 7 of N.J.S.A. 52:27D-301 et al.

And the matter is hereby directed to the vicinage Mount Laurel judge for review and entry of an order as to the municipality's determination of its fair share obligation.

- ☐ The challenge/s filed by \_\_\_\_\_ is/are rejected, and the Program hereby affirms the determination of \_\_\_\_\_ municipality.
- ☐ The challenge is deemed valid as the Program finds the municipality did not comply with the requirements of Sections 6 and 7 of N.J.S.A. 52:27D-301, et al.
- ☐ The Program thus revokes the immunity of \_\_\_\_\_ (municipality) from exclusionary zoning litigation.
- ☐ \_\_\_\_\_ (municipality) shall adjust its determination of present and prospective need obligation as follows:

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MRS-L-000183-25 03/31/2025 Pg 3 of 10 Trans ID: LCV20251021539

☒ Following the settlement conference [or session] conducted before the Program on March 11, 2025, DENVILLE TOWNSHIP and the FAIRSHARE HOUSING CENTER and NJ BUILDERS ASSC\* mutually agreed to settle and resolve the issues in dispute over the allocated fair share obligation upon the following terms and conditions (the "Settlement"):

See attached.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

And, DENVILLE TOWNSHIP may retain immunity from exclusionary zoning litigation. The authorized representatives of each party confirmed their acceptance of the foregoing terms and conditions to the Program's satisfaction. The Program hereby recommends approval of the Settlement.

☐ Terms & Conditions of Settlement/Statement of Reasons:

The agreed upon present need of 58 units and the prospective need of 277 units is within the range of possible outcomes if fully litigated and is fair to the interests of lower income households.

\* New Jersey Builders Association did not consent or object to the settlement.

\_\_\_\_\_

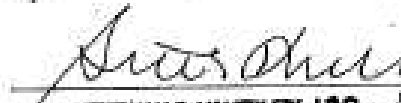
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MRS-L-000183-25 03/31/2025 Pg 4 of 10 Trans ID: LCV20251021539

The Program:

By:



Hon. STEPHEN C. HUMPHREY, J.S.C., J.S.C. (Ret.)  
RETIRED JUDGE ON RECALL

Dated:

3.31.25

Page 14

**Mount Laurel Judge:**

The Program's decision is ☐ accepted for the reasons set forth by the Program, ☐  
accepted for the reasons set forth below, ☐ rejected, ☐ accepted/rejected in part.

**Findings of fact and conclusions of law (Rule 1:7-4(a)):**

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By:

Page | 5

MRS-L-000183-25 03/31/2025 Pg 6 of 10 Trans ID:  
LCV20251021539

\_\_\_\_\_  
**Hon.**\_\_\_\_\_, **J.S.C.**

Dated:\_\_\_\_\_

**MEDIATION AGREEMENT BEFORE THE AFFORDABLE HOUSING DISPUTE  
RESOLUTION PROGRAM**

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF DENVILLE,  
DOCKET NO. MRS-L-000183-25

WHEREAS, on March 20, 2024, Governor Murphy signed P.L. 2024, c.2., into law, which established a new framework for determining and enforcing municipalities' affordable housing obligations under the Mount Laurel doctrine and the Fair Housing Act (the "Amended Act"); and

WHEREAS, the Amended Act required the Department of Community Affairs (the "DCA") to prepare a report with the calculation of the regional and municipal Prospective Need and the municipal Present Need for the Fourth Round in accordance with the formula required by the Amended Act; and

WHEREAS, the DCA released this report entitled "Affordable Housing Obligations for 2025-2035 (Fourth Round)" on October 18, 2024; and

WHEREAS, the DCA report concluded that Denville Township's ("Denville" or the "Township") fair share obligations for the Fourth Round included a Present Need of 58 units and a Prospective Need of 485 units; and

WHEREAS, the Township having filed its binding resolution and its Declaratory Judgment Action with the Affordable Housing Dispute Resolution Program (the "Program") on January 23, 2025, in accordance with the requirements of N.J.S.A. 52:27D-301, et seq, and the requirements and timeframes set forth in Directive #14-24; and

WHEREAS, the Township's binding resolution proposed to set Denville's affordable housing obligations for the Fourth Round to include a Present Need of 58 units and a Prospective Need of 230 units; and

**WHEREAS**, in accordance with the timeframes set forth in the Amended Act and the Directive, FSHC filed a timely objection to Denville's resolution on February 28, 2025; and

**WHEREAS**, FSHC's objection contended that Denville had improperly calculated its Prospective Need obligations and should be required to utilize the calculation prepared by FSHC in its February 28, 2025 report, setting the Prospective Need obligation at 414; and

**WHEREAS**, Denville disputes the contentions raised in FSHC's objection; and

**WHEREAS**, within the Program established pursuant to N.J.S.A. 52:27D-313.2, the parties have engaged in the mediation process provided by the Program and conferred and reached an accord setting forth Denville's Fourth Round Prospective Need obligations, without either party admitting the validity of the others' claims; and

**WHEREAS**, recognizing that this agreement is reached prior to the adjudication of any challenges by the Program or any potential subsequent review in the judicial system, the parties agree that 277 units is within the range of possibilities of outcomes for Denville's Fourth Round Prospective Need; and

**WHEREAS**, resolving the Fourth Round Prospective Need at this juncture and allowing Denville to move forward with preparing its Fourth Round Housing Element and Fair Share Plan ("HEFSP") is important to the interests of lower-income households; and

**WHEREAS**, the Township and FSHC thus agree to present this mediation agreement to the Program and consent to the Mediation Agreement, upon the approval by the Program, setting forth Denville's Fourth Round obligations and binding the Township to utilize these obligations and foreclosing FSHC from further challenge to said obligations.

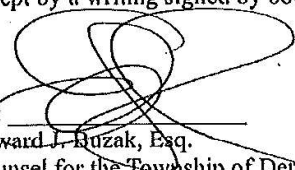
**NOW, THEREFORE**, the Township and FSHC agree:

1. Denville's Fourth Round fair share obligations shall be set forth as follows:

- Present Need – 58 units, subject to any windshield survey that the Township may perform;
  - Prospective Need – 277 units, subject to the Township's right to seek an adjustment of its Round 4 Prospective Need Obligation predicated upon a lack of developable land, sewer, water or similar adjustments.
2. A Fourth Round Fair Share Obligation of 277 units is within the range possible outcomes were the court to fully-adjudicate the Township's Prospective Need.
  3. A Fourth Round Fair Share Obligation of 277 units is fair to the interests of lower-income households.
  4. The Township and FSHC will jointly present this mediation agreement to the Program and request approval of this Agreement from the Program and if approved by the Program from the vicinage Mount Laurel judge. If the Program, trial court, or any appellate court reject approval of this Agreement, the Parties reserve their right to return to the *status quo ante*.
  5. The Township shall prepare a Fourth Round HEFSP utilizing these present and prospective need obligations and submit the HEFSP to the Program by the deadline in the Amended Act of June 30, 2025. FSHC reserves all rights as to its review of the HEFSP pursuant to the Amended Act. Nothing in this Agreement shall be interpreted as an adjudication or determination of the Township's right to an adjustment of its Round 4 Prospective Need Obligation predicated upon a lack of developable land, sewer, water or similar adjustments.

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The undersigned, on behalf of their respective clients, have consented to this Mediation Agreement and represent that they are authorized to execute it on their behalf. This Mediation Agreement shall not be further modified, amended or altered in any way except by a writing signed by both the Township and FSHC.

By:   
Edward J. Ruzak, Esq.  
Counsel for the Township of Denville

Dated: 3-26-25

By:   
Joshua D. Bauers, Esq.  
Counsel for Fair Share Housing Center

Dated: 3/27/25



Adopted Zoning Ordinances for Round 3 sites that have not been developedNew Hope Church**ORDINANCE NO. 20-21**

ORDINANCE OF THE TOWNSHIP OF DENVILLE, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, TO AMEND CHAPTER 600, LAND USE, TO REZONE THE NEW HOPE CHURCH PROPERTY IN CONNECTION WITH THE TOWNSHIP'S AFFORDABLE HOUSING OBLIGATION

**BE IT ORDAINED** by the Municipal Council of the Township of Denville, in the County of Morris and State of New Jersey, as follows:

**SECTION 1.** Chapter 600, Land Use, Part 4, Zoning, Article XXV, Zone Regulations, § 600-143, Zones established, of the Township Code is hereby amended to include the following language:

HW	House of Worship Multi-Use Zone District
----	--

**SECTION 2.** Chapter 600, Land Use, Part 4, Zoning, Article XXV, Zone Regulations, § 600-145, Zoning Map amendments, of the Township Code is hereby amended to include the following zone change designated by Block and Lot:

Block	Lot	Change
30102	4	HW Multi-Use Zoning

**SECTION 3.** Chapter 600, Land Use, Part 4, Zoning, of the Township Code is hereby amended to establish new Article LIIB, HW Multi-Use Zoning, to read as follows:

Article LIIB HW Multi-Use Zoning**§ 600-358.10. Principal permitted uses.**

The following uses are permitted uses in the HW Zone along with a House of Worship:

- a. Age Restricted Multifamily housing;
- b. Group Homes;

§ 600-358.11. Permitted accessory uses.

Any and all uses of land that are customarily, habitually, and by long practice, established by reasonable association with, incidental and subordinate to the principal use of the property, including, but not limited to the following:



- a. Decks
- b. Patios/Terraces
- c. Open space
- d. Off street parking
- e. Private Garages
- f. Signs
- g. Retaining Walls / Fences
- h. Utilities and other essential services

§ 600-358.12. Bulk Standards.

- a. Multifamily dwellings and group homes are permitted to be constructed on the same site and will be considered a permitted second use on site so long as they are owned and/or operated in conjunction with a house of worship.

- 1. Maximum Building Height

- a. 2 ½ stories
- b. 30 feet

- 2. Maximum Number of units

- a. Multifamily 25 units
- b. Group homes 10 bedrooms

- 3. Minimum residential building setbacks from external property lines: 25 feet

- 4. Minimum front yard.

- a. 20 feet from any internal cartway
- b. 8 feet from parking field

- 5. Minimum distance between buildings

For the purpose of this section of the ordinance, the front of a multifamily building shall be defined as that portion of the structure that has access to the driveway and or front door.

- a. 25 feet between side and side
- b. 35 feet between rear and rear
- c. 40 feet between side and rear
- d. 60 feet between side and front
- e. 75 feet between front and rear
- f. 75 feet between front and front

§ 600-358.13. Design Standards.

- a. Buildings shall have architectural features, finishes and patterns that provide visual interest.
- b. The overall design of the project shall have a unified theme, displayed through the application of common building materials such as brick, cultured stone and wood.
- c. Trash. Each dwelling unit must be designed so as to have a dedicated location for the interior storage of trash or designed in such a way that said trash shall be stored in a dedicated exterior storage facility.
- d. Mailboxes. Mailboxes must be provided in either gang mailboxes or located in a lobby, or other type of facility.
- e. Lighting. The lighting requirements shall comport with Subsection 600-177, Outdoor Lighting, of the Township of Denville's Zoning Ordinance.
- f. Utility meters. All utility meters may be located in the interior of the building provided that said meters are located within a common area and not within an individual dwelling unit.
- g. Air-conditioning units, emergency generators, or other sound producing equipment. Any emergency generators, air-conditioning units, or other sound producing equipment must be adequately screened by either fencing or landscaping so as to reduce its impact to surrounding land uses.

§ 600-358.14. Circulation, parking, utilities.

- a. Off street parking requirements.
  - i. A parking and traffic study must be undertaken to ensure the shared parking will accommodate all uses on site;
  - ii. Parking for handicapped persons shall be provided as required by State and Federal law.
- b. Emergency facilities. All housing developed within the HW (House of Worship) Multi Use Zone shall be suitably designed to facilitate emergency access by police, fire fighting and ambulance service vehicles.
- c. Sidewalks. Sidewalks from the parking lot to the residential access point shall be located within a curbed walkway.

§ 600-358.15. Affordable Housing Requirements.

- a. Development must provide affordable housing consistent with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (“FHA”); applicable regulations of the New Jersey Council on Affordable Housing (“COAH”); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency (“NJHMFA”) including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (“UHAC”) as well as the Township of Denville’s Affordable Housing Ordinance.
- b. All said affordable units shall be constructed on site and integrated among the buildings throughout the development so that as much as practical the buildings contain a mix of affordable and market rate units. Affordable units shall also be constructed to be indistinguishable from market rate units from the exterior of the building.
- c. A minimum of twenty percent (20%) of all residential units developed with the HW Multi Use Zone shall be reserved for occupancy by very low income, low income and moderate households (hereinafter “Affordable Units”).
- d. At least 50% of the affordable units will be available to very low income and low-income households and the remainder of which will be available to moderate income households as defined in the FHA and UHAC and other applicable statutes and regulations. A minimum of 13% of the affordable units will be made available to very low-income households, defined as households earning 30% or less of the regional median income by household size.
- e. The phasing applicable to the Affordable Units shall follow regulations established at N.J.A.C. 5:93-5.6(d).

§ 600-358.16. Applicability

To the extent that any provisions found in section 600 are found to be inconsistent with this Ordinance, the provisions of this Ordinance shall govern.

**SECTION 4.** The Municipal Clerk is hereby directed to give notice at least ten days prior to hearing on the adoption of this Ordinance to the County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Morris County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

**SECTION 5.** All ordinances of the Township of Denville, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 6.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 7.** This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

BY ORDER OF THE MUNICIPAL  
COUNCIL OF THE TOWNSHIP OF  
DENVILLE

ATTEST:

APPROVED:

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TARA M. PETTONI, RMC  
MUNICIPAL CLERK

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MAYOR THOMAS W. ANDES  
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on April 6, 2021.

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Tara M. Pettoni, RMC  
Municipal Clerk

Accessory Apartments OrdinanceArticle LVI  
Accessory Apartments**[Added 5-4-2021 by Ord. No. 15-21]**

§ 600-382 Requirements.

All accessory apartments shall meet the following conditions:

- A. Provided the units are affordable to very-low-, low- and moderate-income households, accessory apartments shall be permitted as conditional uses in all residential zones provided the accessory apartment is located on a property with a residential use. Accessory apartments may be developed as very-low-income, low-income or moderate-income units.
- B. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes as well as all municipal affordable housing requirements.
- C. At the time of initial occupancy of the unit and for at least 10 years thereafter, the accessory apartment shall be rented only to a household which is either a very-low-, low- or moderate-income household.
- D. Rents of accessory apartments shall be affordable to very-low-, low- or moderate-income households as per the FHA and COAH and UHAC regulations.
- E. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment. The deed or declarations shall be reviewed and approved by the Township Attorney prior to recording; and such document must be recorded prior to the issuance of a building permit or, if no building permit needs to be issued, prior to the issuance of the certificate of occupancy.
- F. The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
- G. The Township of Denville Accessory Apartment Program shall not restrict the number of bedrooms in any accessory apartment.
- H. No accessory apartment created as a result of this section or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.

§ 600-383 Credits.

The maximum number of creditable accessory apartments shall be equal to no more than six (additional units may be approved by the state or the courts if the municipality has demonstrated successful completion of its accessory apartment program).

§ 600-384 Administration.

The Township of Denville shall designate an administrative entity to administer the accessory apartment program that shall have the following responsibilities:

- A. The Administrative Agent shall administer the accessory apartment program, including advertising, income qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the affordable accessory apartment program in accordance with the UHAC.
- B. The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with applicable statutory or regulatory requirements and/or the provisions of this section/article. All denials shall be in writing with the reasons clearly stated.
- C. In accordance with COAH requirements, the Township of Denville shall provide at least \$30,000 per moderate-income unit, \$40,000 per low-income unit, and \$50,000 per very-low-income unit to subsidize the creation of each accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.

§ 600-385 Exam applications.

Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:

- A. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;
- B. Rough elevations showing the modifications of any exterior building facade to which changes are proposed; and
- C. 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 man-made conditions which might affect construction.
- D. Applicants shall provide septic and well details to support their application.

§ 600-386 Standards for accessory apartments.

- A. Accessory apartments are permitted on residentially improved lots, provided that only one additional accessory apartment per lot is permitted.
- B. The accessory apartment shall have living and sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants.
- C. The accessory apartment shall consist of not less than two rooms, one of which shall be a bathroom containing a flush toilet, wash basin, and bathroom tub or shower.

- D. All rooms shall be accessible from within the apartment.
- E. The accessory apartment shall be private and secure from all attached units.
- F. The apartment shall have direct access to the outdoors or directly to a hall from which there is direct access to the outdoors without passing through any other unit, and the accessory apartment shall comply with all requirements of the applicable building codes.
- G. If the apartment is located on the second or third floor, there shall be at least two means of access to the outdoors, available at all times, as approved by the Construction Official. Exterior stairways for the accessory apartment shall be located at the rear or side of the structure.
- H. No apartment shall be located above the third floor.

Lake Lenore Zoning

Article XXX  
Uses Permitted in all Residence Districts

§ 600-202 Primary intended use.

**[Amended by Ord. No. 9-85; Ord. No. 27-86; Ord. No. 18-01]**

The C, R-C, R-1, R-1B, R-2, R-2A and R-3 Zones permit single-family residences only. The R-4 Zone permits one- and two-family residences only. In addition to the above, the C, R-C, R-1, R-1B, R-2, R-2A, R-3 and R-4 Zones permit the following uses:

- A. Public buildings and public or institutional uses, as set forth in Article **XXIX**, Conditional Uses.
- B. Signs conforming to Article **XXVIII**.
- C. Accessory uses customary incident to the permitted uses provided they do not include any activity customarily carried on as a business, other than farming, unless specifically permitted by this section.
- D. Private garages accessory to a dwelling or farm for the storage of vehicles owned or used by the residents of the dwelling or farm.
- E. Parking and parking facilities conforming to Article **XXVII**.
- F. Temporary uses as regulated in Article **XXIX**, Conditional Uses.
- G. The office or studio of a doctor, physician, surgeon, dentist, teacher of academic subjects, artist, musician, lawyer, architect, engineer or like professional persons residing on the premises as may be determined by the Board of Adjustment, provided that not more than one person not a resident in the dwelling is employed in such office, and not more than 1/2 the floor area of one story of the dwelling is devoted to such use.
- H. No more than two persons being sheltered or fed for profit per single-family dwelling.
- I. Farming and truck gardening and the sale of seasonal farm produce grown on the farm or truck garden. Any accessory building or manure pile shall not be located closer than 250 feet to any street right-of-way or property line or dwelling, and shall only be permitted on a tract of land five acres or larger in area. All pastoral farm animals and fowl shall be contained within a building or fenced enclosure which shall restrict animals or fowl a distance of at least 250 feet from any property line and shall be permitted on a tract of land of five acres or larger in area. This shall not be construed to permit commercial piggeries. The regulations in this subsection shall not restrict house pets.
- J. Commercial nurseries or greenhouses accessory and incidental to a permitted agricultural operation for starting and growing plant materials, provided such structures are located no closer than 50 feet to any lot line. This shall not be construed to permit landscape contracting firms, processing of firewood or other such commercial activities in residence zones.
- K. Swimming pools are permitted, provided they conform to Chapter **507**, Swimming Pools, Article **I**, Private Swimming Pools, as well as the provisions of



§ 600-151, Accessory buildings and structures.

L. In the R-1B District only, open space and recreational uses established in accordance with the requirements for planned age-restricted communities in the PARC District, as set forth in § 600-199.

§ 600-203 Prohibited uses.

Any uses other than those listed in § 600-202 are prohibited in all residential zones.

## **Municipal Land Use Law (MLUL)**

### **40:55D-66.1 Community residences, shelters, adult family care homes; permitted use in residential districts**

Community residences for the developmentally disabled, community shelters for victims of domestic violence, community residences for the terminally ill, community residences for persons with head injuries, and adult family care homes for elderly persons and physically disabled adults shall be a permitted use in all residential districts of a municipality, and the requirements therefor shall be the same as for single family dwelling units located within such districts.

Adopted L.1978, c.159, §1, effective December 7, 1978. Amended L. 1979, c.338, §2, effective January 22, 1980; L. 1993, c.329, §7, effective December 23, 1993; L. 1997, c.321, §1, effective January 8, 1998; L. 2001, c.304, §11, effective April 2, 2002.

Development Fee Ordinance**ORDINANCE NO. 14-21**

AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, REPEALING CHAPTER 600, LAND USE, PART 5, AFFORDABLE HOUSING, ARTICLE LV, DEVELOPMENT FEE AND AFFORDABLE HOUSING CONTRIBUTION, OF THE TOWNSHIP CODE TO ESTABLISH A NEW DEVELOPMENT FEE ORDINANCE

**BE IT ORDAINED** by the Municipal Council of the Township of Denville, County of Morris, State of New Jersey, as follows:

**SECTION 1.** Chapter 600, Land Use, Part 5, Affordable Housing, Article LV, Development Fee and Affordable Housing Contribution, of the Township Code is hereby repealed and replaced with the following to read in its entirety:

Article LV Mandatory Development Fee and Affordable Housing Contribution

**§ 600-372 Purpose.**

The New Jersey Supreme Court, in Holmdel Builders Association v. Holmdel Township, 121 N.J. 550 (1990), determined that mandatory development fees are both statutorily and constitutionally permissible. The Court further anticipated that the Council on Affordable Housing (COAH) would promulgate appropriate development fee rules specifying, among other things, the standards for these development fees. This article establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this article shall be used for the purpose of providing very-low, low- and moderate- income housing in accordance with a Court-approved spending plan.

This article establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this article shall be used for the purpose of providing very-low, low- and moderate-income housing in accordance with a Court-approved spending plan.

**§ 600-373 Definitions.**

The following terms when used in this Ordinance shall have the meanings given in this Section:

**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 municipally-sponsored construction project or a 100% affordable housing development.

#### COUNCIL or COAH

The New Jersey Council on Affordable Housing established under the Fair Housing Act of 1985, or any successor agency charged with the administration of the Act.

#### COURT

The Superior Court of New Jersey, Law Division, Morris County.

#### 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 FEES

Money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and regulated by applicable COAH Rules.

#### EQUALIZED ASSESSED VALUE

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through c).

#### **§ 600-374** Development fee schedule.

##### A. Residential development fees.

- (1) Within all districts, 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.
- (2) When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

B. Nonresidential development fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of developments specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Nonresidential developers, except for developers of the types of developments 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.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvements and the equalized assessed value of the newly improved structure, i.e., land and improvements, at the time the final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

**§ 600-375** Eligible exactions, ineligible exactions and exemptions.

A. Residential Development:

1. Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by ordinance or by agreement with the Township of Denville, shall be exempt from the payment of development fees.
2. Development fees shall be imposed and collected when there is an addition to an existing structure or when an existing structure undergoes a change to a more intense use or, except if the structure is demolished and replaced as the result of a fire, flood or natural disaster.
3. Developments that have received preliminary or final site plan approval prior to the adoption of the Township's initial development fee ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
4. Developers of houses of worship and other not-for-profit institutions shall be exempt from paying development fees.

B. Non-Residential Development:

1. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
2. The fee of 2.5% development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
3. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy for the nonresidential development, whichever is later.
5. 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 the Township of Denville as a lien against the real property of the owner.

**§ 600-376** Collection of fees.

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a building permit.
- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification / Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- C. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The Construction Official responsible for the issuance of a final certificate of occupancy shall notify the local Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the municipal 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.
- G. Should the Township of Denville fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).
- H. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at the issuance of the certificate of occupancy. No certificate of occupancy shall be issued to the developer until all remaining developer fees have been paid in full.
- I. Appeal of development fees.
  - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by Denville 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.
  - (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 Denville 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.

**§ 600-377 Affordable Housing Trust Fund.**

- A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - (1) Payments in lieu of on-site construction of affordable units;
  - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  - (3) Rental income from municipally operated units;
  - (4) Repayments from affordable housing program loans;
  - (5) Recaptured funds;
  - (6) Proceeds from the sale of affordable units; and
  - (7) Any other funds collected in connection with the Township of Denville's affordable housing program.
- C. In the event of a failure by the Township of Denville to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved spending plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services ("LGS"), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Denville, or, if not practicable, then within the County.



- (1) Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

**§ 600-378 Use of funds.**

- A. The expenditure of all funds shall conform to a spending plan approved by the Superior Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address Denville 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 preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; regional housing partnership programs; conversion of existing nonresidential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved spending plan.
- B. Funds shall not be expended to reimburse the Township for past housing activities.
- C. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. 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 the median income for Housing Region 2, in which Denville is located.
  - (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the spending plan.



- (2) 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.
  - (3) Payments in lieu of constructing affordable housing units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Township may contract with a private or public entity to administer the implementation of any part of its housing element, including the requirement for affordability assistance.
- E. No more than 20% of the revenues collected from development fees shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees, or consultant fees necessary to develop or implement: a rehabilitation program; prepare a housing element; and an affirmative marketing program.
- 1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
  - 2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements.

#### **§ 600-379 Monitoring.**

The Township of Denville shall provide annual reporting of affordable housing trust fund activity to the New Jersey Department of Community Affairs, COAH and Local Government Services or other entity designated by the State of New Jersey, using forms developed for this purpose by the New Jersey Department of Community Affairs, COAH or Local Government Services.

#### **§ 600-380 Ongoing collection of fees.**

- A. The ability of Denville Township to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its judgment of compliance and shall continue thereafter so long as Denville Township has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for a judgment of compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its development fee ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

- B. If the Township of Denville fails to renew its ability to impose and collect development fees after the expiration of its judgment of compliance and repose, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320).
- C. After the expiration of the judgment of compliance and repose, if the Township does not pursue or obtain continued authorization, Denville Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

**SECTION 2.** Chapter 600, Land Use, Part 5, Affordable Housing, Article LV, Development Fee and Affordable Housing Contribution, Section 600-381, of the Township Code is hereby reserved.

**SECTION 3.** All ordinances of the Township of Denville that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 4.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 5.** This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

BY ORDER OF THE MUNICIPAL  
COUNCIL OF THE TOWNSHIP OF  
DENVILLE

ATTEST:

APPROVED:

\_\_\_\_\_  
TARA M. PETTONI, RMC  
MUNICIPAL CLERK

\_\_\_\_\_  
MAYOR THOMAS W. ANDES  
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on April 6, 2021.

\_\_\_\_\_  
Tara M. Pettoni, RMC  
Municipal Clerk

Affordable Housing Ordinance & Set-Aside Ordinance**ORDINANCE NO. 13-21****AN ORDINANCE OF THE TOWNSHIP OF DENVILLE, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, REPEALING CHAPTER 600, LAND USE, PART 5, AFFORDABLE HOUSING, ARTICLE LIV, LOW- AND MODERATE-INCOME HOUSING REQUIREMENTS, OF THE TOWNSHIP CODE TO ESTABLISH A NEW AFFORDABLE HOUSING ORDINANCE**

**BE IT ORDAINED** by the Municipal Council of the Township of Denville, County of Morris, State of New Jersey, as follows:

**SECTION 1.** Chapter 600, Land Use, Part 5, Affordable Housing, Article LIV, Low- and Moderate-Income Housing Requirements, of the Township Code is hereby repealed and replaced with the following to read in its entirety:

§ 600-359 Purpose.

The purpose of this ordinance is to provide for and regulate affordable housing in the Township.

§ 600-360 Definitions.

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the Township or by the developers/owners of inclusionary or affordable housing developments to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means 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” means, a sales price or rent level that is within the means of a very-low household as defined as households earning thirty percent (30%) or less of the regional median income by household size, low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental

unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township’s affordable housing obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a hundred percent (100%) affordable housing development.

“Affordable housing program(s)” means any mechanism in a municipal Housing Element and Fair Share Plan prepared or implemented to address a municipality’s fair share obligation. “Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

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

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

"Alternative living arrangement" means 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” means 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” means a household that has been certified by an Administrative Agent as a very-low income household, low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

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

“Deficient housing unit” means 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” means 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” means 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” means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential 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” means a household with a total gross annual household income equal to fifty percent (50%) or less of the regional median household income by household size.

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

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

“Market-rate units” means housing not restricted to very low-, low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

“Moderate-income household” means a household with a total gross annual household income in excess of fifty percent (50%) but less than eighty percent (80%) of the regional median household income by household size.

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

“Non-exempt sale” means 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" means 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" means the maximum housing value in each housing region affordable to a four-person household with an income at eighty percent (80%) of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

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

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

"Restricted unit" means 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, but does not include a market-rate unit financed under UHORP or MONI.

"UHAC" means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26-1, et seq.

"Very low-income household" means a household with a total gross annual household income equal to thirty percent (30%) or less of the regional median household income by household size.

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

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

§ 600-361 Applicability.

- A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Denville pursuant to the Township's 2021 Third Round Housing Element and Fair Share Plan.
- B. Moreover, the provisions of this Ordinance shall apply to all developments that contain very low-, low-, and moderate-income housing units, including any currently unanticipated future developments that will provide very low-, low- and moderate-income housing units, and also including projects that may be funded with Low Income Housing Tax Credit financing, which shall comply with the income and bedroom distribution requirements of this Ordinance.
- C. Mandatory Set-Aside
  - (1) Except as otherwise regulated in this chapter, any development application proposing five (5) or more new dwelling units shall be required to set aside twenty percent (20%) of said lots or units for affordable housing.
  - (2) This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Township of Denville to grant such rezoning, variance or other relief. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement. All affordable units created pursuant to this paragraph shall be governed by the provisions of this Ordinance.
  - (3) This provision does not affect residential development on sites that are zoned for inclusionary residential development as part of the Township's Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning.

§ 600-362 Alternative Living Arrangements.

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
  - (1) 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;
  - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.



- C. 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.

§ 600-363 Phasing Schedule for Inclusionary Zoning.

- A. In inclusionary developments the following schedule shall be followed:

<i>Maximum Percentage of Market-Rate Units Completed</i>	<i>Minimum Percentage of Very Low-, Low-, and Moderate-Income Units Completed</i>
25	0
25 + 1 unit	10
50	50
75	75
90	100

§ 600-364 New Construction

- A. Low/moderate Split and Bedroom Distribution of Affordable Housing Units:

- (1) The fair share obligation shall be divided equally between very low-, low-, or 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 thirteen percent (13%) of all restricted rental units shall be very low-income units (affordable to a household earning thirty percent (30%) or less of regional median income by household size). The very low-income units shall be counted as part of the required number of low-income units within the development and shall be distributed across the bedroom distribution.
- (2) In each affordable development, at least fifty percent (50%) of the restricted units within each bedroom distribution shall be very low or low-income units.
- (3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - (a) The combined number of efficiency and one-bedroom units shall be no greater than twenty percent (20%) of the total very low-, low-, or moderate-income units;
  - (b) At least thirty percent (30%) of all very low-, low-, or moderate-income units shall be two bedroom units;
  - (c) At least twenty percent (20%) of all very low-, low- or moderate-income units shall be three bedroom units; and
  - (d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.



- (4) 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-, or 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.

#### B. Accessibility Requirements

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and the following:
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - (a) An adaptable toilet and bathing facility on the first floor; and
  - (b) An adaptable kitchen on the first floor; and
  - (c) An interior accessible route of travel on the first floor; and
  - (d) 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
  - (e) If not all of the foregoing requirements in b.1) through b.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 paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
  - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7.
  - (g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

#### C. Design

- (1) In inclusionary developments, to the extent possible, very low-, low-, or moderate-income units shall be integrated with the market units.
- (2) In inclusionary developments, very low-, low-, or moderate-income units shall have access to all of the same common elements and facilities as the market units.

#### D. Maximum Rents and Sales Prices

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall utilize the regional income limit calculation procedures approved by the Superior Court of New Jersey and shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty percent (60%) of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty-two percent (52%) of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen percent (13%) of all low- and moderate-income rental units shall be affordable to very low-income households, earning thirty percent (30%) or less of the regional median household income, with such very low income units counted toward the low income housing requirement.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income, and each affordable development must achieve an affordability average of fifty-five percent (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.
- (5) 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:
  - (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
  - (c) A two-bedroom unit shall be affordable to a three-person household;
  - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
  - (e) A four-bedroom unit shall be affordable to a six-person household.

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

#### § 600-365 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 HUD for the Section 8 program.

§ 600-366 Occupancy Standards.

- A. 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:
  - (1) Provide an occupant for each bedroom;
  - (2) Provide children of different sexes with separate bedrooms;
  - (3) Provide separate bedrooms for parents and children; and
  - (4) Prevent more than two persons from occupying a single bedroom.

§ 600-367 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 Ordinance for a period of at least thirty (30) years, until the Township of Denville 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 non-restricted, 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, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to 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.

§ 600-367.1 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

- A. 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:
- (1) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
  - (2) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
  - (3) 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.
  - (4) 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 Section 13.

§ 600-367.2 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 fifty percent (50%) of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty percent (80%) of median income.
- B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Township Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low- income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- 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 thirty-three percent (33%) of the household's eligible monthly income.

#### § 600-367.3 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 ninety-five percent (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).

#### § 600-367.4 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 add 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 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The 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.



§ 600-367.5 Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Denville 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 Morris. 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 thirty (30) days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  - (1) Sublease or assignment of the lease of the unit;
  - (2) Sale or other voluntary transfer of the ownership of the unit; or
  - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 600-367.6 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 five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- 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 fifteen percent (15%) of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§ 600-367.7 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 thirty percent (30%) of the regional median household income by household size.
  - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty percent (50%) of the regional median household income by household size.
  - (3) Moderate-income rental units shall be reserved for households with a gross household income less than eighty percent (80%) of the regional median household 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 thirty-five percent (35%) (forty percent (40%) for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
- (1) The household currently pays more than thirty-five percent (35%) (forty percent (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 thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
  - (3) The household is currently in substandard or overcrowded living conditions;
  - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (5) The household documents 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 a.1. through b.5. above with the Administrative Agent, who shall counsel the household on budgeting.

§ 600-368 Administrative Agent.

An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality or serving under contract to the developer/owner of an inclusionary or affordable housing development and reporting to the developer/owner and the municipality. 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. 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 includes:

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 Denville 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 non-eligibility;
- (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 region where the units are located;
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Denville 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 Denville: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Morris County Chapter of the NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions of Morristown, the Supportive Housing Association, and the New Jersey Housing Resource Center.

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 Morris County Register of Deeds or Morris 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 Re-rentals:

- (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 re-rental; and
- (2) Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-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 Ordinance;
- (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 municipality of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

- (1) Securing annually from the municipality 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) Posting annually, in all rental properties (including two-family homes), 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; 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 Council 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 the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
- (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.

§ 600-369 Affirmative Marketing Requirements.

- A. The Township of Denville 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 2 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 2, comprised of Essex, Morris, Union, and Warren Counties.
- D. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- E. 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.
- F. The affirmative marketing process for available affordable units shall begin at least four (4) months (one hundred and twenty (120) days) prior to the expected date of occupancy.
- G. 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 municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- H. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Denville, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Morris County Chapter of the NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc. (NORWESCAP), Homeless Solutions of Morristown, the Supportive Housing Association, and the New Jersey Housing Resource Center.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 600-370 Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale or rental 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 municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:



- (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is 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 \$500.00 per day or imprisonment for a period not to exceed ninety (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 to the Township 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 municipality 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 very low-, low- or moderate-income unit.
  - (a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the very low-, low- or moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have 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 very low-, low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In

the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very low-, low- or 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. An Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the very low-, low- or 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 very low-, low- or 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 very low-, low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the very low-, low- or 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.

§ 600-371 APPEALS

Appeals from all decisions of an Administrative Agent pursuant to this Ordinance shall be filed in writing with the Court.

SECTION 2. All ordinances of the Township of Denville that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

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

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

BY ORDER OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF DENVILLE

ATTEST:

APPROVED:

TARA M. PETTONI, RMC  
MUNICIPAL CLERK

MAYOR THOMAS W. ANDES  
TOWNSHIP OF DENVILLE

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Municipal Council of the Township of Denville at its meeting held on April 6, 2021.

Tara M. Pettoni, RMC Municipal Clerk

Affirmative Marketing Plan Resolution

R-21-69

**RESOLUTION OF THE TOWNSHIP OF DENVILLE, IN THE COUNTY OF  
MORRIS AND STATE OF NEW JERSEY, ADOPTING AN AFFIRMATIVE  
MARKETING PLAN**

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**WHEREAS**, the Township of Denville entered into a settlement agreement with Fair Share Housing Center dated July 31, 2020 to settle its affordable housing declaratory judgment action, Docket No. MRS-L-1641-15, which settlement agreement was approved by the Court in an Order Approving Settlement Agreement and Granting Preliminary Judgment of Compliance and Repose issued on December 16, 2020; and

**WHEREAS**, as a condition of approval under the settlement agreement, the Township is required to adopt by resolution, in accordance with applicable Council on Affordable Housing regulations and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26., et seq.), an Affirmative Marketing Plan to ensure that all affordable housing units created are affirmatively marketed to very low-, low- and moderate-income households, particularly those living and/or working within Housing Region 2, which encompasses the Township.

**NOW, THEREFORE, BE IT RESOLVED** by the Municipal Council of the Township of Denville, County of Morris and State of New Jersey as follows:

1. The Municipal Council hereby adopts the Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 2 in the form annexed hereto as **Exhibit A** and made a part hereof.
2. All affordable units in the Township of Denville shall be marketed in accordance with the provision of this Resolution and the attached form of Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 2 unless otherwise provided by law or regulation of the State of New Jersey.
3. The attached Affirmative Fair Housing Marketing Plan shall apply to all developments in the jurisdiction of the Township that contain or will contain very low-, low- and moderate- income units, including those that are part of the Township's Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan.
4. All developers/owners of existing affordable housing units and their respective Administrative Agents shall amend their Affirmative Marketing Plan and comply with the regional marketing strategies set forth in this Resolution and the attached Affirmative Fair Housing Marketing Plan adopted by the Township.
5. The Affirmative Fair Housing Marketing Plan shall be implemented by a qualified Administrative Agent under contract to the developer/owner of the affordable housing units, whose designation is approved by a resolution of the governing body. All of the

costs associated with the services of the Administrative Agent, advertising and affirmative marketing of the affordable housing units shall be borne by the developer/owner of the affordable housing units.

6. In implementing the Affirmative Fair Housing Marketing Plan, all Administrative Agents shall undertake, at a minimum, the following strategies:
  - a. Publication of one advertisement in a newspaper of general circulation throughout the entire Housing Region 2.
  - b. Broadcast of one advertisement by a radio station broadcasting throughout the entire Housing Region 2.
  - c. At least one additional regional marketing strategy using one of the other sources listed on the attached Affirmative Marketing Plan.
  - d. Provide notice of available housing units to the following groups/organizations: Fair Share Housing Center, the New Jersey State Conference of the NAACP, The Latino Action Network, the Morris County Chapter of the NAACP, Newark NAACP, East Orange NAACP, Housing Partnership for Morris County, Community Access Unlimited, Inc., Northwest New Jersey Community Action Program, Inc., (NORWESCAP), Homeless Solutions of Morristown, the Supportive Housing Association, and the New Jersey Housing Resource Center.
  - e. Comply with all requirements set forth in N.J.S.A. 52:270-321.3 et. seq. with regard to the affirmative marketing of affordable housing units.
7. 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 or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in the region. It is a continuing program that directs all marketing activities towards the Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Township of Denville is located in Housing Region 2, consisting of Essex, Morris, Union and Warren Counties.
8. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following minimum requirements:
  - a. All newspaper articles, announcements, advertisements and requests for applications for very low-, low-, and moderate-income units shall appear in the Star Ledger.

- b. The primary marketing shall take the form of at least one press release and a paid advertisement in the above newspapers at the start of the affirmative marketing process. Additional advertising and publicity shall be on an “as needed” basis. All press releases and advertisements shall be approved in advance by the Administrative Agent designated for the affordable housing units. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of publication to the Administrative Agent designated for the affordable housing units.
- c. All advertisements shall include at a minimum a description which includes:
  - i. The location of the units;
  - ii. Directions to the units;
  - iii. Range of prices for the units;
  - iv. Size of units as measured in number of bedrooms
  - v. Maximum income permitted to qualify for the units;
  - vi. Location of applications;
  - vii. Business hours when interested households may obtain an application; and
  - viii. Application fees, if any.
- d. Newspaper articles, announcements and information on where to request applications for very low-, low-, and moderate-income housing shall appear at least once a week for four consecutive weeks in at least three locally oriented weekly newspapers within the region, one of which shall be circulated primarily within Morris County and the other two of which shall be circulated primarily outside of Morris County but within Housing Region 2.
- e. Applications, brochures, signs and/or posters used as part of the affirmative marketing program shall be available/posted in the following locations:
  - i. Denville Township Municipal Building;
  - ii. Denville Township Public Library
  - iii. Morris County Library
  - iv. Morris County Administration Building
  - v. Developer’s Sales/Rental Office



- f. Applications shall be mailed by the Administrative Agent designated for the affordable housing units to prospective applicants upon request. Applications shall also be available at the developer's sales/rental office and shall be mailed to prospective applicants upon request.
- g. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organization(s) in Essex, Morris, Union, and Warren Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including the groups/organizations and major regional employers identified on the Denville Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 2, attached hereto and made a part of this Resolution.
- h. A random selection method to select occupants of very low-, low- and moderate-income housing units will be used by the respective Administrative Agent designated for the affordable housing units in conformance with N.J.A.C. 5:80-26.16. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2 comprised of Essex, Morris, Union, and Warren Counties.
- i. The respective Administrative Agent for affordable housing units shall administer the Affirmative Marketing Plan. The respective Administrative Agent has the responsibility to income qualify very low-, low-, and moderate-income households; to place income eligible households in very low-, low- and moderate-income units upon initial occupancy; to provide for the initial occupancy of very low-, low-, and moderate-income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to very low-, low-, and moderate- income households; and to enforce the terms of the deed restriction and mortgage loan, if applicable, as per N.J.A.C. 5:80-26.1 et seq.
- j. The respective Administrative Agent for affordable housing units shall provide or direct qualified very low-, low- and moderate-income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.
- k. All developers/owners of very low-, low- and moderate-income housing units in the Township shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of their contracted Administrative Agent.

- l. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all very low-, low- and moderate-income housing units are initially occupied and for as long as affordable units exist that remain deed restricted and for which the occupancy or re- occupancy of units continues to be necessary.
- m. The respective Administrative Agent shall provide the Municipal Housing Liaison for the Township of Denville with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C. 5:80-26.1 et seq.
- n. A copy of this Resolution and the attached Denville Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 2 shall be provided to all designated Administrative Agents for existing affordable housing units in the Township and to all developers/owners of future affordable housing units.
- o. This Resolution shall take effect immediately.

BY ORDER OF THE MUNICIPAL  
COUNCIL OF THE TOWNSHIP OF  
DENVILLE

I, Tara M. Pettoni, Municipal Clerk for the Township of Denville do hereby certify the above to be a true and exact copy of the resolution adopted by the Municipal Council of the Township of Denville at their regular Council meeting held on April 6, 2021.

\_\_\_\_\_  
Certification Date:

\_\_\_\_\_  
Tara M. Pettoni,  
RMC Municipal  
Clerk

Municipal Housing Liaison Resolution

**R-21-65**

**RESOLUTION OF THE TOWNSHIP OF DENVILLE, COUNTY OF MORRIS, STATE OF NEW JERSEY, APPOINTING ADMINISTRATOR STEVEN WARD AS MUNICIPAL HOUSING LIAISON**

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**WHEREAS**, the Township of Denville’s Housing Element and Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), and applicable Council on Affordable Housing (“COAH”) and Uniform Housing Affordability Controls (“UHAC”) regulations; and

**WHEREAS**, the Township is required to appoint a Municipal Housing Liaison for the administration of the Township’s affordable housing program to enforce the requirements of the applicable regulations; and

**WHEREAS**, Section 600-391 of the Township Code provides for the appointment of a Municipal Housing Liaison.

**NOW THEREFORE BE IT RESOLVED** by the Municipal Council of the Township of Denville, County of Morris, State of New Jersey, that Administrator Steven Ward is hereby appointed as the Municipal Housing Liaison for the administration of the Township’s affordable housing program.

This resolution shall take effect immediately.

BY ORDER OF THE MUNICIPAL  
COUNCIL OF THE TOWNSHIP OF  
DENVILLE

I, Tara M. Pettoni, Municipal Clerk for the Township of Denville do hereby certify the above to be a true and exact copy of the resolution adopted by the Municipal Council of the Township of Denville at their regular Council meeting held on April 6, 2021.

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Certification Date:

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Tara M. Pettoni,  
RMC Municipal  
Clerk

Draft Zoning Ordinances on any new Round 4 sites

**T-8**  
**Multifamily Zoning**

**600-387.1 Principal permitted uses.**

The following uses are principal permitted uses in the T-8 Zone, provided that a mandatory set-aside of units affordable to low- and moderate-income households is provided within the development of 15% if the affordable units are rentals and 20% if the affordable units are for-sale units.

- A. Single Family housing as per R-1 zoning regulations
- B. A Single Mixed Use Building consisting of the following:
  - i. Age Restricted Housing Units
  - ii. Age Restricted Affordable Housing Units
  - iii. Non-Age Restricted Affordable Housing Units

**§ 600-387.2 Permitted accessory uses.**

Any and all uses of land that are customarily, habitually and by long practice, as established by reasonable association with, incidental and subordinate to, the principal use of the property, including, but not limited to the following:

- A. Passive and active recreation. Such as
  - i. Courtyard
  - ii. Outdoor BBQ facilities
  - iii. Pool
- B. Residential amenities. Such as
  - i. Club Room
  - ii. Fitness Room
  - iii. Lobby
  - iv. Work room
  - v. Lounge
  - vi. Open space
  - vii. Storage areas
- C. Off-street parking.

- D. Under building parking
- E. Signs.
- F. Retaining walls/fences.
- G. Utilities, pump stations, transformers, and other essential services.
- H. Temporary trailers for construction, sales and leasing.
- I. Roof-mounted solar panels.

**§ 600-387.3. Bulk standards.**

- A. Minimum building setbacks from external property lines: 150 feet
- B. Allowable projections into yards or building envelope. If no separate lots are created, architectural features such as bay windows, cornices, eaves, window sills, steps, overhangs, other building protrusions or architectural features, provided that said feature does not project more than 24 inches. Ramps designed for Americans with disabilities are not considered a building appurtenance and are not regulated by this section.
- C. Coverage.
  - i. Maximum tract building coverage: 6 %.
  - ii. Maximum tract impervious coverage: 20%.
  - iii. Minimum tract open space or landscaped areas: 55%.
    - (1) In computing the open space requirement, common recreation areas accessory to the residential use and required buffer areas, environmentally sensitive lands and stormwater facilities shall be included.
    - (2) Any open space as provided herein shall be owned and maintained by the homeowners' association or condominium association in accordance with the provisions of N.J.S.A. 40:55D-43.
- D. Maximum building height. (NOTE: Utilizing the definition for "building height" and not "height of building").
  - i. Four Stories of Residential Dwellings over One story of Parking
  - ii. Fifty-five feet.
- E. Maximum length of building: 400 feet.
- F. Maximum density: 112 units on the entire tract, of which 22 will be affordable to low- and moderate- income households.

#### § 600-387.4 Design standards.

- A. Buildings shall have architectural features, finishes and patterns that provide visual interest.
- B. The overall design of the project shall have a unified theme, displayed through the application of common building materials such as brick, vinyl, cultured stone and wood. The exterior of the building containing the affordable units shall be architecturally compatible and constructed of the same materials from the buildings containing the market units, as generally shown on the facade elevations that are included in the settlement agreement.
- C. Trash. Each dwelling unit must be designed to have a dedicated location for the interior storage of trash or designed in such a way that said trash shall be stored in a dedicated exterior storage facility. Said refuse storage shall be accessed from within the underbuilding parking structure.
- D. Mailboxes. Mailboxes must be provided in the main building. No outdoor mailboxes hall be permitted.
- E. Lighting. The lighting requirements shall comport with § 600-177, Outdoor lighting, of the Township of Denville's Zoning Ordinance.
- F. Utility meters. All utility meters may be located in the interior of the building, provided that said meters are located within a common area and not within an individual dwelling unit. All utility meters shall be accessed from within the underbuilding parking structure.
- G. Air-conditioning units, emergency generators, or other sound producing equipment. Any emergency generators; air-conditioning units, or other sound producing equipment must be adequately screened by either fencing, landscaping or buffer areas so as to reduce its impact to surrounding land uses.
- H. Signage.
  - (1) With the exception of street signs, traffic control signs, and building identification signs, there shall be a single development identification sign permitted. Said identification sign shall be a ground-mounted monument sign.
  - (2) A proposed monument sign shall be located on the property, but outside of any required sight triangle area, and shall contain no more than 24 square feet per side and no more than two sides. A proposed monument sign shall not exceed eight feet in height from the base of the sign and may be externally lit.
  - (3) Temporary signs. Temporary signs shall be permitted and may include "For Sale," "Open House" and related sale advertising, and construction activity directional signage. Said signs must meet the provisions of § 600-188.



I. Fences and walls.

- (1) Minimum distance between residential building and retaining walls. 20 feet;
- (2) Height of retaining walls for each additional 20 feet of distance between the building and retaining wall (after original 20 feet) height of retaining wall may be increased by 4 feet, to a maximum of 25 feet in height.
- (3) Any retaining wall over 8 feet tall must utilizing landscaping to soften the height impact of said wall.

J. Access.

- (1) If only one permanent point of access is proposed, an emergency access point must be provided through the use of grass pavers or other suitable methods or a boulevard access point must be utilized.
- (2) If gates or other methods of excluding the vehicular traffic are proposed, the application must provide adequate provisions for emergency vehicles as well as turnaround provisions for visitors who have been refused entry.

**§ 600-387.5. Buffer areas.**

- A. The applicant shall provide and maintain a landscaped buffer area within the T-8 Zone which shall be no less than 40 feet in width from all exterior lot lines of the tract. When natural vegetation within the buffer is sparse or nonexistent, the landowner shall be required to provide a year-round visual screen as determined by the Planning Board.
- B. No use or structure, including parking or loading areas but excluding fences, retaining walls, detention, retention and drainage facilities and utility structures, shall be permitted within the required buffer area.
- C. Regrading within the buffer area. Every effort shall be made to minimize the amount of regrading within the buffer area.

**§ 600-387.7. Circulation, parking, utilities, planning and staging.**

- A. Street requirements. The requirements of N.J.A.C. 5:21 et seq. (Residential Site Improvement Standards) shall govern the design of streets unless a de minimis exception from such requirements is approved by the Board. No Belgian block curbing is required unless necessary for stormwater control.
- B. Off-street parking requirements.
  - (1) Parking spaces shall be provided for each dwelling unit in accordance with N.J.A.C. 5:21 et seq. (Residential Site Improvement Standards).
  - (2) Each dwelling unit must include one under building parking space which is assigned to said unit.

- (3) Parking for handicapped persons shall be provided as required by state and federal law.
- (4) Parking shall comport to the Electrical Vehicle Requirements found in the MLUL.
- (5) All parking shall be adequately landscaped, lighted and conveniently located relative to the housing to be served. Under no circumstances shall parking be more than 200 feet from an entrance to the building.

C. Utility improvements.

- (1) All developments shall be served by public water and public sanitary sewerage systems.
- (2) All utility improvements shall be located within a street right-of-way or within a utility easement, including storm drainage systems, sanitary sewerage collection and disposal systems and water supply and distribution systems, and shall be subject to review and approval by the Township in accordance with the standards and procedures established at N.J.A.C. 5:21 et seq. (Residential Site Improvement Standards) and subject to review and approval by the New Jersey Department of Environmental Protection as well as appropriate county and other state agencies, where applicable. Water supply and sanitary sewer collection and distribution facilities shall also be subject to review and approval by the Township Engineer and Fire Department and the Denville Water and Sewer Department.
- (3) Electric, gas and telephone service shall be provided by the developer in concert with the appropriate public utilities providing such service. Said service shall be provided as part of an underground system and shall be located within a street right-of-way or within a utility easement. If such underground facilities cannot reasonably be provided throughout the development due to topographic or geological conditions of the land or due to technical circumstances, and if the landowner shall adequately demonstrate the lack of feasibility of such undertaking, an exception to this requirement may be granted by the Planning Board.

D. Emergency facilities. All housing developed within the T-8 Zone shall be suitably designed to facilitate emergency access by police, firefighting and ambulance service vehicles.

E. Sidewalks. Sidewalks shall be provided within the development in accordance with the RSIS, on one side of cartway only. The Planning Board, in its reasonable discretion, may approve the substitution of pedestrian walkways not paralleling streets where appropriate. Sidewalks shall be provided on one side of the internal road system.

**§ 600-387.8. Applicability.**

To the extent that any provisions found in this ordinance are found to be inconsistent with this article, the provisions of this article shall govern.

**§ 600-387.9 Affordable housing requirements.**

- A. Development must provide affordable housing consistent with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (FHA); applicable requirements of the courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency (NJHMFA), including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (UHAC).
- B. Twenty percent of all residential units developed with the T8 Zone shall be reserved for rental occupancy by very-low-income, low-income and moderate-income households (hereinafter "affordable units").
- C. Two affordable housing units shall be age-restricted and the other twenty shall be non-age restricted housing.
- D. At least 50% of the affordable units will be available to very-low-income and low-income households, and the remainder will be available to moderate-income households as defined in the FHA and UHAC and other applicable statutes and regulations. Three of the affordable units will be made available to very-low-income households, defined as households earning 30% or less of the regional median income by household size.
- E. Bedroom distribution. In any multifamily development there shall be the following distribution of bedrooms in affordable units:
  - (1) One bedroom: a maximum of 20% of the affordable units.
  - (2) Three bedrooms: a minimum of 20% of the affordable units.
  - (3) Two bedrooms: the balance of the affordable units.

Realistic Zoning for Round Four**Multi-Family Overlay Zone District****§ 600-35#.# Principal permitted uses.**

The following uses are principal permitted uses in the Multi-Family Overlay Zone:

- a. Townhouses;
- b. Back-to-Back Townhouses;
- c. Vertical Flats;
- d. Interlocking dwellings;
- e. Uses permitted in the underlying zone.

**§ 600-35#.# Permitted accessory uses.**

Any and all uses of land that are customarily, habitually, and by long practice, established by reasonable association with, incidental and subordinate to the principal use of the property, including, but not limited to the following:

- a. Decks
- b. Patios/Terraces
- c. Passive and active recreation
- d. Open space
- e. Off street parking
- f. Private Garages
- g. Signs
- h. Retaining Walls / Fences
- i. Utilities and other essential services

**§ 600-35#.# Bulk Standards.**

- a. For uses permitted in the underlying zone, the underlying bulk standards for the zone shall apply.
- b. For multifamily dwellings the following bulk standards shall apply:
  1. Minimum lot size: 30,000 square feet
  2. Minimum residential building setbacks from external property lines: 15 feet
  3. Minimum yards
    - a. Front : 35
    - b. Side : 15
    - c. Rear : 50
  4. Allowable projections into yards or building envelope

If no separate lots are created, architectural features such as bay windows, cornices, eaves, window sills, steps, overhangs, other building protrusions or architectural features provided that said feature does not project more than twenty four (24) inches.

Ramps designed for American with Disabilities are not considered a building appurtenance and are not regulated by this section.

5. Coverage

- a. Maximum Building coverage: 25%.
- b. Maximum Impervious coverage: 85%.
- c. Minimum open space or landscaped areas: 15%
  - i. In computing the open space requirement, common recreation areas accessory to the residential use and required buffer areas, environmentally sensitive lands and stormwater facilities shall be included.
  - ii. Any open space as provided herein shall be owned and maintained by the homeowners association or condominium association in accordance with the provision of N.J.S.A. 40:55D-43.

6. Maximum Building Height

- a. 3 stories
- b. 40 feet

7. Maximum Density:

- |   |                   |
|---|-------------------|
| a. Block 41307 Lot 11                         | 10 units per acre |
| b. Block 41102 Lots 1 through 6, 9 through 11 | 6 units per acre  |

**§ 600-35#.# Design Standards.**

- a. Buildings shall have architectural features, finishes and patterns that provide visual interest.
- b. The overall design of the project shall have a unified theme, displayed through the application of common building materials such as brick, cultured stone and wood.
- c. Trash. Each dwelling unit must be designed so as to have a dedicated location for the interior storage of trash or designed in such a way that said trash shall be stored in a dedicated exterior storage facility.
- d. Lighting. The lighting requirements shall comport with Subsection 600-177, Outdoor Lighting, of the Township of Denville's Zoning Ordinance.
- e. Utility meters. All utility meters may be located in the interior of the building provided that said meters are located within a common area and not within an individual dwelling unit. If utility meters are located on the exterior of a structure, landscaping must be provided in the vicinity to aid in the screening of said meters.
- f. Air-conditioning units, emergency generators, or other sound producing equipment. Any emergency generators, air-conditioning units, or other sound producing equipment must be adequately screened by either fencing or landscaping so as to reduce its impact to surrounding land uses.

**§ 600-35#.#. Circulation, parking, utilities, planning and staging.**

- a. Street requirements. The requirements of N.J.A.C. 5:21 et seq. (Residential Site Improvement Standards) shall govern the design of streets unless a de minimus exception from such requirements is approved by the Board.
- b. Off street parking requirements.
  1. Parking spaces shall be provided for each dwelling unit in accordance with N.J.A.C. 5:21 (Residential Site Improvement Standards).
  2. Parking for handicapped persons shall be provided as required by State and Federal law.
  3. Parking shall comport to the Electrical Vehicle Requirements found in the MLUL
  4. All parking shall be adequately landscaped, lighted and conveniently located relative to the housing to be served. Under no circumstances shall parking be more than 200 feet from the housing to be served.
- c. Utility improvements
  1. All developments shall be served by public water and public sanitary sewerage systems.
  2. All utility improvements shall be located within a street right of way or within a utility easement, including storm drainage systems, sanitary sewerage collection and disposal systems and water supply and distribution systems, and shall be subject to review and approval by the Township in accordance with the standards and procedures established at N.J.A.C. 5-21 et seq. (Residential Site Improvement Standards) and subject to review and approval by the New Jersey Department of Environmental Protection as well as appropriate County and other State agencies, where applicable. Water supply and sanitary sewer collection and distribution facilities shall also be subject to review and approval by the Township Engineer and Fire Department and the Denville Water and Sewer Department.
  3. Electric, gas and telephone service shall be provided by the developer in concert with the appropriate public utilities providing such service. Said service shall be provided as part of an underground system and shall be located within a street right of way or within a utility easement. If such underground facilities cannot reasonably be provided throughout the development due to topographic or geological conditions of the land or due to technical circumstances, and if the landowner shall adequately demonstrate the lack of feasibility of such undertaking, an exception to this requirement may be granted by the Planning Board.
- f. Emergency facilities. All housing developed within the TO Multi-Family Overlay Zone shall be suitably designed to facilitate emergency access by police, fire fighting and ambulance service vehicles.

- g. Sidewalks. Sidewalks shall be provided within the development in accordance with the RSIS except that the Planning Board, in its reasonable discretion, may approve the substitution of pedestrian walkways not paralleling streets where appropriate.

**§ 600-358.30. Affordable Housing Requirements.**

- a. Development must provide affordable housing consistent with the requirements of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq. (“FHA”); applicable requirements of the Courts of the State of New Jersey; and all applicable regulations on affordability controls and other regulations of the New Jersey Housing and Mortgage Finance Agency (“NJHMF”) including, without limitation, the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (“UHAC”) as well as the Township of Denville’s Affordable Housing Ordinance.
- b. All said affordable units shall be constructed on site and integrated among the buildings throughout the development so that as much as practical the buildings contain a mix of affordable and market rate units. Affordable units shall also be constructed to be indistinguishable from market rate units from the exterior of the building.
- c. Twenty percent (20%) of all for residential units developed with the Multi-Family Overlay Zone shall be reserved for occupancy by very low income, low income and moderate households.
- d. At least 50% of the affordable units will be available to very low income and low-income households and the remainder of which will be available to moderate income households as defined in the FHA and UHAC and other applicable statutes and regulations. A minimum of 13% of the affordable units will be made available to very low-income households, defined as households earning 30% or less of the regional median income by household size.
- e. Bedroom distribution:
  - 1. In any multifamily development there shall be the following distribution of bedrooms in affordable units:
    - (a) One bedroom: a maximum of 20% of the affordable units.
    - (b) Three bedrooms: a minimum of 20% of the affordable units.
    - (c) Two bedrooms: the balance of the affordable units.
- g. The phasing applicable to the Affordable Units shall follow regulations established at N.J.A.C. 5:93-5.6(d).

**§ 600-358.31. Applicability.**

To the extent that any provisions found in this section are found to be inconsistent with this Ordinance, the provisions of this Ordinance shall govern.



Spending Plan

**TOWNSHIP OF DENVILLE  
AFFORDABLE HOUSING SPENDING PLAN**

Introduction

The Township of Denville has prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the affordable housing regulations of the New Jersey Department of Community Affairs (the Department) (N.J.A.C. 5:91 et seq. and N.J.A.C. 5:93 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved and adopted by the municipality in 2000.

As of June 1, 2025, the Township of Denville's Affordable Housing Trust Fund has a balance of One million five hundred and sixty three thousand five hundred and seventy eight dollars (\$1,563,578.38). All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in Provident Bank for the purposes of affordable housing.

These funds shall be spent in accordance with the applicant affordable housing regulations, as described in the sections that follow.

Revenues for Certification Period

The Township of Denville over the past ten years has, on average, collected One Hundred and Sixty Three Thousand Three Hundred and Eleven dollars (\$163,311) in developer fees and Twelve thousand Eight Hundred and Sixty Two dollars (\$12,862) in interest per year. If the Town were to experience similar growth, it is anticipated that, during the period of fourth round of substantive certification, the Township of Denville will add an additional One Million Nine Hundred and Thirty Seven Thousand Nine Hundred and Three dollars (\$1,937,903) to its affordable housing trust fund. This is detailed below:

- a. **Development Fees.** It is anticipated that the Township of Denville will collect an average of One Hundred and Sixty Three Thousand Three Hundred and Eleven dollars (\$163,311) per year in development fees for its Affordable Housing Trust Fund during the Fourth Round. As such, the Township anticipates that a total of One Million Seven Hundred and Ninety Six dollars (\$1,796,428) in development fees will be generated between June of 2025 and December of 2035.
- b. **Payment in lieu (PIL) or Other Funds.** The Township of Denville does not currently anticipate the contribution of any payments in lieu or other funds towards the municipal affordable housing trust fund during the period of Third Round substantive certification.
- c. **Interest.** The Township of Denville anticipates that the projected revenue in the municipal affordable housing trust fund will generate approximately One Hundred and Forty One

Thousand Four Hundred and Eighty Two dollars (\$141,482) in total interest between June of 2025 and December of 2035.

#### Administrative Mechanism to Collect and Distribute Funds

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

##### a. Collection of Development Fee Revenues

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

##### b. Distribution of Development Fee Revenues

The administration of Denville's development fee spending plan will be undertaken by the governing body and the Township treasurer. First, the governing body will approve the expenditure of development fee revenues. The governing body will then review the request for consistency with the spending plan. If consistent with the plan, the governing body will adopt a resolution authorizing the use and release of trust fund monies. Upon approval of the governing body resolution, the Township CFO will be authorized to release the funds.

#### Description of Anticipated Use of Affordable Housing Funds

The Township anticipates its affordable housing funds to be utilized as follows:

##### a. New Construction

The Township presently owns one (1) property along Lake Lenore Road which is identified by municipal tax records as Block 31109 Lot 13.01. The property comprise a total of approximately one and one-half (1.66) acres.

The Township of Denville will commit \$250,000 toward the construction of a group home on this property so long as the group home contains four beds.

##### b. Denville Accessory Apartment Program

The Township of Denville proposes to establish an accessory apartment program that will allow for the creation of six (6) affordable housing units. The Township will expend \$180,000 to implement this program and will assign \$30,000 per unit to subsidize the creation of three (3) moderate income accessory apartments totaling \$90,000; \$40,000 per unit to subsidize the creation of two (2) low income accessory apartments totaling \$80,000; and \$50,000 to subsidize the creation of a single (1) very low income accessory apartment.

##### c. Rehabilitation

The Township of Denville proposed to provide twenty-two thousand dollars (\$22,000) per unit toward the rehabilitation of 58 units totaling one million two hundred and seventy six thousand

dollars (\$1,276,000). The Township will continue its Rehabilitation Program as administered by Community Grants, Planning and Housing.

d. Affordability Assistance

Pursuant to N.J.A.C. 5:93-8.16(c), the Township will commit to spend at least thirty percent (30%) of the revenues collected from development fees towards affordability assistance to very-low, low- and moderate-income households. One-third of that amount must be dedicated to very low-income households. However, development fees collected to finance a rehabilitation program or new construction project are exempt from this requirement.

The Township has contributed two hundred and fifty thousand dollars (\$250,000) to the Special Needs Housing Partnership to be utilized for a group home to aid in affordability assistance. The Township will dedicate thirty percent (30%) of its development fee revenues, less its housing activity (both existing and proposed) and its proposed rehabilitation expenditures, towards its affordability assistance program. The Township further plans to allocate three hundred and eight seven thousand two hundred and thirty six dollars (\$387,236.86) toward new construction activities for the remainder of the Third Round.

e. Administrative Expenses

Per N.J.A.C. 5:93-8.16(e), no more than 20% of the revenues collected from development fees shall be expended on administration. The Township projects that a maximum of three hundred and fifty nine thousand two hundred and eighty four dollars (\$359,284) of housing trust funds will be permitted to be used for administrative purposes through 2035. Projected administrative expenditures, subject to the 20% cap, include the salaries and benefits for municipal employees and consultant fees necessary to develop or implement the following:

1. An updated Housing Element and Fair Share Plan.
2. An affirmative marketing program.
3. An affordability assistance program.

Expenditure Schedule

The Township of Denville intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

Trust fund Balance as of 6/1/2025	\$1,563,578
Estimated Development Fees (2025-2035)	\$1,796,421
Estimated Interest (2025-2035)	\$141,482
Lake Lenore	(\$250,000)
Administration Costs	(\$671,999)
Rehabilitation Program	(\$1,276,000)
Accessory Apartments Program	(\$180,000)
Affordability Assistance	(\$1,007,999)
Additional funds for New Construction	(\$348,000)
Additional funds for Affordable Assistance	(\$348,000)
Total	\$0.00

Excess or Shortfall of Funds

In the event of any expected or unexpected shortfall if the anticipated revenues are not sufficient to implement the plan, the Township of Denville has adopted a resolution with an intent to bond to address that shortfall of funds.

In the event of excess funds, or in the event that the amount spent on administration is less than projected, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be reserved for additional affordable housing activity. Specifically, the Township will allocate additional funding towards its affordability assistance program as well as toward new construction costs.

Summary

The Township of Denville intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:91 et seq. and N.J.A.C. 5:93 et seq. consistent with the housing programs outlined in this Housing Element and Fair Share Plan.

The Township of Denville has a balance of One million five hundred and sixty three thousand five hundred and seventy eight dollars (\$1,563,578.38) as of June 1, 2025, and anticipates an additional One Million Nine Hundred and Thirty Seven Thousand Nine Hundred and Three dollars (\$1,937,903) in revenues through 2035. The Township will dedicate just over one million dollars (\$1,010,000) towards the construction of accessory units, rehabilitation of units and the construction of a group home. The township will utilize one point eight million dollars (\$1,819,479) for affordability assistance and addition construction. Any shortfall of funds will be offset by a resolution to bond. The Township will dedicate any excess funds or remaining balance toward new construction and/or affordability assistance program.