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March 13, 2026

Via ECF

The Honorable Darren J. Del Sardo, P.J.Cv.
Superior Court of New Jersey
Law Division – Civil Part
Passaic County Courthouse
77 Hamilton Street, 3rd Floor
Paterson, New Jersey 07505

**Re: In the Matter of the Application of the Borough of Pompton Lakes
Docket No. PAS-L-000299-25**

Dear Judge Del Sardo:

Please accept this letter on behalf of Petitioner, the Borough of Pompton Lakes, to advise the Court of the affordable-housing compliance materials that have been filed in this matter and to confirm that the Borough has now satisfied the March 16, 2026 deadline for filing the amended Housing Element and Fair Share Plan (“HEFSP”) and the implementing ordinances and resolutions contemplated by the Court’s February 19, 2026 Decision and Order and the January 12, 2026 Program Settlement Recommendation / Mediation Agreement.

As the Court is aware, the Court’s February 19, 2026 Decision and Order approved the Borough’s endorsed HEFSP and authorized the Borough to proceed, without further delay, to notice and adopt the implementing ordinances and resolutions necessary to implement its Fourth Round HEFSP, with formal certification of compliance and repose to follow upon completion of that process on or before March 16, 2026. The January 12, 2026 Program Settlement Recommendation similarly provided that the Borough was

to adopt and file its amended HEFSP containing the settlement terms, together with the implementing ordinances and resolutions proposed within the amended HEFSP, by March 15, 2026. The Mediation Agreement further identified, as pre-March 15 conditions of compliance certification, adoption of a Fourth Round Spending Plan, updated affordable housing and development-fee ordinances, an affirmative marketing plan, and related administrative documents. On February 26, 2026, the Borough filed the following two items on eCourts:

1. The Planning Board Resolution adopting the February 2026 Fourth Round Housing Element and Fair Share Plan and amending the Borough Master Plan accordingly, together with the attached amended February 2026 HEFSP; and
2. Resolution No. 26-137, adopted by the Mayor and Council on February 25, 2026, endorsing the 2025 Fourth Round Housing Element and Fair Share Plan as previously adopted by the Borough Planning Board.

Those February 26 filings placed before the Court the Borough's amended HEFSP, as revised in accordance with the settlement, and the governing body's endorsement and approval of that amended plan. The amended HEFSP itself incorporates the January 2026 mediation agreement and identifies the Borough's compliance mechanisms and implementation obligations for the Fourth Round.

Today, the Borough is filing the remaining implementing materials required to effectuate the amended HEFSP and satisfy the outstanding pre-March 15 / March 16 implementation conditions:

1. Resolution No. 26-117, directing the Planning Board to amend the Block 100, Lot 8 Redevelopment Plan to permit multi-family residential housing at a density consistent with the settlement, require a 20% affordable-housing set-aside, and make such additional revisions as necessary to conform to the settlement, **attached hereto as Exhibit A;**
2. Ordinance No. 26-07, amending Chapter 190, Article XIVA, the Block 100, Lot 8 Redevelopment Plan, to permit residential uses, allow up to 140 dwelling units, and require that 20% of those units be affordable to low- and moderate-income households, **attached hereto as Exhibit B;**

3. Ordinance No. 26-08, amending Chapter 190, Articles XV, XVI, and XVII, to update the Borough's affordable housing ordinance, mandatory set-aside provisions, and affordable housing development fee provisions in accordance with the amended Fair Housing Act, N.J.A.C. 5:99, and UHAC, and to implement the Borough's adopted HEFSP, **attached hereto as Exhibit C**;
4. Resolution No. 26-153, adopting the Borough's Affirmative Marketing Plan for affordable housing units, **attached hereto as Exhibit D**; and
5. Resolution No. 26-154, adopting the Borough's Fourth Round Affordable Housing Spending Plan, **attached hereto as Exhibit E**.

These five filings directly correspond to, and satisfy, the implementation items identified in the January 12, 2026 Mediation Agreement. In particular, the Agreement expressly required the Borough, prior to March 15, 2026, to adopt a Fourth Round Spending Plan, and to update and adopt its affordable housing ordinance, development fee ordinance, affirmative marketing plan, and other administrative documents. The documents being filed today accomplish those items. Moreover, the redevelopment-plan resolution and ordinance concerning Block 100, Lot 8 implement a specific affordable-housing compliance mechanism reflected in the Borough's amended HEFSP. The HEFSP identifies the A&P Site (Block 100, Lot 8) as an inclusionary mechanism contributing affordable-housing credits, and Resolution 26-117 / Ordinance 26-07 implement that mechanism through redevelopment-plan amendments requiring residential development with a 20% affordable set-aside.

Accordingly, with the two February 26, 2026 filings and the five filings submitted today, the Borough respectfully submits that the eCourts record now contains: (1) the amended HEFSP approved and endorsed following the January 2026 settlement; and (2) the implementing ordinances and resolutions required to carry out that amended HEFSP and satisfy the outstanding implementation conditions identified in the Mediation Agreement and recognized by the Court's February 19, 2026 Decision and Order. The Borough therefore respectfully submits that it has satisfied the March 16, 2026 filing and implementation

deadline set by the Court and has complied with the requirements of the January 12, 2026 settlement documents.

I appreciate your time and consideration of this matter and these issues.

Respectfully submitted,

Mark J. Semeraro

MARK J. SEMERARO, ESQ.

cc: All Parties via ECF

EXHIBIT A



BOROUGH OF POMPTON LAKES PASSAIC COUNTY, NEW JERSEY



Resolution No: 26-117

TITLE:

DIRECTING PLANNING BOARD TO AMEND REDEVELOPMENT PLAN

WHEREAS, the Borough of Pompton Lakes has, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., (the "LRHL") designated certain properties within the Borough as areas in need of redevelopment; and

WHEREAS, pursuant to the LRHL, the Borough adopted an ordinance establishing the Block 100, Lot 8 Redevelopment Plan ("Plan"), which established the Block 100, Lot 8 Redevelopment Area; and

WHEREAS, on or about December 17, 2025, the Borough reached a settlement with Fair Share Housing Center ("Settlement") which requires that certain amendments be made to the Plan in order to satisfy the settlement and satisfy the Borough's obligation to provide for affordable housing within the Borough; and

WHEREAS, it is the desire of the Borough comply with the Settlement by making necessary and appropriate amendments to the Plan; and

WHEREAS, Section 7 of the LRHL provides that a governing body may direct the Planning Board to prepare and amendment or revision to a redevelopment plan.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Pompton Lakes, in the County of Passaic, and State of New Jersey, that the Planning Board of the Borough of Pompton Lakes is directed to prepare an amendment to the Block 100, Lot 8 Redevelopment Plan to provide that multi-family residential housing shall be a permitted use in the Redevelopment Area at a density consistent with the Settlement; all new residential development within the Redevelopment Area shall include twenty percent affordable housing units; and to make all other revisions and/or amendments to the Plan necessary to comply and conform with the Settlement.

RECORD OF COUNCIL VOTE:

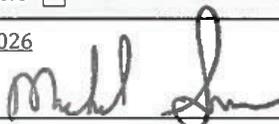
I, Elizabeth Brandsness, R.M.C., Municipal Clerk, hereby certify that the above resolution is a true copy of the resolution adopted by the Mayor and Council at their Regular Meeting held on Wednesday, February 11, 2026, at 7:00 p.m. in the Pompton Lakes Municipal Building, 25 Lenox Avenue, Pompton Lakes, N.J.

Motion - by: Cruz Second - by: Baig

COUNCIL	Yes	No	Absent	Abstain	COUNCIL	Yes	No	Absent	Abstain
Baig	✓				Kent	✓			
Cruz	✓				Santers	✓			
Hinton	✓				Venin	✓			
MAYOR (Tie-Break Vote): Yes <input type="checkbox"/> No <input type="checkbox"/>									

Date of Adoption: February 11, 2026


 Elizabeth Brandsness, R.M.C., Municipal Clerk


 Michael Serra, Mayor

CC: Borough Administrator, Borough Attorney, Affordable Housing Planner, Planning Board, Planning Board Attorney, Borough Planner

EXHIBIT B



BOROUGH OF POMPTON LAKES PASSAIC COUNTY, NEW JERSEY



ORDINANCE NO. 26-07

AN ORDINANCE AMENDING CHAPTER 190 ARTICLE XIVA, "BLOCK 100, LOT 8 REDEVELOPMENT PLAN (Lidl - Pompton Lakes Town Square)

WHEREAS, the Borough Council ("Borough Council") designated the area located upon Block 100, Lots 8, as identified on the municipal tax maps of Pompton Lakes Borough ("Block 100, Lot 8 Redevelopment Area"), as an area in need of redevelopment pursuant to the Redevelopment Law (N.J.S.A. 40A:12A-7); and

WHEREAS, the Borough Council adopted, by Ordinance, the Block 100, Lot 8 Redevelopment Plan for the Block 100, Lot 8 Redevelopment Area on May 27, 2007, pursuant to the Redevelopment Law (N.J.S.A. 40A:12A-7); and

WHEREAS, the Borough having filed its Housing Element and Fair Share Housing Plan ("HEFSP") on June 26, 2025; and

WHEREAS, Fair Share Housing Center ("FSHC") filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's HEFSP on August 27, 2025; and

WHEREAS, the Borough entered a settlement agreement with FSHC, dated January 10, 2026, in which the Borough agreed to review and amend, as needed, it's the Housing Element and Fair Share Plan, Affordable Housing Ordinance, and other ordinances to address the agreed upon affordable housing obligation for the Fourth Round; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Pompton Lakes, the Block 100, Lot 8 Redevelopment Plan is amended as follows:

Section 1

- A. Residential uses shall be permitted in the Block 100, Lot 8 Redevelopment Area.
- B. A maximum of 140 housing units may be developed in the Block 100, Lot 8 Redevelopment Area, which 20% must be affordable to low- and moderate-units households.
- C. Residential uses shall be located above the ground floor.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.


Elizabeth Brandsness, R.M.C., Municipal Clerk


Maria Kent, Presiding Officer/Council President

NOTICE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced at a regular meeting of the Mayor and Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey held in the Municipal Building on the 25th day of February, 2026 and the same came up for final passage at the regular meeting of the Mayor and Borough Council held on the 11th day of March, 2026 at which time, after persons interested were given the opportunity to be heard concerning said Ordinance, the same was passed and will be in full force and effect in the Borough of Pompton Lakes after approval by the Mayor or in accordance with law.

EXHIBIT C



BOROUGH OF POMPTON LAKES PASSAIC COUNTY, NEW JERSEY



ORDINANCE NO. 26-08

AN ORDINANCE AMENDING CHAPTER 190 ARTICLE XV, AFFORDABLE HOUSING, CHAPTER 190 ARTICLE XVI, AFFORDABLE HOUSING SETASIDE, AND CHAPTER 190 ARTICLE XVII AFFORDABLE HOUSING DEVELOPMENT FEES TO ADDRESS THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS UNDER THE AMENDED FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC)

WHEREAS, the State of New Jersey ("State") has adopted an Amended Fair Housing Act at P.L. 2024, c. 2 (A4) which provides new Fourth Round affordable housing fair share requirements for each municipality; and

WHEREAS, the State has adopted new Fourth Round substantive affordable housing regulations at N.J.A.C. 5:99; and

WHEREAS, The New Jersey Department of Community Affairs (DCA) and the Housing and Mortgage Finance Agency (NJHMFA) have adopted new Uniform Housing and Affordability Controls (UHAC) at J.A.C. 5:80-26.1 et seq; and

WHEREAS, the Borough of Pompton Lakes Planning Board ("Planning Board") has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq.

WHEREAS, in order to maintain compliance with said state regulations regarding affordable housing, the Borough of Pompton Lakes (the "Borough") must amend certain sections of the Municipal Code; and

WHEREAS, Chapter 190, Article XV, Affordable Housing, Article XVI, Mandatory Set-Aside, Article XVII, Affordable Housing Development Fees, contains requirements for affordable housing provisions based on previous COAH regulations and regulations regarding affordable housing development fees; and

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey, that Chapter 190, Articles XV, XVI, and XVII, of the Municipal Code are hereby amended and replaced as follows:

(Added text is **emboldened**, and text being eliminated is shown in *strikethrough italics*.)

Section 1

Chapter 190, "Affordable Housing, Article XV, "Affordable Housing", Section 190-98, "Purpose" of the General legislation of the Borough of Pompton Lakes is hereby amended as follows:

§ 190-98. Purpose.

The purpose of the Affordable Housing Ordinance is to create an opportunity for the construction of low- and moderate-income housing in the Borough of Pompton Lakes and address the fair share housing obligation, in conformance with the latest fair share obligation promulgated by the Courts and under the New Jersey Fair Housing Act.

A. This section of the Code sets forth regulations regarding the very low-, low- and moderate-income housing units in (Borough of Pompton Lakes) consistent with the provisions outlined in P.L 2024, Chapter 2, including the amended Fair Housing Act ("FHA") at N.J.S.A. 52:27D-301 et seq., as well as the Department of Community Affairs, Division of Local Planning Services ("LPS") at N.J.A.C. 5:99 et seq., statutorily upheld existing ng regulations of the now-defunct Council on Affordable Housing ("COAH") at N.J.A.C. 5:93 and 5:97, the Uniform Housing Affordability Controls ("UHAC") at N.J.A.C. 5:80-26.1 et seq., and as reflected in the adopted municipal Fourth Round Housing Element and Fair Share Plan ("HEFSP").

B. This Ordinance is intended to ensure that very low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very low-, low- and moderate-income households shall occupy these units pursuant to statutory requirements. This Ordinance shall apply to all inclusionary developments, individual affordable units, and 100% affordable housing developments except where inconsistent with applicable law. Low-Income Housing Tax Credit financed developments shall adhere to the provisions set forth below in item c. below.



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- C. The Borough of Pompton Lakes Planning Board has adopted a HEFSP pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan describes the ways the municipality shall address its fair share of very low-, low- and moderate-income housing as approved by the Superior Court and documented in the Housing Element.
- D. This Ordinance implements and incorporates the relevant provisions of the HEFSP and addresses the requirements of P.L 2024, Chapter 2, the FHA, N.J.A.C. 5:99, NJ Supreme Court upheld COAH regulations at N.J.A.C. 5:93 and 5:97, and UHAC at N.J.A.C. 5:80-26.1, as may be amended and supplemented.

§ 190-99. Definitions.

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

ACT

The Fair Housing Act of 1985, P.L. 1985, ~~c. 222 (N.J.S.A. 52:27D-301 et seq.)~~ P.L. 2024 c.2 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE

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

ADMINISTRATIVE AGENT

The entity designated by the Borough to administer affordable units in accordance with this article, ~~N.J.A.C. 5:93,¹ and UHAC (N.J.A.C. 5:80-26)~~ N.J.A.C. 5:99, and UHAC (N.J.A.C. 5:80-26)..

AFFIRMATIVE MARKETING

A regional marketing strategy designed to attract buyers and/ or renters of affordable units pursuant to ~~N.J.A.C. 5:80-26.15~~ N.J.A.C. 5:80-26.16.

AFFORDABILITY AVERAGE

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

AFFORDABLE

~~A sales price or rent level that is within the means of a low- or moderate- income household as defined within N.J.A.C. 5:93-7.4,² 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.~~ A sales price or rent within the economic means of a low- or moderate-income household, as defined in the UHAC as, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.7 and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth at N.J.A.C. 5:80-26.13.

AFFORDABLE HOUSING DEVELOPMENT

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

AFFORDABLE HOUSING DELIVERY MECHANISMS

Any of the methods of creating or preserving actual housing units available to low- and moderate-income households or creating a realistic opportunity for the construction of such units, as permitted by the Act.

AFFORDABLE HOUSING DISPUTE RESOLUTION PROGRAM

The dispute resolution program established pursuant to N.J.S.A. 52:27D-313.2.

AFFORDABLE HOUSING MONITORING SYSTEM" or "AHMS"



BOROUGH OF POMPTON LAKES PASSAIC COUNTY, NEW JERSEY



The Department of Community Affairs's cloud-based software application, which shall be the central repository for municipalities to use for reporting detailed information regarding affordable housing developments, affordable housing unit completions, and the collection and expenditures of funds deposited into the municipal affordable housing trust fund.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80% 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.

AGENCY

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

ALTERNATIVE LIVING ARRANGEMENT

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

ASSISTED LIVING RESIDENCE

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

CERTIFIED HOUSEHOLD

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

COAH

The Council on Affordable Housing **established in, ~~as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.)~~ but not of, DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).**

COMMISSIONER

The Commissioner of the Department of Community Affairs.

COMPLIANCE CERTIFICATION

Means the certification issued to a municipality by the Program pursuant to section 3 at P.L. 2024, c. 2, that provides a municipality immunity from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round of affordable housing obligations begins, which is also known as a "judgment of compliance" resulting in an "order for repose." "Compliance certification" shall include a judgment of repose granted in an action filed pursuant to section 13 at P.L. 1985, c. 222 (N.J.S.A. 52:27D-313).



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COMPLIANT MUNICIPALITY

A municipality that is in the process of seeking compliance certification pursuant to the directives issued by the Administrative Office of the Courts, has obtained compliance certification, or who has filed for, or has obtained, a Judgment of Compliance, Order for Repose, or other court approval pursuant to the Act.

CONSTRUCTION

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

COUNTY-LEVEL HOUSING JUDGE

Means a judge appointed pursuant to section 5 at P.L. 2024, c. 2, to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal fair share plans and housing elements with the Act.

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

DEVELOPER

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

DEVELOPMENT

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

DEVELOPMENT FEE

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

DIVISION

Division of Local Planning Services within the Department of Community Affairs.

EMERGENT OPPORTUNITY

A circumstance that has arisen whereby affordable housing can be created through a delivery mechanism not originally anticipated by or included in a fair share plan that has received compliance certification.

EXTENSION OF EXPIRING CONTROLS

Extending the deed restriction period on units where the controls will expire in the current round of housing obligation, so that the total years of a deed restriction is at least 60 years.

FAIR SHARE OBLIGATION

The total of the present need and prospective need as determined by the Affordable Housing Dispute Resolution Program, or a court of competent jurisdiction.



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FAIR SHARE PLAN

The plan or proposal, which may readily be adopted with accompanying ordinances and resolutions, pursuant to subsection f. of section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1) by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

FHA

The New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

HMFA OR THE AGENCY

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

HOUSING REGION

A geographic area established pursuant to N.J.S.A. 52:27D-304.2 for each round of low- and moderate-income housing obligations pursuant to the Act.

INCLUSIONARY DEVELOPMENT

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

"JUDGMENT OF COMPLIANCE" OR "JUDGMENT FOR REPOSE"

Means a determination issued by the Superior Court approving a municipality's fair share plan to satisfy its affordable housing obligation for a particular 10-year round.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50% or less of the median household income.

LOW-INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

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

MARKET-RATE UNITS

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

MEDIAN INCOME

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

MODERATE-INCOME HOUSEHOLD

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

MODERATE-INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

MULTIFAMILY UNIT

A structure containing five or more dwelling units.



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MUNICIPAL AFFORDABLE HOUSING TRUST FUND

A separate, interest-bearing account held by a municipality for the deposit of development fees, payments in lieu of constructing affordable units on sites zoned for affordable housing, barrier-free escrow funds, recapture funds, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, enforcement fines, unexpended RCA funds remaining from a completed RCA project, application fees, and any other funds collected by the municipality in connection with its affordable housing programs, which shall be used to address municipal low- and moderate-income housing obligations within the time frames established by the Legislature and (N.J.A.C 5:99-1 et. seq)."

MUNICIPAL DEVELOPMENT FEE ORDINANCE

An ordinance adopted by a municipality's governing body that authorizes the collection of development fees.

MUNICIPAL HOUSING LIAISON (MHL)

An appointed Borough employee who is responsible for oversight and/or administration of the affordable housing units created within the municipality and oversight of the authorization of individuals being provided access to the AHMS.

NEW JERSEY AFFORDABLE HOUSING TRUST FUND

An account established pursuant to N.J.S.A. 52:27D-320.

NONEXEMPT SALE

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

NON-RESIDENTIAL DEVELOPMENT FEE

The fee authorized to be imposed pursuant to N.J.S.A. 40:55D-8.1 through 40:55D-8.7.

ORDER FOR REPOSE

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

PERSON WITH DISABILITY

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

PRICE DIFFERENTIAL

The difference between the controlled sale price of a restricted unit and the contract price at the exit sale of the unit, determined as of the date of a proposed contract of sale for the unit. If there is no proposed contract of sale, the price differential is the difference between the controlled sale price of a restricted unit and the appraised value of the unit as if it were not subject to UHAC, determined as of the date of the appraisal. If the controlled sale price exceeds the contract price or, in the absence of a contract price, the appraised value, the price differential is zero dollars.

PRIOR ROUND UNIT

A housing unit that addresses a municipality's fair share obligation from a round prior to the fourth round of affordable housing obligations, including any unit that: (1) received substantive certification from COAH; (2) is part of a third-round settlement agreement or judgment of compliance approved by a court of competent jurisdiction, inclusive of units created pursuant to a zoning designation adopted as part of the settlement agreement or



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

PROSPECTIVE NEED

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

RANDOM SELECTION PROCESS

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

REGIONAL ASSET LIMIT

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted regional income limits published annually by COAH or a successor entity.

REHABILITATION

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

RENT

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

RESTRICTED UNIT

A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

SPENDING PLAN

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

SUPPORTIVE HOUSING HOUSEHOLD

A very low-, low- or moderate-income household certified as income eligible by an administrative agent in accordance with N.J.A.C. 5:80-26.14, in which at least one member is an individual who requires supportive services to maintain housing stability and independent living and who is part of a population identified by federal or state statute, regulation, or program guidance as eligible for supportive or special needs housing. Such populations include, but are not limited to: persons with intellectual or developmental disabilities, persons with serious mental illness, person with head injuries (as defined in



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

SUPPORTIVE HOUSING SPONSORING PROGRAM

A grant or loan program which provided financial assistance to the development of the unit.

SUPPORTIVE HOUSING UNIT—A restricted rental unit that is affordable to very low-, low- or moderate-income households and is reserved for occupancy by a supportive housing household. A supportive housing unit is intended to provide long-term, community-based housing for individuals with intellectual or developmental disabilities, as defined at N.J.S.A. 30:6D-25(b). Such units must be leased subject to the affordability controls established herein; remain subject to Affirmative Marketing requirements, household certification, and administrative agent oversight; and may, with the approval of the municipal housing liaison and the administrative agent, be leased either by the bedroom or to a single household in the case of multi-bedroom configurations, provided such arrangement is consistent with the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) and the project's Affirmative Marketing Program. A supportive housing unit may, with the approval of the administrative agent, be subject to a master lease by an approved supportive housing operator, provided that all subleases are to be certified supportive housing households and remain fully subject to the affordability controls of this subchapter. Rents for supportive housing units shall not exceed the rent standards established and published by the New Jersey Department of Human Services. Supportive housing units are also referred to as permanent supportive housing units.

UHAC

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

VERY-LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30% or less of the median household income for the applicable housing region.

VERY-LOW-INCOME UNIT

A restricted unit that is affordable to a very-low-income household.

WEATHERIZATION

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

§ 190-100. Applicability

- A. The provisions of this article shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Pompton Lakes pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan. The existing downtown redevelopment zones (DRA-1 and DRA-2), amended by the Borough, requires a 10% set-aside for low- and moderate-income units, with the option to provide for 7% on-site units and a payment in lieu of 3% at a cost of \$90,000 per unit and shall be deposited into the Borough's Affordable Housing Trust Fund, except those identified in § 190-103.C.3. All other residential development of five units or



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more shall require a 15% set-aside requirement for rental units and a 20% requirement for all for-sale units.

- B. In **certain** redevelopment areas identified in the **2019 Settlement Agreement addressing the prior round**, a 10% set-aside for low- and moderate-income units is required, with the option to provide for 7% on-site units and a payment in lieu of 3% at a cost of \$90,000 per unit and shall be deposited into the Borough's Affordable Housing Trust Fund. All other residential development of five units or more shall require a **20%** ~~15%~~ set-aside requirement for rental units and ~~a 20% requirement~~ for ~~all~~ for-sale units.
- C. The following sections shall apply to all developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.
- D. All affordable housing developments, including those intended to be funded through federal Low Income Housing Tax Credit programs, shall be deed restricted to comply with COAH and UHAC Rules pertaining to the income and bedroom distributions of the units.

§ 190-101. Affordable housing programs

The Borough of Pompton Lakes has determined that it will use the following mechanisms to satisfy its affordable housing obligations: rehabilitation programs.

A. Rehabilitation program.

- (1) Pompton Lakes' rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28-1.1 **et seq** or the **Rehabilitation Subcode, N.J.A.C. 5:23-6 to the extent applicable.**
- (2) Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- (3) All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units the control period will be enforced with a lien and for renter-occupied units the control period will be enforced with a deed restriction.
- (4) The Borough of Pompton Lakes shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
- (5) The Borough of Pompton Lakes shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Borough of Pompton Lakes.
- (6) The Borough of Pompton Lakes shall designate, subject to the approval of the Department, one or more administrative agents to administer the rehabilitation program in accordance with ~~N.J.A.C. 5:96 and N.J.A.C. 5:97.~~³ **P.L.2024, Chapter 2.** The administrative agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Department. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the administrative agent(s).
- (7) Units in a rehabilitation program shall be exempt from ~~N.J.A.C. 5:97-9⁴~~ and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - (a) If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to ~~N.J.A.C. 5:97-9~~ and UHAC.



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- (b) If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to *N.J.A.C. 5:97-9* and UHAC.
- (c) Rents in rehabilitated units may increase annually based on the standards in *UHAC N.J.A.C. 5:97-9*.
- (d) Applicant and/or tenant households shall be certified as income-eligible in accordance with *N.J.A.C. 5:97-9* and UHAC, except that households in owner-occupied units shall be exempt from the regional asset limit.

§ 190-102. Alternative living arrangements: Supportive Housing and Group Homes (per N.J.A.C. 5:97-6.10)

A. ~~The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8⁵ and UHAC, with the following exceptions:~~

- ~~(1) Affirmative marketing (N.J.A.C. 5:80-26.155-80-26.16); 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 5:80-26.4).~~

The following provisions shall apply to group homes, residential health care facilities, and supportive shared living housing:

- (1) The unit of credit shall be the bedroom. However, the unit of credit shall be the unit if occupied by a single person or household.
- (2) Housing that is age-restricted shall be included with the maximum number of units that may be age-restricted pursuant to the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.)
- (3) Occupancy shall not be restricted to youth under 18 years of age.
- (4) In affordable developments with 20 or more restricted units that are supportive housing, two-bedroom units must compose at least five percent of those restricted units.
- (5) The bedrooms and/or units shall comply with UHAC with the following exceptions:
 - (a) Affirmative marketing; however, group homes, residential health care facilities, permanent supportive housing and supportive shared living housing shall be affirmatively marketed to broadest possible population of qualified individuals with special needs in accordance with a plan, if applicable, approved by the sponsoring program;
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.4).

B. ~~With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, group homes, residential health care facilities, supportive shared living housing and permanent supportive housing shall have the appropriate controls on affordability in accordance with the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). In the event that a supportive housing provider is unable to record or execute a long-term deed restriction, the units shall be subject to annual recertification by the Municipal Housing Liaison to confirm continued occupancy and compliance with this Section.~~



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- C. ~~With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC. Objective standards shall be applied in the selection of tenants for supportive housing units and shall be designed to ensure that individuals are not excluded in an arbitrary or capricious manner.~~
- D. The following documentation shall be submitted by the sponsor to the municipality prior to marketing the completed units or facility:
 - (1) An Affirmative Marketing Plan in accordance with D1 above; and
 - (2) If applicable, proof that the supportive and/or special needs housing is regulated by the New Jersey Department of Health and Senior Services, the New Jersey Department of Human Services or another State agency in accordance with the requirements of this section, which includes validation of the number of bedrooms or units in which low- or moderate-income occupants reside.
- E. The sponsor/owner shall complete annual monitoring as directed by the MHL.

§ 190-103. Inclusionary zoning.

- A. Rental units: In inclusionary developments, all affordable units shall be family rental units.
- B. ~~Phasing:~~ **Completion Schedule:** In inclusionary developments the following schedule shall be followed. Low- and moderate-income unit fractions shall be rounded upward to the higher whole number if 0.5 or greater and shall be rounded down to the lower whole number if less than 0.5. **Inclusionary developments shall satisfy the affordable housing requirements set forth in §190-104, "New Construction", of this chapter of the ordinance.**

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

- C. List of inclusionary sites: the above requirements shall apply to all future inclusionary developments in addition to those identified in the ~~2019~~ **the most recent** Fair Share Plan and herein listed:
 - (1) The Affordable Housing Overlay Zones (AH-1 and AH-2), adopted by the Borough, permits inclusionary residential units on several vacant and potential reuse sites.
 - (2) The existing downtown redevelopment zones (DRA-1 and DRA-2), amended by the Borough, requires a 10% set-aside for low- and moderate-income units, with the option to provide for 7% on-site units and a payment in lieu of 3% at a cost of \$90,000 per unit and shall be deposited into the Borough's Affordable Housing Trust Fund. All other residential development of five (5) units or more shall require 20%.
 - (3) **For specified sites within the DRA-1 and DRA-2 districts, the affordable housing set aside shall be set to 20% of total units within a development. These sites are listed, as follows:**
 - (a) **Blocks 3000, Lots 3, 10, 13, 14, 19, and 21.01) within the DRA-1 Zone**
 - (b) **Block 11, Lot 10.03, within the DRA-2 Zone**

§ 190-104. New construction

- A. Low/moderate split and bedroom distribution of affordable housing units:



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- (1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13% of all restricted rental units **rounded up to the nearest whole number** shall be very- low-income units (affordable to a household earning 30% or less of median income). The very-low-income units shall be counted as part of the required number of low-income units within the development. At least 25% of the obligation shall be met through rental units, including at least 1/2 in rental units available to families. A maximum of 25% **addressing the prior round obligations and 30% addressing the fourth-round prospective need** may be age-restricted.
 - (2) In each affordable development, at least 50% of the restricted units within each bedroom distribution **rounded up to the nearest whole number** shall be low-income units.
 - (3) **Unless otherwise approved by the Division of Local Planning Services in the DCA, Affordable affordable** developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two-bedroom units;
 - (c) At least 20% of all low- and moderate-income units shall be three-bedroom units; and
 - (d) The remaining two- and three-bedroom units may be allocated at the discretion of the developer and Borough.
 - (e) **At a minimum, the number of bedrooms within the restricted units equals twice the number of restricted units.**
 - (4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one- bedroom units or by having a two-bedroom unit for each efficiency unit.
- 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:~~ **Any new construction shall be adaptable; however, elevators shall not be required in any building or within any dwelling unit for the purpose of compliance with this section. In buildings without elevator service, only ground floor dwelling units shall be required to be constructed to conform with the technical design standards of the barrier free subcode. "Ground floor" means the first floor with a dwelling unit or portion of a dwelling unit, regardless of whether that floor is at grade. A building may have more than one ground floor.**
 - (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:~~ **Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multi-floor dwelling units that are attached to at least one other dwelling unit shall be subject to the technical design standards of the barrier free subcode and shall include the following features:**
 - (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



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- (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 Subsection B(2)(a) through (d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsection B(2)(a) through (d) 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, or evidence that Pompton Lakes has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - [1] Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - [2] To this end, the builder of restricted units shall deposit funds within the Borough of Pompton Lakes' Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - [3] The funds deposited under Subsection B(2)(f)[2] above shall be used by the Borough of Pompton Lakes for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - [4] The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Pompton Lakes for the conversion of adaptable to accessible entrances.
 - [5] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
 - [6] ~~Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site-impracticable" to meet the requirements. If full compliance with this section would be site impracticable, compliance with this section for any portion of the dwelling shall be required to the extent that it is not site impracticable. Determinations of site impracticability shall comply with the Barrier Free Subcode at N.J.A.C. 5:23-7.~~

C. Design:

The following design requirements apply to affordable housing developments, excluding prior round units.

- ~~(1) In inclusionary developments, to the extent possible, low and moderate income units shall be integrated with the market units.~~
- ~~(2) In inclusionary developments, low and moderate income units shall have access to all of the same common elements and facilities as the market units.~~
- (1) **Design of 100 percent affordable developments:**
 - (a) **Restricted units must meet the minimum square footage required for the number of inhabitants for which the unit is marketed and the minimum**



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square footage required for each bedroom, as set forth in the Neighborhood Preservation Balanced Housing rules at N.J.A.C. 5:43-2.4.

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

D. Maximum initial rents and sales prices:

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, N.J.A.C. 5:80-26.4. *utilizing the regional income limits established by COAH or a successor entity.*
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
- (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 13% of all low- and moderate-income rental units shall be affordable to very-low-income households, earning 30% or less of the regional median household income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median



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income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

- (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 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. ~~5:80-26.4~~ **5:80-26.3**, 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~~ **5:80-26.4**, as may be amended and supplemented.

- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. ~~5:80-26.4~~ **5:80-26.3**, 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~~ **5:80-26.4**, as may be amended and supplemented.

- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

- (10) ~~The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.~~ **At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, following a minimum 90-day notice provided to the occupant household, the rent may be increased to an amount commensurate with the annual percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), specifically U.S. Bureau of Labor Statistics Series CUUR0100SAH, titled "Housing in Northeast urban, all urban consumers, not seasonally adjusted." The maximum allowable rent increase for the year will be effective as of the same date as the regional median income limits determined pursuant to N.J.A.C. 5:80-26.3 and published by the Agency. This rent increase may not exceed five percent in any one year**



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and notice thereof must be filed with the administrative agent. If the landlord has charged a tenant less than the initial maximum allowable rent for a restricted unit, the landlord may, with the approval of the administrative agent, use the maximum allowable rent instead of the current rent in performing this multiplication to establish the rent for the next tenant under a new lease. LIHTC units are not governed by the provisions of this section, but rather by the provisions of the State's Qualified Allocation Plan, N.J.A.C. 5:80-33.1 through 33.40.

(11) The master deeds and declarations of covenants and restrictions for affordable developments may not distinguish between restricted units and market-rate units in the calculation of any condominium or homeowner association fees and special assessments to be paid by low- and moderate-income purchasers and those to be paid by market-rate purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before December 20, 2004, which ordinance provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection are governed by the ordinance.

E. Minimum resumptive densities/maximum presumptive set-aside for multifamily development:

(1) Affordable housing requirements.

(a) For-sale and rental developments: Any project not associated with a specific density or affordable housing requirement as outlined in a specific zone or redevelopment plan shall be required to provide a ~~15%~~ 20% set-aside requirement for rental units and ~~a 20% requirement~~ for *all* for-sale units.

(b) A project shall not be subdivided into two or more lots so as to fall below the threshold or avoid the set-aside requirement by taking multiple actions.

§ 190-105. Utilities.

A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance ~~approved by DCA for its Section 8 program.~~ in accordance with N.J.A.C 5:80-26.13(e).

§ 190-106. Occupancy standards.

In referring certified households to specific restricted units, the administrative agent shall **follow the Occupancy standards set forth in UHAC regulations (N.J.A.C 5:80-26.5) and**, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

A. Provide an occupant for each bedroom; **except for age-restricted and supportive and special needs housing units,**

B. Provide children of different sexes with separate bedrooms;

C. Provide separate bedrooms for parents and children; and

D. Prevent more than two persons from occupying a single bedroom.

E. **Avoid placing a one-person household into a unit with more than one bedroom.**

§ 190-107. 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~~ 5:80-26.6, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this article for a period of at least 30 years, until Pompton Lakes 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. 5:80-26.1et seq., as may be amended and supplemented.

B. **If existing affordability controls are being extended, the extended control period for**



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- a restricted ownership unit commences on the effective date of the extension, which is the end of the original control period.
- C. After the end of any control period, the restricted ownership unit remains subject to the affordability controls set forth in this subchapter until the owner gives notice of their intent to make an exit sale, at which point:
- (1) If the municipality exercises the right to extend the affordability controls on the unit, no exit sale occurs and a new control period commences; or
 - (2) If the municipality does not exercise the right to extend the affordability controls on the unit, the affordability controls terminate following the exit sale.
- D. Prior to the issuance of any building permit for the construction/rehabilitation of restricted ownership units, the developer/owner and the municipality shall record a preliminary instrument provided by the Administrative Agent.
- E. ~~E.~~ The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit. **The date of commencement shall be identified in the deed restriction.**
- F. ~~F.~~ 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.
- G. ~~G.~~ 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 nonexempt sale after the unit's release from the restrictions set forth in this article, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- H. ~~H.~~ **The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.**
- I. ~~I.~~ 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)~~ 5:80-26.6(a) as may be amended and supplemented.
- J. **Rehabilitated housing units that are improved to code standards shall be subject to affordability controls for a period of not less than 10 years (crediting towards present need only).**
- § 190-108. Price restrictions for restricted ownership units, homeowner association fees and resale prices.
- Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. ~~5:80-26.1~~ 5:80-26.7, as may be amended and supplemented, including:
- A. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
 - B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the ~~foregoing~~ standards set forth in N.J.A.C 5:80-26.7.
 - (1) **If the resale occurs prior to the one-year anniversary of the date on which title to the unit was transferred to a certified household, the maximum resale price for a is the most recent non-exempt purchase price.**



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- (2) If the resale occurs on or after such anniversary date, the maximum resale price is the most recent non-exempt purchase price increased to reflect the cumulative annual percentage increases to the regional median income, effective as of the same date as the regional median income calculated pursuant to N.J.A.C. 5:80-26.3.

~~C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low and moderate-income purchasers and those paid by market purchasers.~~

- ~~C. D.~~ The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See § 190-111.
- D. No increase for capital improvements is permitted if the maximum resale price prior to adjusting for capital improvements already exceeds whatever initial purchase price the unit would have if it were being offered for purchase for the first time at the initial affordability percentage. All adjustments for capital improvements are subject to 10-year, straight-line depreciation.

§ 190-109. Buyer income eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with ~~N.J.A.C. 5:80-26.1~~ N.J.A.C. 5:80-26.17, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. ~~Notwithstanding the foregoing, however, the administrative agent may, upon approval by the Borough Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the administrative agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.~~ Notwithstanding the foregoing, the Administrative Agent may, upon approval by the municipality, and subject to the Division's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit. Similarly, the administrative agent may permit low-income purchasers to buy very-low-income units in housing markets where, as determined by the Division, units are reserved for very-low-income purchasers, but there is an insufficient number of very-low-income purchasers to permit prompt occupancy of the units. In such instances, the purchased unit must be maintained as a very-low-income unit and sold at a very-low-income price point such that on the next resale the unit will still be affordable to very-low-income households and able to be purchased by a very-low-income household. A very-low-income unit that is seeking bonus credit pursuant to N.J.S.A. 52:27D-311.k(9) must first be advertised exclusively as a very-low-income unit according to the Affirmative Marketing requirements at N.J.A.C. 5:80-26.16, then advertised as a very-low-income or low-income unit for at least 30 additional days prior to referring any low-income household to the unit.
- 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



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applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed ~~33%~~ 35% of the household's eligible monthly income—; **provided, however, that this limit may be exceeded if one or more of the following circumstances exists:**

- a. **The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for housing expenses, and the proposed housing expenses will reduce its housing costs;**
- b. **The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for housing expenses in the past and has proven its ability to pay; or**
- c. **The household is currently in substandard or overcrowded living conditions;**
- d. **The household documents the existence of assets, within the asset limitation otherwise applicable, with which the household proposes to supplement the rent payments.**

§ 190-110. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the administrative agent for a determination in writing that the proposed indebtedness complies with the provisions of this section, and the administrative agent shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of first purchase money mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of the unit, as such price is determined by the administrative agent in accordance with N.J.A.C. ~~5:80-26.6(b)~~ 5:80-26.7(c).

§ 190-111. 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 ten-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 190-112. Control periods for restricted rental units.

- A. ~~Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11 as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article for a period of at least 30 years, until Pompton Lakes 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. For new projects receiving nine percent low-income housing tax credits, a control period of not less than a~~



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~~thirty-year compliance period plus a fifteen-year extended use period shall be required. Control periods for units that meet the definition of prior round units shall be pursuant to the 2001 UHAC rules originally adopted October 1, 2001, 33 N.J.R. 3432 and shall remain subject to the requirements of this ordinance for a period of at least 30 years as applicable unless otherwise indicated.~~

- B.** Other than for prior round units, control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.12, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 40 years. Restricted rental units created as part of developments receiving 9 percent Low-Income Housing Tax Credits must comply with a control period of not less than a 30-year compliance period plus a 15-year extended use period for a total of 45 years.
- C.** The affordability control period for a restricted rental unit shall commence on the first date that a unit is issued a certificate of occupancy following the execution of the deed restriction or, if affordability controls are being extended, on the effective date of the extension, which is the end of the original control period.
- D.** ~~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 Passaic. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very-low, low- or moderate-income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy.
- E.** ~~C.~~ A restricted rental unit shall remain subject to the affordability controls of this article despite the occurrence of any of the following events:
- (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

§ 190-113. Rent restrictions for rental units; leases and fees.

- A.** ~~The initial rent for a restricted rental unit shall be set by the Administrative Agent.~~
- B.** ~~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.
- C.** ~~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.
- (1) Operating costs, for the purposes of this section, include certificate of occupancy fees, move-in fees, move-out fees, mandatory internet fees, mandatory cable fees, mandatory utility submetering fees, and for developments with more than one and a half off-street parking spaces per unit, parking fees for one parking space per household.**
- D.** ~~C.~~ Any fee structure that would remove or limit affordable unit occupant access to any amenities or services that are required or included for market-rate unit occupants is prohibited. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls applicable to the unit as set forth in this article.
- E.** ~~D.~~ No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this article.



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- F. Fees for unit-specific, non-communal items that are charged to market-rate unit tenants on an optional basis, such as pet fees for tenants with pets, storage spaces, bicycle-share programs, or one-time rentals of party or media rooms, may also be charged to affordable unit tenants, if applicable.
- G. Pet fees may not exceed \$30.00 per month and associated one-time payments for optional fees pertaining to pets, such as a pet cleaning fee, are prohibited.
- H. Fees charged to affordable unit tenants for other optional, unit-specific, non-communal items shall not exceed the amounts charged to market-rate tenants.
- I. For any prior round rental unit leased before December 20, 2024, elements of the existing fee structure that are consistent with prior rules, but inconsistent with 5:80-26.13(c)1, may continue until the occupant household's current lease term expires or that occupant household vacates the unit, whichever occurs later.

§ 190-114. Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. ~~5:80-26.135~~**80-26.14**, as may be amended and supplemented, and shall be determined as follows:
 - (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of **regional** median income.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of **regional** median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of **regional** median income.
- B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. ~~5:80-26.165~~**80-26.16**, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions.
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents 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 Subsections A and B above with the administrative agent, who shall counsel the household on budgeting.

§ 190-115. Municipal Housing Liaison.

- A. The Borough of Pompton Lakes shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the affirmative marketing plan, monitoring and reporting, and, where applicable, supervising any contracted administrative agent. Pompton Lakes



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shall adopt an ordinance creating the position of Municipal Housing Liaison. Pompton Lakes shall adopt a resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part-time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Pompton Lakes, including the following responsibilities which may not be contracted out to the administrative agent:
- (1) Serving as Pompton Lakes' primary point of contact for all inquiries from the state, affordable housing providers, administrative agents and interested households;
 - (2) ~~Monitoring the status of all restricted units in Pompton Lakes' Fair Share Plan;~~ **The oversight of the Affirmative Marketing Plan and affordability controls;**
 - (3) ~~Compiling, verifying and submitting annual monitoring reports as may be required by the Court;~~ **When applicable, overseeing and monitoring any contracting Administrative Agent.**
 - (4) Coordinating meetings with affordable housing providers and administrative agents, as needed; and
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing ~~at least annually and more often as needed and~~ **affirmative marketing as offered or approved by the Division.**
 - (6) **Overseeing the monitoring of the status of all restricted units listed in the Fair Share Plan.**
 - (7) **Verifying, certifying and providing annual information within AHMS at such time and in such form as required by the Division.**
 - (8) **Overseeing the recording of a preliminary instrument in the form set forth at N.J.A.C. 5:80-26.1 for each affordable housing development.**
 - (9) **Coordinating with the Administrative Agent, municipal attorney and municipal Construction Code Official to ensure that permits are not issued unless the document required in C.8. above has been duly recorded.**
 - (10) **Listing on the municipal website contact information for the MHL and Administrative Agents.**
- C. ~~Subject to the approval of the Court, the Borough of Pompton Lakes shall designate one or more administrative agent(s) to administer newly constructed affordable units in accordance with UHAC. An operating manual for each affordable housing program shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The operating manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the administrative agent(s). The Municipal Housing Liaison shall supervise the contracting administrative agent(s).~~

§ 190-116. Administrative agent

The administrative agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the administrative agent shall be paid by the owners of the affordable units for which the services of the administrative agent are required. For resales, single-family homeowners and condominium homeowners shall be required to pay 3% of the sales price for services provided by the administrative agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the administrative agent. The administrative agent shall perform the duties and responsibilities of an administrative agent as set forth in UHAC, including those set forth in Sections. ~~5:80-26.14, 5:80-26.16 and 5:80-26.18~~ **5:80-26.15, 5:80-26.17 and 5:80-26.19** thereof, which include:



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A. Affirmative marketing:

- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the affirmative marketing plan of the Borough of Pompton Lakes and the provisions of N.J.A.C. ~~5:80-26.15~~ **5:80-26.16**; 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.
- (3) The developer shall assume all costs for the affirmative marketing and initial sales and rental transactions associated with the low- and moderate-income housing development. The municipality's contracted administrative agent shall charge a reasonable fee to the program seller(s)/owner(s) 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 the Uniform Housing Affordability Controls (UHAC) N.J.A.C. 5:80-26 et seq., including those set forth in Sections ~~5:80-26.14, 5:80-26.16 and 5:80-26.18~~ **5:80-26.15, 5:80-26.17 and 5:80-26.19** thereof.

B. Household certification:

- (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
- (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- (3) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
- (6) Employing a random selection process as provided in the affirmative marketing plan of the Borough of Pompton Lakes when referring households for certification to affordable units.

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 Passaic County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit **in accordance with UHAC**;
- (4) Communicating with lenders **and the Municipal Housing Liaison** regarding foreclosures; and
- (5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. ~~5:80-26.10~~ **5:80-26.11**.

D. Resales and rentals:



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- (1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
 - (2) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or rental.
- E. Processing requests from unit owners:
- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this article;
 - (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) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent or other charges can be made;
 - (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. ~~5:80-26.18(d)~~ **45:80-26.19(d)4**;
 - (5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
 - (6) Creating and publishing a written operating manual for each affordable housing program administered by the administrative agent, to be approved by the Borough 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 ~~herein hereunder~~.
 - ~~(2) The administrative agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.~~
 - ~~(3) The administrative agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.~~
- H. Records retention.
- (1) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded recapture mortgage,



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and note, as appropriate.

- (2) Records received, retained, retrieved, or transmitted in furtherance of crediting affordable units of a municipality constitute public records of the municipality as defined by N.J.S.A. 47:3-16, and are legal property of the municipality.**

§ 190-117. Affirmative marketing requirements.

- A. The Borough of Pompton Lakes 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~~ **5:80-26.16**, 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 1 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 1, comprised of Bergen, Hudson, Passaic, and Sussex Counties
- D. The municipality has the ultimate responsibility for adopting the affirmative marketing plan and for the proper administration of the affirmative marketing program, including initial sales and rentals and resales and rerentals. The administrative agent designated by the Borough of Pompton Lakes shall implement the affirmative marketing plan to assure the affirmative marketing of all affordable units.
- E. In implementing the affirmative marketing plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. 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.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. 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. Pre-applications shall be emailed or mailed to prospective applicants upon request.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 190-118. Enforcement of affordable housing regulations.

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



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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 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 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Pompton Lakes Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (c) In the case of an owner who has rented a 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 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 low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the 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 low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.



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- (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 low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
 - (e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
 - (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.
- (3) **The municipality shall have the authority to levy fines against the owner of the development for instances of noncompliance with NJHRC advertising requirements (N.J.S.A. 52:27D-321.6.e.(2)), following written notice to the owner. The fine for the first offense of noncompliance shall be \$5,000, the fine for the second offense of noncompliance shall be \$10,000, and the fine for each subsequent offense of noncompliance shall be \$15,000.**

§ 190-119. Appeals.

~~Appeals from all decisions of an administrative agent appointed pursuant to this article shall be filed in writing with the Court.~~ Appeals from all decisions of an administrative agent appointed pursuant to this subchapter must be filed, in writing, with the municipal housing liaison. A decision by the municipal housing liaison may be appealed to the Division. A written decision of the Division Director upholding, modifying, or reversing an administrative agent's decision is a final administrative action.

§ 190-120. Reporting and monitoring requirements.

- A. ~~On the first anniversary of the entry of the order granting the Borough a final judgment of compliance and repose, and every anniversary thereafter, through the end of the repose period, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services, or such other entity designated by the State of New Jersey, with copies provided to Fair Share Housing, and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended. The municipality shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its court-approved Housing Element and Fair Share Plan:~~
 - (1) The municipality shall provide electronic monitoring data with the Department pursuant to P.L 2024, Chapter 2 and N.J.A.C. 5:99 through the Affordable Housing Monitoring System (AHMS). All monitoring information required to be made public by the FHA shall be available to the public on the Department's website at <https://www.nj.gov/dca/dlps/hss/MuniStatusReporting.shtml>.
 - (2) On or before February 15 of each year, the municipality shall provide annual reporting of its municipal Affordable Housing Trust Fund activity to the Department on the AHMS portal. The reporting shall include an accounting of all municipal Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended, for the previous year from January 1st to December 31st.



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- (3) On or before February 15 of each year, the annual reporting of the status of all affordable housing activity shall be provided to the Department on the AHMS portal, for the previous year from January 1st to December 31st.

~~B. On the first anniversary of the entry of the order granting the Borough a final judgment of compliance and repose, and every anniversary thereafter, through the end of the repose period, the Borough shall provide annual reporting of the status of all affordable housing activity within the Borough through posting on the Borough website with copies provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Court-appointed Special Master and Fair Share Housing Center.~~

~~C. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough shall post on its Borough website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the Borough, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may, by motion, request a hearing before the Court regarding these issues.~~

~~D. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the order granting the Borough a final judgment of compliance and repose, and every third year thereafter, the Borough shall post on its Borough website, with copies provided to Fair Share Housing, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Borough with copies provided to Fair Share Housing, on the issue of whether the municipality has complied with its very low income housing obligation.~~

Section 2

Chapter 190, "Affordable Housing Set-Aside, Article XVI, "Affordable Housing", Section 190-121, "Mandatory set-aside." of the General legislation of the Borough of Pompton Lakes is hereby amended as follows:

§ 190-121. Mandatory set-aside.

- A. If Pompton Lakes permits the construction of multifamily or single-family attached residential development ~~that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, of a residential development~~ **consisting** of five or more units and not within one of the redevelopment projects identified in the **third round** settlement agreement made between the Borough of Pompton Lakes and Fair Share Housing Center (signed July 3, 2019) ("~~Settlement Agreement~~"), the Borough shall require that an appropriate percentage of the residential units be set-aside for low- and moderate-income households, as defined by applicable state law or regulations. For inclusionary projects in which the low- and moderate-income units are to be offered for sale **or for rent**, the **minimum appropriate** set-aside percentage is 20%~~; for projects in which the low- and moderate-income units are to be offered for rent, the appropriate set-aside percentage is 15%.~~

- (1) All affordable housing controls and standards are subject to the rules of the Council on Affordable Housing ("COAH") or any subsequent state agency. The development, marketing and sale of the affordable units shall be pursuant to applicable state regulations and Article XV, Affordable Housing, and any subsequent amendments thereto.
- (2) This requirement shall apply to any multifamily or single-family attached residential development, including the residential portion of a mixed-use project, in any zone within Pompton Lakes, and proposed to construct five units or greater, whether permitted by a zoning amendment, a variance granted by Pompton Lakes' Planning Board or Board of Adjustment, or adoption of a redevelopment plan or amended redevelopment plan in areas in need of redevelopment or rehabilitation, outside the redevelopment areas identified in the settlement agreements made between the



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Borough of Pompton Lakes and Fair Share Housing Center, as part of the third round settlement referenced above. (*signed July 3, 2019*).

- (3) This requirement shall not impose any obligation on a development, or the nonresidential portion of a mixed-use development, that is subject to the State Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq.
- B. Nothing in this section precludes Pompton Lakes from imposing an affordable housing set-aside requirement on a development that is not required to have an affordable housing set-aside pursuant to this section, when such imposition is consistent with N.J.S.A. 52:27D-311(h) and other applicable law.
- C. ~~A property owner or applicant may not be permitted to subdivide a project into two lots and then make each of them a number of units just below the threshold as to avoid this affordable housing set-aside requirement.~~ **No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.**
- D. This affordable housing set-aside requirement shall not create any entitlement to a special dispensation or approval for a property owner or applicant for subdivision of site plan approval, a zoning amendment, use variance, or adoption of a redevelopment plan or amended redevelopment plan, or for approval of any particular proposed project.
- E. This requirement does not apply to any sites or specific zones for which other set-aside standards have been ~~or will be~~ established, either by zoning, subdivision or site plan approval, or an adopted redevelopment plan or amended redevelopment plan.
- F. ~~If the Borough's 2019 settlement agreement or 2019 Housing Element and Fair Share Plan established set-aside standards for any specific sites or zones which are different from the set-aside standards set forth in this section, the set-asides established for those sites or zones in the settlement agreement or Housing Element and Fair Share Plan shall govern. This municipality-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the HEFSP, for which density and set-aside requirements shall be governed by the specific standards as set forth therein.~~

Section 3

Chapter 190, Article XVII, "Affordable Housing Development Fees", of the General legislation of the Borough of Pompton Lakes is hereby amended as follows:

§ 190-122. Findings: purpose.

- A. *In Holmdel Builder's Ass'n v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules. This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with the amended Fair Housing Act (P.L.2024, c.2), N.J.A.C. 5:99, and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low-, low- and moderate-income housing in accordance with a Court-approved Spending Plan.*
- B. ~~Pursuant to P.L. 2008, c. 46 Section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or a court of competent jurisdiction and have an approved spending plan may retain fees collected from nonresidential development.~~
- C. ~~This article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the~~



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framework of COAH's prior round rules on development fees, codified at N.J.A.C. 5:93-8² and P.L. 2008, c. 46, Section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7) and the COAH settlement in "In the Matter of the Borough of Pompton Lakes, Passaic County, New Jersey and Affordable Housing Certification, Superior Court of New Jersey, Law Division, Docket: PAS-L-002397-15."

§ 190-123. Basic requirements.

- A. **The municipality previously adopted a development fee ordinance, which established the Municipal Affordable Housing Trust Fund.**
- B. ~~A~~. This article shall not be effective until approved by the Court.
- ~~B. The Borough of Pompton Lakes shall not spend development fees until the Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-5.1(c).³~~

§ 190-124. Definitions.

The following terms, as used in this article, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT

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

COAH or THE COUNCIL

The New Jersey Council on Affordable Housing established in, ~~under the Fair Housing Act~~ but not of, **DCA pursuant to the Act and that was abolished effective March 20, 2024, pursuant to section 3 at P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.1).**

DEVELOPER

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

DEVELOPMENT FEE

Money paid by a developer for the improvement ~~of property as permitted in N.J.A.C. 5:93-8,⁴~~ **of residential and non-residential property as permitted pursuant to N.J.S.A 52:27D-329.2 and 40:55D-8.1 through 40:55D-8.7 and N.J.A.C. 5:99-3.**

EQUALIZED ASSESSED VALUE or EAV

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 54:1-35c). **Estimates at the time of building permit may be obtained by the tax assessor using construction cost estimates. Final EAV shall be determined at project completion by the municipal assessor.**

GREEN BUILDING STRATEGIES

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

§ 190-125. Residential development fees.

- A. Imposed fees.
- (1) Within all zoning district(s), 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 pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized.



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However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage up to 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.

- (3) Eligible exactions, ineligible exactions, and exemptions for residential development.
- (a) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - (b) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a 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.
 - (c) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved or replaced structure as compared to the previous structure.
 - (d) Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

§ 190-126. Nonresidential development fees.

A. Imposed fees.

- (1) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted below, shall pay a fee equal to two and 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (2) Nonresidential developers, except for developers of the types of development specifically exempted below, 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 pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e., made an improvement, at the time 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.

B. Eligible exactions, ineligible exactions, and exemptions for nonresidential development.

- (1) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.



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- (2) The 2.5% 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 P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" form. 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 P.L. 2008, c. 46, shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non- residential development, whichever is later.
- (5) If a property which was exempted from the collection of a non- residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Borough of Pompton Lakes as a lien against the real property of the owner.

§ 190-127. Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" to be completed 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 that notice, 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 notifies the local assessor of any and all requests for the scheduling of a final inspection on 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 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 Borough of Pompton Lakes 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. Except as provided in § 190-126A(3) above, 50% of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.



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- 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 the Borough of Pompton Lakes. 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 the Borough of Pompton Lakes. 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.

§ 190-128. Affordable housing trust fund.

- A. ~~There is hereby created a~~ A separate, interest-bearing housing trust fund ~~to~~ **shall** be maintained by the Borough of Pompton Lakes 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 **where previously permitted by ordinance or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2;**
 - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the Borough of Pompton Lakes' affordable housing program.
- C. ~~In the event of a failure by the Borough of Pompton Lakes 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 Borough of Pompton Lakes, or, if not practicable, then within the County or the Housing Region. 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.~~



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- C. ~~D.~~ All interest accrued in the housing trust fund shall only be used on eligible housing activities approved by the Court.
- D. **The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1 et seq.**
- E. **Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:**
- (1) **Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;**
 - (2) **Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;**
 - (3) **Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;**
 - (4) **Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;**
 - (5) **Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;**
 - (6) **Revocation of compliance certification or a judgment of compliance and repose;**
 - (7) **Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, 7, and 8;**
 - (8) **Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.**

§ 190-129. Use of funds.

- A. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the Borough of Pompton Lakes' 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, rehabilitation, new construction of affordable housing units and related costs, **the construction of group homes and supportive and special needs housing**, accessory apartment, market to affordable, or 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, or any other activity as permitted ~~pursuant to N.J.A.C. 5:93-8.16~~⁵ **by Superior Court** and specified in the approved spending plan.
- B. Funds shall not be expended to reimburse the Borough of Pompton Lakes for past housing activities.
- C. At least ~~30%~~ **a portion** of all development fees collected and interest earned shall be used to provide affordability assistance to 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 median income by region.



BOROUGH OF POMPTON LAKES PASSAIC COUNTY, NEW JERSEY



- (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.
 - (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.
 - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Borough of Pompton Lakes may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the reporting and monitoring requirements that have been approved by the Court. Legal or other fees related to litigation opposing affordable housing sites or objecting to or appealing Court's approval of Pompton Lake' Housing Element and Fair Share Plan are not eligible uses of the affordable housing trust fund.

§ 190-130. Monitoring.

~~On an annual basis commencing with the first anniversary of the entry of the order granting a final judgment of compliance and repose to Pompton Lakes, the Borough of Pompton Lakes shall report all activity in connection with its affordable housing trust fund to the New Jersey Department of Community Affairs [either the Division of Local Government Services or the Council on Affordable Housing (COAH), whichever entity is designated by the State of New Jersey], with a copy provided to Fair Share Housing Center, under the Fair Housing Act and Approval of its Amended Spending Plan, Docket No.: PAS-L-2361-15, and with a posting of same on the municipal website, using forms previously developed for this purpose by COAH. The reporting shall include all sources and amounts collected/earned and the amounts and purposes for which funds have been expended. On or before February 15 of each year, the municipality shall provide annual electronic data reporting of trust fund activity for the previous year from January 1st to December 31st through the AHMS Reporting System. This reporting shall include an accounting of all Municipal Affordable Housing Trust Fund activity, including the sources and amounts of all funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, previously eligible payments in lieu of constructing affordable units on site (if permitted by ordinance or by agreement with the municipality prior to the March 20, 2024 statutory elimination per P.L. 2024, c.4), funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income from municipally-owned affordable housing units, repayments from affordable housing program loans, interest and any other funds collected in connection with municipal housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.~~

§ 190-131. Ongoing collection of fees.

- A. ~~The ability for the Borough of Pompton Lakes to impose, collect and expend development fees shall expire with its judgment of compliance and repose unless the Borough of Pompton Lakes has filed an adopted Housing Element and Fair Share Plan with the Court or with COAH or its successor agency designated by the State of New Jersey, has petitioned for a judgment of compliance and repose or substantive certification, and has received the Court's or COAH's approval of its development fee ordinance. If the Borough of Pompton Lakes fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of compliance and repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-~~



BOROUGH OF POMPTON LAKES PASSAIC COUNTY, NEW JERSEY



~~320). The Borough of Pompton Lakes shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance and repose, nor shall the Borough of Pompton Lakes retroactively impose a development fee on such a development. The Borough of Pompton Lakes shall not expend development fees after the expiration of its judgment of compliance and repose. The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.~~

- B. ~~It is the intent of the Borough Council to incorporate the additions, amendments and/or supplements contained in this article into the Code.~~ If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to section 20 of P.L.1985, c.222 (C. 52:27D-320).
- C. A copy of this Ordinance shall be available for public inspection at the offices of the Borough Clerk.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.


Elizabeth Brandsness, R.M.C., Municipal Clerk


Maria Kent, Presiding Officer/Council President

NOTICE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced at a regular meeting of the Mayor and Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey held in the Municipal Building on the 25th day of February, 2026 and the same came up for final passage at the regular meeting of the Mayor and Borough Council held on the 11th day of March, 2026 at which time, after persons interested were given the opportunity to be heard concerning said Ordinance, the same was passed and will be in full force and effect in the Borough of Pompton Lakes after approval by the Mayor or in accordance with law.

EXHIBIT D



**BOROUGH OF POMPTON LAKES
PASSAIC COUNTY, NEW JERSEY**



Resolution No: 26-153

TITLE:

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF POMPTON LAKES, IN THE COUNTY OF PASSAIC, STATE OF NEW JERSEY ADOPTING THE BOROUGH'S AFFIRMATIVE MARKETING PLAN FOR AFFORDABLE HOUSING UNITS

WHEREAS, in accordance with the Fair Housing Act and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26-1, et seq.), the Borough of Pompton Lakes is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created by the Housing Element and Fair Share Plan within the Borough of Pompton Lakes, are affirmatively marketed to very low, low and moderate income households, particularly those living and/or working within Housing Region 1, the Affordable Housing Region encompassing the Borough of Pompton Lakes; and

WHEREAS, the Borough has retained Triad Associates to serve as its administrative agent for the administration of the Borough's affordable housing program; and

WHEREAS, Triad Associates has prepared an "Affirmative Marketing Process for the Administration of Marketing Affordable Housing Units" for the Borough of Pompton Lakes (Housing Region 1), dated March 2026 (the "Affirmative Marketing Plan"); and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Governing Body of the Borough of Ringwood, County of Passaic, State of New Jersey, do hereby adopt the Affirmative Marketing Plan attached hereto as Exhibit A.

This Resolution shall take effect immediately.

RECORD OF COUNCIL VOTE:

I, Elizabeth Brandsness, R.M.C., Municipal Clerk, hereby certify that the above resolution is a true copy of the resolution adopted by the Mayor and Council at their Regular Meeting held on Wednesday, March 11, 2026 at 7:00 p.m. in the Pompton Lakes Municipal Building, 25 Lenox Avenue, Pompton Lakes, N.J.

Motion - by: Cruz Second - by: Hinton

COUNCIL	Yes	No	Absent	Abstain	COUNCIL	Yes	No	Absent	Abstain
Baig	✓				Kent	✓			
Cruz	✓				Santers	✓			
Hinton	✓				Venin	✓			
MAYOR (Tie-Break Vote): Yes <input type="checkbox"/> No <input type="checkbox"/>									

Date of Adoption: March 11, 2026

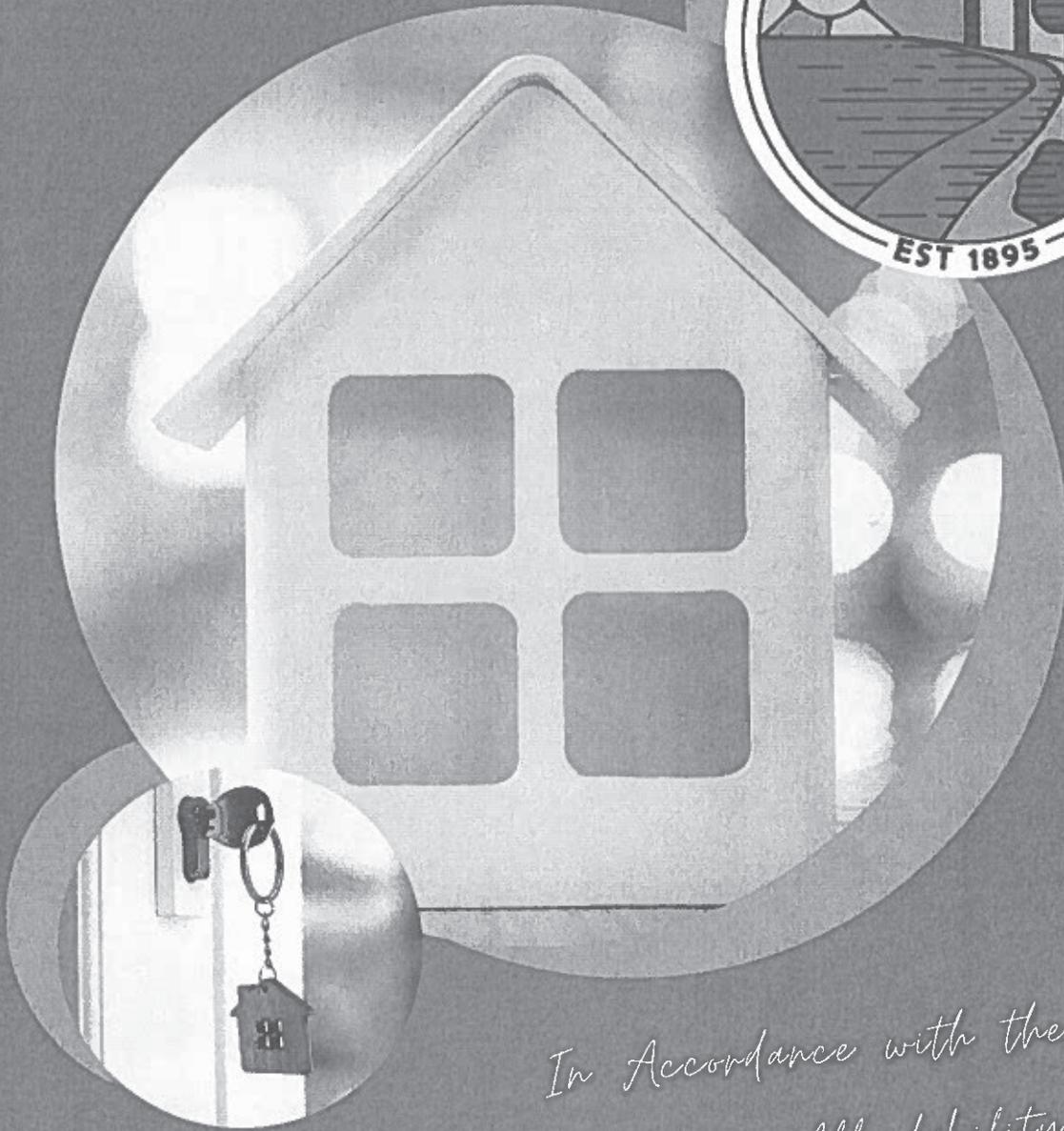
Elizabeth Brandsness
Elizabeth Brandsness, R.M.C., Municipal Clerk

Maria Kent
Maria Kent, Presiding Officer/Council President

cc: administrator, cfo, finance

EXHIBIT A

Affirmative Marketing Process for the Administration of MARKETING AFFORDABLE HOUSING UNITS



*In Accordance with the Uniform
Housing Affordability Controls*

Prepared by



March 2026



FAIR HOUSING AFFIRMATIVE MARKETING PROCESS

For the Borough of Pompton Lakes

For Affordable Housing in (REGION 1)

I. APPLICANT AND PROJECT INFORMATION

Section I must be completed individually for each development or program within the municipality. The information contained in this section shall be included in all affirmative marketing materials.

<p>1a. Administrative Agent Name, Address, Phone Number</p> <p>Triad Associates 1301 W. Forest Grove Road Vineland, NJ 08360 856-690-9590 www.triadhousingprograms.com housing@triadassociates.com</p>	<p>1b. Development or Program Name, Address:</p> <p>Borough of Pompton Lakes 25 Lenox Avenue Pompton Lakes, NJ 07442 www.pomptonlakes-nj.gov (201) 569-5252</p> <p>Development: To be determined for each project</p> <p><input checked="" type="checkbox"/> FOR RENT UNITS <input checked="" type="checkbox"/> FOR SALE UNITS</p>	
<p>1c.</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Number of Units: TBD <input checked="" type="checkbox"/> Number of Total Affordable Units: TBD <input checked="" type="checkbox"/> Number of Affordable Sale Units: TBD <input checked="" type="checkbox"/> Number of Affordable Rental Units: TBD 	<p>1d.</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Family <input checked="" type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Supportive Housing 	<p>1e. State and Federal Funding Sources (if any)</p> <p>N/A</p>
<p>1f. Approximate Starting Dates</p> <p>Advertising: To be determined for each project Occupancy: To be determined for each project Lottery Date: To be determined for each project</p>	<p>1g. Price or Rental Range</p> <p>From: To be determined for each project To: To be determined for each project</p>	
<p>1h. Physical characteristics of the units – List bedroom counts, total square footage, and accessibility features</p>		
<p>1i. County: Passaic</p>	<p>1j. Census Tract(s):</p>	
<p>1k. Managing/Sales Agent's Name, Address, Phone Number To be determined for each project</p>		
<p>1l. Application Fees (if any): Application, Credit and Background Check Fees may apply. To be determined for each project</p>		



FAIR HOUSING AFFIRMATIVE MARKETING PROCESS

For the Borough of Pompton Lakes For Affordable Housing in (REGION 1)

(Sections II through IV are consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

II. RANDOM SELECTION

1. Description of the random selection process that will be used once applications are received.

INITIAL RANDOMIZATION

In carrying out the affirmative marketing process, the administrative agent shall comply with the Housing Affordability Controls rules at N.J.A.C. 5:80-26 (UHAC) Adopted November 6, 2025, and all provisions of the Fair Chance in Housing Act, N.J.S.A. 46:8-52 through 64.

The Affirmative Marketing process will begin approximately four months prior to expected occupancy. At this time, the applicant waitlist opens, and the affordable units are posted on the New Jersey Housing Resource Center (NJHRC) website. During this four-month (120-day) period, the property is advertised and interested applicants have the opportunity to submit Preliminary Applications.

After a minimum of 60 days from the date that the units are posted on the NJHRC website, a lottery randomization takes place. No random selection may be conducted prior to 60 days following the initial advertisement on the New Jersey Housing Resource Center. All preliminary applications received during the affirmative marketing period are included in this lottery randomization, which will establish the applicant waitlist. The lottery date will be included in all affirmative marketing materials. The random selection is conducted prior to households being certified for eligibility.

If the units are Supportive Housing units, within one business day of listing the affordable housing units on the New Jersey Housing Resource Center, the Administrative Agent will notify the local Continuum of Care of any rental housing units for individuals with special needs that are reserved for individuals and families that are homeless and of any permanent supportive housing rental units.

All applicants are included in the lottery and randomized regardless of household size or, desired number of bedrooms. The process is as follows:

The lottery will be conducted by the Administrative Agent with at least two professionals present. The applicant pool will include all applicants who have applied. The Administrative Agent will utilize a computer program to randomly assign a number, which will then become the applicant's lottery number.

When a unit becomes available, the Administrative Agent will identify the applicants that match the number of bedrooms and affordability (very low, low, or moderate income). Those who work or live in Region 1 will be given preference and contacted for the unit first. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for up to 50 percent of the restricted units will be given to very low-, low- and moderate-income veterans duly qualified under N.J.A.C. 54:4-8.10 may also be exercised. If a veteran's preference is in effect, the veterans will be offered the unit prior to the general applicant pool.

Preliminary Applications received after the lottery date will be added to the applicant pool in the order they were received.

If the applicant pool becomes close to being depleted, the Administrative Agent will conduct additional marketing until units are filled.

The administrative agent will designate an experienced staff person 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. Alternatively, the administrative agent or municipality may contract with a HUD-certified housing counselor or an otherwise experienced entity approved by the NJ Department of Community Affairs to provide such counseling services.

III. MARKETING

3a. Direction of Marketing Activity: (Indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

White (non-Hispanic)
 Black (non-Hispanic)
 Hispanic
 American Indian or Alaskan Native
 Asian or Pacific Islander
 Other group:

3b. HOUSING RESOURCE CENTER (www.njhrc.gov) A free, online listing of affordable housing. Listed for the duration of the affirmative marketing process. Listing will be posted at minimum 60 days prior to lottery date.

3c. Commercial Media (required) (Check all that apply)

DURATION/ FREQUENCY OF OUTREACH	NAMES OF REGIONAL MEDIA SOURCES	CIRCULATION AREA
TARGETS ENTIRE HOUSING REGION		
INTERNET ADVERTISING		

<input checked="" type="checkbox"/>	Listed for the duration of the affirmative marketing process	Zillow/Social Media Sites	Statewide
<input checked="" type="checkbox"/>	Run social media ads targeting a housing region of the township/city	Social media ads include "apply today" button that goes to the landing page for each listing	Regional
<input checked="" type="checkbox"/>	Listed for the duration of the affirmative marketing process	NJHRC.gov	Statewide
<input checked="" type="checkbox"/>	Listed for the duration of the affirmative marketing process	Triadhousingprograms.com	Statewide
<input checked="" type="checkbox"/>	Advertising to run for at least one week in a regional news publication listed below with a print/digital combination.	To be determined for each project	Regional

TARGETS PARTIAL HOUSING REGION			
LOCAL AND REGIONAL NEWSPAPERS			
<input checked="" type="checkbox"/>	Press Release at beginning of affirmative marketing	The Bergen Record – North Jersey.com	Bergen, Essex, Hudson, and Passaic counties
<input checked="" type="checkbox"/>	Press Release at beginning of affirmative marketing	Star-Ledger – Digital only	Northern and Central New Jersey
<input checked="" type="checkbox"/>	Press Release at beginning of affirmative marketing	Herald News	Regional
<input checked="" type="checkbox"/>	Press Release at beginning of affirmative marketing	The Observer	South Bergen and West Hudson

✓	Press Release at beginning of affirmative marketing	Northern Valley Press	Northern Valley
✓	Press Release at beginning of affirmative marketing	Straus News Publications	Sussex County
✓	Press Release at beginning of affirmative marketing	Tri State Newspaper	Regional
✓	Press Release at beginning of affirmative marketing	Englewood-Englewood Cliffs News	Englewood
✓	Press Release at beginning of affirmative marketing	Our Town- rtownmaywoodrp@aol.com	Maywood, Bergen

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters) (Check all that apply)

DURATION & FREQUENCY OF OUTREACH	MEDIA OUTLET	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE	
TARGETS ENTIRE HOUSING REGION				
✓	Flyers to be mailed at beginning of Marketing	El Hispano	Camden and Trenton areas	Spanish-Language
✓	Flyers to be mailed at beginning of Marketing	Servicios Latinos	servicioslatinos@hotmail.com	Burlington County
✓	Flyers to be mailed at beginning of Marketing	Nuestra Comunidad	sreece@echo-media.com	Spanish-Language
✓	Flyers to be mailed at beginning of Marketing	Sino Monthly	info@sino-monthly.com	Chinese-American
✓	Flyers to be mailed at beginning of Marketing	24 Horas	redaccion@24-horas.mx	Portuguese-Language
✓	Flyers to be mailed at beginning of Marketing	Arab Voice Newspaper	info@arabamerica.com	Arab-American
✓	Flyers to be mailed at beginning of Marketing	Catholic Advocate, The	submissions@rcan.org	Catholic
✓	Flyers to be mailed at beginning of Marketing	New Jersey Jewish News	Beth@JewishMediaGroup.com	Jewish
✓	Flyers to be mailed at beginning of Marketing	Desi NJ	ilayasq@newsindia-times.com	South Asian
✓	Flyers to be mailed at beginning of Marketing	Ukrainian Weekly	staff@ukrweekly.com	Ukrainian Community
✓	Flyers to be mailed at beginning of Marketing	Amerika Magyar Nepszava (American Hungarian Peoples' Voice)	usanepszava@gmail.com	Hungarian-Language

3e. Community Contacts (names of community groups/organizations throughout the housing region who will receive direct notification of the availability of affordable housing units and who will be asked to post advertisements and distribute flyers and application forms regarding available affordable housing to their members.

	OUTREACH	GROUP/ORGANIZATION	ADDRESS
✓	Flyers to be mailed at beginning of Marketing	New Jersey Housing Resource Center	600 1st Ave, Raritan, NJ 08869
✓	Flyers to be mailed at beginning of Marketing	Native American Advancement Corporation	75 N. Pearl Street P.O. Box 824 Bridgeton, NJ 08302
✓	Flyers to be mailed at beginning of Marketing	Supportive Housing Assoc.	Alden St #14, Cranford, NJ 07016
✓	Flyers to be mailed at beginning of Marketing	Catholic Charities Trenton	info@cctrenton.org
✓	Flyers to be mailed at beginning of Marketing	Anti-Poverty Network of NJ	renee@njcitizenaction.org
✓	Flyers to be mailed at beginning of Marketing	Catholic Charities Camden	Cynthia.LeBron@camdendiocese.org
✓	Flyers to be mailed at beginning of Marketing	Catholic Charities Archdiocese of Newark	kgelman@ccannj.org
✓	Flyers to be mailed at beginning of Marketing	Fair Share Housing.org	orlandosalas@fairsharehousing.org
✓	Flyers to be mailed at beginning of Marketing	Latino Action Network	Info@lanfoundation.org
✓	Flyers to be mailed at beginning of Marketing	New Jersey SHARES	info@sharesnation.org
✓	Flyers to be mailed at beginning of Marketing	Puerto Rican Action Committee	sholmes@pracnj.com
✓	Flyers to be mailed at beginning of Marketing	Supportive Housing Assoc.	kate.kelly@shanj.org
✓	Flyers to be mailed at beginning of Marketing	NAACP NJ State Conference	info@naacpnjsc.org
✓	Flyers to be mailed at beginning of Marketing	Center for Family Services	info@centerffs.org
✓	Flyers to be mailed at beginning of Marketing	Continuum of Care Bergen County	adrakes@bergencountynj.gov
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Edgewater	clodato@edgewaterha.or
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Englewood	dsenande@ehahousing.org
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Garfield	info@garfieldhousing.org
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Guttenberg	gha07093@gmail.com
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Hackensack	jamies@hackensackhousing.org
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Harrison	nazevedo@harrisonhousing.com
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Hoboken	info@myhhanj.com
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Jersey City	Lep@jcha.us
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Lodi	frankp@lodihousing.org
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Irvington	info@ihanj.org
✓	Flyers to be mailed at beginning of Marketing	Weehawken Housing Authority	d.vetter@weehawkenhousing.org

✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Passaic	info@passaichousing.org
✓	Flyers to be mailed at beginning of Marketing	Sussex County NAACP	lowersussexnaacp@yahoo.com
✓	Flyers to be mailed at beginning of Marketing	Passaic County NAACP	naacppassaicchapter@gmail.com
✓	Flyers to be mailed at beginning of Marketing	Bergen County NAACP	bergennaacp@gmail.com
✓	Flyers to be mailed at beginning of Marketing	Meadowlands Family Success Center	crodriguez@meadowlandsfsc.org
✓	Flyers to be mailed at beginning of Marketing	Urban League Hudson County	info@ulohc.org
✓	Flyers to be mailed at beginning of Marketing	YMCA of Greater Bergen County	digital@ymca.net
✓	Flyers to be mailed at beginning of Marketing	Bergen Volunteer Center	info@bergenvolunteers.org
✓	Flyers to be mailed at beginning of Marketing	Alliance Against Homelessness of Bergen County	aahbergen.org
✓	Flyers to be mailed at beginning of Marketing	DCA Rental Assistance	20 Market St, Camden, NJ 08102
✓	Flyers to be mailed at beginning of Marketing	Rancocas Valley Clergy Ass.	125 Garden St, Mt Holly NJ 08060
✓	Flyers to be mailed at beginning of Marketing	Bergen County Board of Social Services	218 NJ-17, Rochelle Park, NJ 07662
✓	Flyers to be mailed at beginning of Marketing	Bergen County Division of Health Services	Bergen County One Bergen County Plaza Hackensack, NJ 07601-7076
✓	Flyers to be mailed at beginning of Marketing	Hudson County NAACP	153 Martin Luther King Dr Jersey City, NJ 07305
✓	Flyers to be mailed at beginning of Marketing	Community Hope	959 Route 46 East, Suite 402, Parsippany, NJ 07054
✓	Flyers to be mailed at beginning of Marketing	Family Promise of Bergen County	100 Dayton Street, Ridgewood, NJ 07450
✓	Flyers to be mailed at beginning of Marketing	Family Promise of Sussex	County 19 Church St. Newton, MA 02458
✓	Flyers to be mailed at beginning of Marketing	Greater Bergen Community Action	392 Main Street Hackensack, NJ 07601
✓	Flyers to be mailed at beginning of Marketing	Housing Authority of Bergen County	One Bergen County Plaza, 2nd Floor Hackensack, NJ 07601
✓	Flyers to be mailed at beginning of Marketing	Hudson County	153 Martin Luther King Drive, Jersey City, NJ 07305
✓	Flyers to be mailed at beginning of Marketing	Hudson County Board of Social Services	257 Cornelison Ave, Jersey City, NJ 07302
✓	Flyers to be mailed at beginning of Marketing	Jewish Family Services of Northern New Jersey	1485 Teaneck Road Teaneck, New Jersey 07666
✓	Flyers to be mailed at beginning of Marketing	New Jersey Citizen Action	The Hahne's Building 625 Broad Street, Suite 270 Newark, NJ 07102
✓	Flyers to be mailed at beginning of Marketing	Paramus Department of Human Services	1 West Jockish Square Paramus, NJ 07652
✓	Flyers to be mailed at beginning of Marketing	Passaic County Board of Social Services	114 Prospect St, Passaic, NJ 07055
✓	Flyers to be mailed at beginning of Marketing	Passaic County Department of Senior Services	930 Riverview Dr #200 Totowa, NJ 07512

✓	Flyers to be mailed at beginning of Marketing	Passaic Resource Network	3 Garret Mountain Plaza #200, Woodland Park, NJ 07424
✓	Flyers to be mailed at beginning of Marketing	Social Service Association of Ridgewood & Vicinity	6 Station Plaza Ridgewood, NJ 07450
✓	Flyers to be mailed at beginning of Marketing	United Way of Northern NJ	NJ Herald Building, 2 Spring Street,
✓	Flyers to be mailed at beginning of Marketing	Urban League of Bergen County	96 Engle Street Englewood, NJ 07631
✓	Flyers to be mailed at beginning of Marketing	Veterans Transitional Housing Program	959 Route 46 East, Suite 402 Parsippany, NJ 07054
✓	Flyers to be mailed at beginning of Marketing	Supportive Housing Association	185 Valley St South Orange, NJ 07079
✓	Flyers to be mailed at beginning of Marketing	Sussex County Division of Social Services	PO Box 218 83 Spring Street Suite 203 Newton, NJ 07860
✓	Flyers to be mailed at beginning of Marketing	United Way of Bergen County	6 Forest Avenue, Suite 220 Paramus, NJ 07652

IV. APPLICATIONS

Applications for affordable housing for the above units will be available at the following locations:

4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that apply)

	BUILDING	LOCATION
✓	Passaic County Library System	info@palsplus.org
✓	Passaic County Administration Building	401 Grand Street, Paterson, NJ 07505
✓	Bergen County Library System	bccls@bccls.org
✓	Bergen County Administration Building	One Bergen County Plaza, Hackensack, NJ 07601
✓	Sussex County Main Library	125 Morris Turnpike, Newton, NJ 07860
✓	Sussex County Administrative Building	One Spring Street, Newton, NJ 07860
✓	Hudson County Library System	472 Jersey Ave. Jersey City, NJ 07302
✓	Hudson County Administration Building	595 Newark Avenue, Jersey City, NJ 07306
<p>Borough of Pompton Lakes 25 Lenox Avenue Pompton Lakes, NJ 07442 www.pomptonlakes-nj.gov (201) 569-5252</p>		
<p>Pompton Lakes Public Library Emanuel Einstein Memorial Library 333 Wanaque Avenue Pompton Lakes, NJ 07442 www.pomptonlakeslibrary.org plibrary@pomptonlakeslibrary.org 1 973-835-0482</p>		

4c. Sales/Rental Office for units (if applicable)
To be determined for each project

V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the Municipality's substantive certification.

Susan DiBiasio

Susan DiBiasio, Triad Associates
Administrative Agent & Affirmative Marketing

March 2, 2026

Date

EXHIBIT E



**BOROUGH OF POMPTON LAKES
PASSAIC COUNTY, NEW JERSEY**



Resolution No: 26-154

TITLE:

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF POMPTON LAKES,
IN THE COUNTY OF PASSAIC, STATE OF NEW JERSEY
ADOPTING FOURTH ROUND AFFORDABLE HOUSING SPENDING PLAN**

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 which amended various provisions of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq. ("Amended FHA"); and

WHEREAS, the Amended FHA sets forth that the Fourth Round period of affordable housing obligations shall run from July 1, 2025 through June 30, 2035 ("Fourth Round" or "Round Four"); and

WHEREAS, A municipality may not spend or commit to spend any affordable housing development fees, without first obtaining the approval of the expenditure as part of its compliance certification or by the New Jersey Department of Community Affairs (DCA); and

WHEREAS, the Governing Body of the Borough of Pompton Lakes, County of Passaic, State of New Jersey, adopted a development fee ordinance on March 11, 2026; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or any other funds collected for affordable housing purposes; and

WHEREAS, the Borough of Pompton Lakes has prepared a Fourth Round Affordable Housing Trust Fund Spending Plan, dated March 11, 2026; and

NOW THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Pompton Lakes, County of Passaic, New Jersey, that the Borough of Pompton Lakes hereby adopts the Fourth Round Affordable Housing Trust Fund Spending Plan for the Borough of Pompton Lakes, dated March 11, 2026, prepared by H2M Associates, Inc., which is attached hereto as Exhibit A.

This Resolution shall take effect immediately.

RECORD OF COUNCIL VOTE:

I, Elizabeth Brandsness, R.M.C., Municipal Clerk, hereby certify that the above resolution is a true copy of the resolution adopted by the Mayor and Council at their Regular Meeting held on Wednesday, March 11, 2026 at 7:00 p.m. in the Pompton Lakes Municipal Building, 25 Lenox Avenue, Pompton Lakes, N.J.

Motion - by: Santers

Second - by: Cruz

COUNCIL	Yes	No	Absent	Abstain	COUNCIL	Yes	No	Absent	Abstain
Baig	✓				Kent	✓			
Cruz	✓				Santers	✓			
Hinton	✓				Venin	✓			
MAYOR (Tie-Break Vote): Yes <input type="checkbox"/> No <input type="checkbox"/>									

Date of Adoption: March 11, 2026

Elizabeth Brandsness
Elizabeth Brandsness, R.M.C., Municipal Clerk

Maria Kent
Maria Kent, Presiding Officer/Council President

EXHIBIT A

Draft

AMENDED FOURTH ROUND SPENDING PLAN

Borough of Pompton Lakes, Passaic County, New Jersey

Prepared by:



I. Introduction

The Borough of Pompton Lakes has prepared the Fourth Round Housing Element and Fair Share Plan (“HEFSP”) in accordance with the Municipal Land Use Law (N.J.A. 40:55D-1 et seq.) and the Fair Housing Act (“FHA”). On December 9, 2019, the Borough of Pompton Lakes adopted a development fee ordinance (Ord. No. 19-28), which created a dedicated revenue source for affordable housing and established the Borough of Pompton Lakes’ affordable housing trust fund.

N.J.A.C 5:99 requires that a municipality, which has adopted an HEFSP and intends to collect development fees and other permitted revenues to fund the implementation of an approved HEFSP, shall adopt a spending plan for spending current funds and funds anticipated to be collected during the affordable housing round (“spending plan”). 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 into this separate, interest-bearing Affordable Housing Trust Fund “Trust Fund” for the purposes of affordable housing. The funds are kept in an interest-bearing affordable housing trust fund account at Columbia Bank for these purposes, with separate journal entries for the different revenue and expenditure items and shall be spent in accordance with the applicable affordable housing regulations.

The Borough seeks approval for the expenditure of funds contemplated under the Borough’s spending plan. This constitutes a “commitment” for expenditure, pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure beginning to run with the final approval of the Borough’s HEFSP and spending plan. As of February 11, 2026, the affordable housing trust fund balance was **\$129,605.51**.

1. REVENUES FOR CERTIFICATION PERIOD

As of February 11, 2026, the Borough collected **\$110,101.49** in fees and interest and **\$81,000.00** in payments in lieu of construction of on-site affordable housing for a total of **\$191,101.49**.

To calculate a projection of revenue anticipated during the Fourth Round the Borough of Pompton Lakes considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals.
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

Based upon the total development fees collected since the establishment of the affordable housing trust fund, the Borough is estimating that annual development fees will total \$161,500 from February 12, 2026, through June 30, 2035.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction received from developers that were part of the third-round plan.

In the Fourth Round, P.L. 2024, c2 eliminated the use of payments in Lieu of Construction. The Borough, however, collected a total of \$81,000 in payment in lieu of construction in the Third Round.

(c) Other funding sources:

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units and other funds.

The Borough does not anticipate any other funding sources from February 12, 2026, through June 30, 2035.

(d) Projected interest:

Interest expected on the projected revenue in the municipal affordable housing trust fund for the next ten years based on what has been accrued.

It is estimated that the Borough of Pompton will collect approximately \$43,367.50 in total interest from February 12, 2026, through June 30, 2035.

Projected Revenues-Housing Trust Fund - 2025 THROUGH 2035												
SOURCE OF FUNDS	Through 2/11/2026	2/12/2026-12/31/2026	2027	2028	2029	2030	2031	2032	2033	2034	1/1/2035-6/30/2035	(2/12/2026-6/30/2035)
(a) Development fees:	\$100,971.20	\$17,000.00	\$17,000.00	\$17,000.00	\$17,000.00	\$17,000.00	\$17,000.00	\$17,000.00	\$17,000.00	\$17,000.00	\$8,500.00	\$161,500.00
1. Approved Development	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2. Develop. Pending Approval	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3. Projected Development	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
(b) Payments in Lieu of Construction*	\$81,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
(c) Other Funds (Specify source(s)):	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
(d) Interest (0.01)	\$9,130.29	\$4,565.00	\$4,565.00	\$4,565.00	\$4,565.00	\$4,565.00	\$4,565.00	\$4,565.00	\$4,565.00	\$4,565.00	\$2,282.50	\$43,367.50
Total	\$191,101.49	\$21,565.00	\$21,565.00	\$21,565.00	\$21,565.00	\$21,565.00	\$21,565.00	\$21,565.00	\$21,565.00	\$21,565.00	\$10,782.50	\$204,867.50
<p>Based upon the total development fees collected since the establishment of the affordable housing trust fund, it is estimated that the Borough collected an average of \$16,828.53 in development fees up to February 11, 2026. The range for each year varies therefore, the hypothetical average development fees estimated between February 12, 2025, through June 30, 2035, are extrapolated to an average of \$17,000 per year. Based upon the average interest collected for the years 2023 and 2024, an assumption is made that the Borough will collect an average of \$4,565 per year.</p>												

2. 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 Borough of Pompton Lakes:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Borough of Pompton Lakes' development fee ordinance for both residential and non-residential developments in accordance with all applicable rules, regulations, and legislation.

(b) Distribution of development fee revenues:

A maximum of twenty (20) percent of the affordable housing trust fund revenues will be utilized to address administrative costs. The remaining eighty (80) percent of affordable housing trust fund revenues will be utilized to fund various affordable housing projects and affordability assistance.

The Housing Trust fund is to be maintained by Pompton Lakes' Chief Financial Officer (CFO) and all expenditures of such funds shall conform to this spending plan, once approved by the Court.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Present Need/ Rehabilitation

The Borough of Pompton Lakes will dedicate **\$75,000** to address the five-unit present need (the remaining 40 will be through the veteran's project as per the Settlement Agreement). Any other funds collected in development fees not used towards affordability assistance or administration may be allocated for the hard costs of the rehabilitation program.

New construction project(s): \$0.00

At the present time, the Borough of Pompton Lakes does not anticipate utilizing the portion of funds available from the Affordable Housing Trust Fund to defray the costs incurred for new construction projects.

(b) Affordability Assistance

Projected minimum affordability assistance requirement:

Affordability Assistance		
Actual development fees through 2/11/2026		\$100,971.20
Actual interest earned through 2/11/2026	+	\$9,130.29
Payment in lieu of construction through 2/11/2026	+	\$81,000.00
Development fees projected 2026-2035	+	\$161,500.00
Interest projected 2/12/2026 through 6/30/2035	+	\$43,367.50
Less housing activity expenditures through 2/11/2026	-	\$0.00
Less the Portion of all Dev Fees & Interest Permitted for Admin Expenditures (Calculate 20 percent)	-	\$79,193.80
Total	=	\$316,775.19
Affordability Assistance		\$241,775.19
Less Affordability assistance expenditures through 2/11/2026	-	\$0.00
PROJECTED Affordability Assistance 1/1/2026 through 12/31/2035*		\$241,775.19
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2026 through 06/30/2035	÷ 3 =	\$80,591.73

Pompton Lakes is committed to dedicating a portion of any funds collected in development fees to affordability assistance, of which one-third shall be reserved for very low-income affordability assistance. The Borough anticipates dedicating **\$241,775.19** to render units more affordable, including **\$80,591.73** to render units more affordable to households earning 30% or less of the region's median income.

(c) Administrative Expenses (N.J.A.C. 5:99-2.4)**Administrative Expenses**

Actual dev fees and interest through 2/11/2026		\$110,101.49
Projected dev fees and interest through 06/30/2035	+	\$204,867.50
Payments-in-lieu of construction and other deposits through 2/12/2025	+	\$81,000.00
Total	=	\$395,968.99
Portion of all Dev Fees & Interest Permitted for Admin Expenditures (Calculate 20 percent)	x .20 =	\$79,193.80
Less admin expenditures through 2/11/2026	-	\$61,495.98
PROJECTED MAXIMUM available for administrative expenses through 06/30/2035	=	\$17,697.82

Projected administrative expenditures, subject to the 20 percent cap, are as follows:

Administrative expenses may include costs reasonably related to the determination of the fair share obligation and the development of a municipal housing element and fair share plan and may include fees necessary to develop or implement affordable housing programs, an affirmative marketing program, and/or expenses that are reasonably necessary for compliance with the processes of the Affordable Housing Dispute Resolution Program ("Program"), including, but not limited to, the costs to the municipality of resolving a challenge pursuant to the Program. Administrative expenses may also include costs associated with functions carried out in compliance with UHAC, including activities related to the marketing program and waitlist management, administering the placement of occupants in housing units, income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing, and compliance with the Division's monitoring requirements.

As of February 11, 2026, the Borough has collected \$110,101.49 in fees and interest and \$81,000.00 in payments in lieu of construction of on-site affordable housing. Additionally, the Borough has spent \$61,495.98 on administrative expenditures. Borough of Pompton Lakes projects that \$17,697.82 will be available from the affordable housing trust fund to be used for administrative purposes.

4. EXPENDITURE SCHEDULE

Borough of Pompton Lakes intends to use affordable housing trust fund revenues as detailed in the below table. In accordance with N.J.A.C. 5:99-5.5, the Borough will spend or commit to expend all development fees on authorized activities or purposes within four years of the date of collection.

Program	Number of Units Projected	Funds expended and/or dedicated until 2/11/2026											Total (02/12/26-06/30/2035)	
			02/12/2026 -12/30/2026	2027	2028	2029	2030	2031	2032	2033	2034	6/30/2035		
Rehabilitation*	5	\$0.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$75,000.00
New Construction		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Programs	5	\$0.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$75,000.00
Affordability Assistance		\$0.00	\$25,450.02	\$25,450.02	\$25,450.02	\$25,450.02	\$25,450.02	\$25,450.02	\$25,450.02	\$25,450.02	\$25,450.02	\$25,450.02	\$12,725.01	\$241,775.19
Administration		\$61,495.98	\$1,966.42	\$1,862.93	\$1,862.93	\$1,862.93	\$1,862.93	\$1,862.93	\$1,862.93	\$1,862.93	\$1,862.93	\$1,862.93	\$827.97	\$17,697.82
Total		\$61,495.98	\$42,416.44	\$42,312.95	\$42,312.95	\$42,312.95	\$42,312.95	\$27,312.95	\$27,312.95	\$27,312.95	\$27,312.95	\$27,312.95	\$13,552.98	\$334,473.01

5. EXCESS OR SHORTFALL OF FUNDS

In the event of excess funds, the Borough will commit surplus revenues toward buying down low-income units to make them affordable to very low-income households. In the event that a shortfall of anticipated revenues occurs, the Borough of Pompton Lakes will address the shortfall of funds through an alternative funding source to be identified by the Borough, or the Borough will amend its spending plan to reduce the amount of funds available for the affordability assistance program and administrative expenses.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough of Pompton Lakes' Affordable Housing Ordinance and in accordance with N.J.A.C. 5:99.

II. SUMMARY

The Borough of Pompton Lakes intends to spend affordable housing trust fund revenues pursuant to applicable rules and to be consistent with the housing programs outlined in the 2025 Housing Element and Fair Share Plan and the 2026 Amendment to the Housing Element and Fair Share Plan. The Borough anticipates receiving a total of **\$334,473.01** into its trust fund between February 12, 2026, through June 30, 2035. This Spending Plan commits to spending or reserving all projected revenues during that time for permitted and required affordable housing purposes for a balance of zero.

SPENDING PLAN SUMMARY	
Balance as of February 11, 2026	\$129,605.51
Projected Revenue Feb 12, 2026 through June30, 2026	
Development fees	+ \$161,500.00
Payments in lieu of construction	+ \$0.00
Other funds	+ \$0.00
Interest	+ \$43,367.50
TOTAL REVENUE	= \$334,473.01
EXPENDITURES	
Funds used for Rehabilitation	- \$75,000.00
Funds for New Construction	
1	- \$0.00
2	- \$0.00
3	- \$0.00
4	- \$0.00
5	- \$0.00
6	- \$0.00
7	- \$0.00
8	- \$0.00
9	- \$0.00
10	- \$0.00
Affordability Assistance	- \$241,775.19
Administration	- \$17,697.82
Excess Funds for Additional Housing Activity	= \$0.00
	- \$0.00
	- \$0.00
	- \$0.00
TOTAL PROJECTED EXPENDITURES	= \$334,473.01
REMAINING BALANCE	= \$0.00