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April 1, 2026

### **VIA ECOURTS**

**Honorable Robert Malestein, P.J.Ch.**

Gloucester County Courthouse  
1 N. Broad Street  
Chambers/Courtroom 203  
Woodbury, New Jersey 08096

**RE: In the Matter of the Application of the Township of Mannington**  
**Docket No.: SLM-I-23-25**

Dear Judge Malestein:

This firm represents the Township of Mannington as affordable housing counsel. After the Court granted the Township an extension so it could consider an alternative approach to compliance, it decided that the best course was to follow through with the original ordinance, which it adopted on Monday. I have attached that ordinance as well as related ordinances.

Thank you for your attention to this matter

Respectfully submitted,

*Jeffrey R. Surenian*

Jeffrey R. Surenian

cc: All attorneys of record (*via ecourts*)

**MANNINGTON TOWNSHIP**

**ORDINANCE NO. 26-02**

**AN ORDINANCE AMENDING MANNINGTON TOWNSHIP CODE CHAPTER 70  
“LAND DEVELOPMENT” TO CREATE AN AFFORDABLE HOUSING-1 (AH-1)  
INCLUSIONARY HOUSING ZONE**

**WHEREAS**, the Township of Mannington’s 2025 Fourth Round Housing Plan Element and Fair Share Plan dated June 6, 2025, which was adopted on June 18, 2025, and endorsed on June 30, 2025 (“HPE/FSP”), includes a commitment by the Township to adopt an ordinance creating an inclusionary housing zone to be known as Affordable Housing-1 (AH-1) that would consist of the 14.18+/- acre parcel of land located at 164-180 Route 45, now or formerly owned by Charlie Edgewater Park LLC, and currently designated as Block 61, Lot 6, on the Mannington Township Tax Map; and

**WHEREAS**, the Mannington Township Committee now desires to create the Affordable Housing-1 (AH-1) zoning district as contemplated by the HPE/FSP;

**NOW THEREFORE BE IT ORDAINED**, by the Township Committee of the Township of Mannington, in the County of Salem, State of New Jersey, as follows:

1. Section 70-32.A. (“Enumeration of districts”) of Mannington Township Code Chapter 70 (“Land Development”), Part 3, Article VIII (“Zoning District Regulations”) is hereby revised to include “AH-1 Affordable Housing-1” as the second listed district (i.e., listed just beneath “A Agricultural”).
2. Section 70-32.B. (“Enumeration of districts”) of Mannington Township Code Chapter 70 (“Land Development”), Part 3, Article VIII (“Zoning District Regulations”) is hereby deleted and replaced with the following new Section 70-32.B.:

B. District map. The boundaries of these zoning districts are established on the maps entitled:

- “Proposed Zoning – Location: Mannington Township, Salem County, NJ – Date: October 2023” (Land Development 70 Attachment 9 at page 70 Attachment 9:1);
- “Zoning Map Amendment Block 38/Lots 1&2 – Location: Mannington Township, Salem County, NJ – Date: November 2023” (Land Development 70 Attachment 9a at page 70 Attachment 9a:1); and
- “Fourth Round Housing Plan Element and Fair Share Plan Affordable Housing Zones – Location: Mannington Township, Salem County, NJ – Date: June 2025” (Land Development 70 Attachment 9b at page 70 Attachment 9b:1);

or as may be subsequently amended. Said maps and all notations, references, and dates pertaining to zoning and zoning districts shown thereon are hereby incorporated by referenced into this chapter and shall be as much a part of this chapter as if they were fully described herein.

3. The introductory paragraph of Section 70-34 (“Justification and intent of district category, location and regulation”) of Mannington Township Code Chapter 70 (“Land Development”), Part 3, Article VIII (“Zoning District Regulations”) is hereby deleted and replaced with the following new introductory paragraph:

The zoning district categories, locations, and regulations have been based upon Township land use policy established in the Mannington Township Land Use Plan (December 1978) and subsequent amendments and enactments. The justification and intent of each zoning district as expressed in the plan and subsequent amendments and enactments are summarized as follows:

4. Section 70-34.A. (“Justification and intent of district category, location and regulation”) of Mannington Township Code Chapter 70 (“Land Development”), Part 3, Article VIII (“Zoning District Regulations”) is hereby amended to include the following new subsection C. (to follow subsection B. “A Agricultural District”), and to cause the ten subsections of Section 70-34, as amended, to be re-alphabetized as subsections A. through J. (i.e., “CONS Conservation District” through “I Industrial District”):

C. AH-1 Affordable Housing-1 District. The purpose of this “overlay” zoning district is to provide a realistic opportunity for the creation of affordable very low-, low- and moderate-income housing through inclusionary residential development as set forth in the Township of Mannington’s 2025 Fourth Round Housing Plan Element and Fair Share Plan dated June 6, 2025, which was adopted on June 18, 2025, and endorsed on June 30, 2025, in addition to development of nonresidential uses and structures as permitted by the “underlying” GC General Commercial zoning district regulations. The inclusionary residential zoning regulations for this district are set forth in § 70-39.

5. Mannington Township Code Chapter 70 (“Land Development”), Part 3, Article X (“Supplementary District Regulations”) is hereby amended to include the following new Section 70-39 (“AH-1 Affordable Housing-1 district regulations”):

§ 70-39. Affordable Housing-1 (AH-1) district regulations.

A. Applicability.

The use, bulk, design and performance standards of the AH-1 District constitute zoning district requirements for the creation of market-rate and affordable housing. Furthermore, this district also allows the development of nonresidential uses permitted within the existing General Commercial GC District, such that a combination of nonresidential and multifamily residential uses may be developed within a mixed- or dual- use arrangement. The land development rights as articulated herein are contingent upon the availability of

public water and sanitary sewer service to accommodate all development within the zone. In such a case, the standards herein shall supersede the zoning provisions of the Mannington Township Land Use Development Ordinance (Chapter 70). However, where the regulations and standards of the AH-1 are silent, the standards of Chapter 70 shall apply.

B. Purpose.

The AH-1 District provides for the development of multifamily residential land uses with a portion of such housing restricted to occupancy by households of very low, low and moderate income. As an inclusionary zone, AH-1 provides for a maximum permitted gross density of 6.0 dwelling units per acre and that either 15% (rental) or 20% (for-sale) of the total number of dwelling units developed be available to qualifying households. The AH-1 Zone will create 14 affordable dwelling units.

C. Requirement for use of AH-1 regulations.

The AH-1 District is located within a public sanitary sewer service area. Prior to making an application for development pursuant to the regulations herein, a developer shall demonstrate that there is adequate public potable water sanitary sewer capacity to develop all permitted and required uses within the zone and that such capacity has been allocated to said developer by the body holding authority over such allocations. No development applications will be processed by the Township that fail to comply with this threshold provision prior to application.

D. Permitted Principal Uses.

- (1) Multifamily apartments.
- (2) All principal uses permitted in the General Commercial (GC) District.
- (3) Any combination of permitted uses, including both residential and non-residential uses.

E. Permitted Accessory Uses.

- (1) Active common recreational facilities for the use and enjoyment of residents and their guests, including, but not limited to pools, tennis courts, tot lots, fitness trails and bikeways. "Sports" lighting (high-mast, high illumination) is not permitted for these facilities.
- (2) Clubhouse, community building, rental/business office and model unit(s) to be converted into residential units.
- (3) Patios.

- (4) Fences and walls as regulated in Part 3, Article XI.
- (5) Tenant storage, maintenance/superintendent office and/or storage of maintenance equipment.
- (6) Private garages and off-street parking.
- (7) Signs.
- (8) Site Furnishings (seating, trash & recycling enclosures, etc).
- (9) Conservation, open space and public purpose uses.
- (10) Accessory uses on the same lot and customarily incidental to a principal use.
- (11) Stormwater Management, Sanitary Sewer Facilities including treatment and disposal, and other public or private utilities.
- (12) All accessory uses permitted in the General Commercial (GC) District.

F. Tract Requirements.

- (1) Maximum permitted gross density: 6.0 DU/Acre
- (2) Minimum required number of affordable dwelling units: 14
- (3) Maximum building coverage for tract: 40%
- (4) Maximum impervious coverage for tract: 70%
- (5) Minimum tract boundary setbacks and buffers:
  - (a) 50 feet abutting a conforming residential use
  - (b) 10 feet from NJSH Route 45
  - (c) 20 feet abutting all other uses

G. Area and Yard Requirements for Dwelling Types.

- (1) Apartments:
  - (a) Maximum height: 45 feet and 3 stories

(b) Maximum dwelling units per building: 90

(c) Minimum distance between buildings (in the case of multiple buildings):

[1] Front-to-front: 60 feet

[2] Front-to-side: 40 feet

[3] Side-to-side: 30 feet

[4] Rear-to-rear: 40 feet

(d) Minimum setback to sidewalk, street right-of-way, access driveway or parking area: 15 feet

(2) Permitted building encroachments for residential buildings:

(a) Entry steps, covered entries, porches and decks projecting no more than 6 feet from an exterior building wall are permitted to encroach up to 6 feet in a front, rear or side setback.

(b) Bay windows and chimneys projecting no more than 2 feet from an exterior building wall are permitted in a front, rear or side setback.

(3) Community building:

(a) Maximum height: 25 feet and 1½ stories

(b) Setbacks shall conform to setbacks for apartments per § 70-63.

H. Parking and Circulation.

(1) Parking shall be provided, and circulation elements (such as streets and thoroughfares) shall be designed, to comply with the New Jersey Residential Site Improvement Standards (“RSIS”) at *N.J.A.C. 5:21*.

(2) Parking areas and driveways shall be located a minimum of 25 feet from any tract boundary, except where connectivity to adjacent properties or streets is necessary.

(3) All drives, thoroughfares and parking areas shall be owned and maintained by a private entity.

(4) Townhouse units shall utilize rear lanes/alleys for vehicular access to parking.

- (5) Townhouses shall provide at least one on-site parking space within an enclosed garage located in the rear yard with access from a lane/alley.
- (6) Townhouse parking may occur within the driveway leading to a garage, in which case said garage shall be set back no less than 20 feet from curb or between the garage door and a sidewalk, whichever distance is less, to accommodate a car without projecting into the right-of-way.
- (7) While off-street parking is preferred, parking within driveways may be delineated, calculated and included towards meeting the RSIS requirements, provided all engineering and geometric requirements are met. No striping of on-street parking is required.
- (8) Off-street parking may be located beneath the ground floor of a building provided:
  - (a) It is accessible only from the building elevation opposite from street frontage; and
  - (b) The parking area beneath the building is not visible from a street.
- (9) Bicycle parking shall be provided at a ratio of three spaces per dwelling unit. Bicycle parking may be located on the ground floor of a building or in a separate building. Exterior bicycle parking shall have a roofed structure to buffer parked bicycles from weather-related impacts. Exterior bicycle parking shall be illuminated.

#### I. Open Space.

- (1) Minimum: 25% of the tract area
- (2) Permitted open space uses:
  - (a) Conservation
  - (b) Passive recreation
  - (c) Active recreation

#### J. Design Standards.

Deviations from these design standards shall be considered exceptions pursuant to the procedure articulated in the New Jersey Municipal Land Use Law (MLUL) at *N.J.S.A.* 40:55D-51.

- (1) Building Design. The purpose of these building design standards is to ensure that the design of townhouse and apartment buildings promotes a desirable visual and spatial environment.

(a) Design standards applicable to all buildings:

[1] Buildings shall have a gable or hipped roof, reflective of the vernacular architecture of Mannington Township.

[2] Principal roof eaves shall project at least one foot beyond the building facade or a supporting column. Secondary roof eaves (i.e., balconies, porches and patios) shall project at least one foot.

[3] Primary roofs shall have a minimum pitch of 6/12.

[4] Secondary roofs may have a pitch below 4/12.

[5] Within each front building elevation, the maximum ratio of windows to wall shall be 30% window to 70% wall.

[6] Balconies and patios shall be designed as integral subcomponents of the building façade and shall have a roof.

[7] Cantilevered balconies are not permitted.

(b) Apartment Standards:

[1] Building shall comply with the special standards and requirements of § 70-63 “Garden apartments and townhouses”.

[2] Buildings shall be designed to create a unified architectural theme, in terms of design, composition, color, materials and elements.

[3] Storage. For each apartment, in addition to any storage areas contained within the unit, there shall be provided 200 cubic feet of storage in a conveniently accessible area, either within the apartment building or in a separate building where belongings can be kept locked and separated from the belongings of other occupants. Storage areas shall be located on the ground floor.

(2) Lighting.

- (a) General. All outdoor lighting should be coordinated as to style, material and color. Lighting throughout the site should overlap, creating an even

level of illumination throughout the parking area. All exterior lighting shall be designed, located, installed and directed in such a manner as to prevent objectionable light at and across the property lines and to prevent glare at any location on or off the property. LED fixtures are required for energy efficiency and uniform illumination.

- (b) Parking lots shall be illuminated with an average of no less than two tenths (0.2) foot-candle. The ratio between maximum foot-candles and average foot-candles shall be no greater than 20 to 1.
- (c) Illumination at property lines shall not exceed one-tenth (0.1) foot-candle, excluding streets or driveways.
- (d) Lighting shall be provided by fixtures in parking lots with a mounting height not more than 16 feet measured from the ground level to the center line of the light source and lighting fixtures no to exceed 12 feet in height shall be provided for pedestrian walkways and residential use areas outside of parking lots.
- (e) Fixtures for illumination shall be full cutoff luminaires.

### (3) Signs.

- (a) Neighborhood Identification: There may be a maximum of 1 permanent freestanding neighborhood identification sign located at the entrance to the community. Neighborhood identification signs shall be set back at least 10 feet from any property line, shall not exceed 35 square feet in sign area and shall not exceed five feet in height. Neighborhood identification signs may be mounted on brick or masonry walls or buildings.
- (b) Community/Recreation/Clubhouse: The community, recreation and/or clubhouse building may have one wall identification sign. The permanent wall identification sign shall not exceed 20 square feet in sign area.
- (c) Directional Signs: Up to two directional signs shall be allowed on each driveway frontage from which vehicular access is derived. A directional sign shall not exceed four square feet in sign area and shall not exceed six feet in height. A directional sign shall be set back from any lot line by at least 10 feet.
- (d) Residential Building Identification: Each residential building may have up to two attached identification signs. The maximum sign area of each shall not exceed six square feet. Such signs shall be appropriately integrated within the architecture of the buildings.

(4) Open Space.

- (a) Open spaces shall be planted with double rows of shade trees along driveway frontages.
- (b) A detailed site plan for open spaces shall be submitted for review and approval.
- (c) Common open space shall be provided, and shall include at a minimum:
  - [1] Children's play area;
  - [2] Community building, which may include, but is not limited to, a clubhouse, leasing office, and model, of which a minimum of 2,500 square feet; and
  - [3] Central open space for passive uses.
- (d) Stormwater facilities shall not impede function of open space.

K. Affordable Housing.

- (1) Minimum required number of affordable dwelling units: 14
- (2) Minimum percentage of affordable dwellings: 15% (rental) or 20% (for sale) of the total number of dwelling units.
- (3) Affordable dwelling units shall be constructed and sold or rented in accordance with the Council on Affordable Housing rules, *N.J.A.C. 5:93-1, et seq.*, and the Uniform Housing Affordability Controls (UHAC), *N.J.A.C. 5:80-26.1, et seq.*
- (4) Affordable dwelling unit household income breakdown:
  - (a) At least 13% of the affordable units shall be affordable to very low income (VLI) households at 30% of the median income;
  - (b) At least 50% of the affordable units shall be made affordable to low income units (the 50% requirement is inclusive of the 13% VLI requirement); and
  - (c) The balance of units permitted at moderate income up shall not exceed maximum of 50% of all affordable units.


- (5) Affordable dwelling bedroom distribution: Bedroom distribution shall be in accordance with the Council on Affordable Housing rules, *N.J.A.C. 5:93-1, et seq.*; the Uniform Housing Affordability Controls (UHAC), *N.J.A.C. 5:80-26.1, et seq.*, the Fair Housing Act (FHA), *N.J.S.A. 52:27D-301, et seq.*, and all other applicable laws and regulations.
  - (6) The range of affordability, pricing and rent of units, affirmative marketing, 30-year minimum affordability controls and construction phasing with the market rate units developed on the tract shall also be in accordance with the Council on Affordable Housing rules, *N.J.A.C. 5:93-1, et seq.*; the Uniform Housing Affordability Controls (UHAC), *N.J.A.C. 5:80-26.1, et seq.*; the Fair Housing Act (FHA), *N.J.S.A. 52:27D-301, et seq.*, and all other applicable laws and regulations.
  - (7) The Township designated Affordable Housing Administrator shall be responsible to affirmatively market, administer and certify the occupant of each affordable unit, with all administrative costs to be paid by the Developer.
6. The map entitled “Fourth Round Housing Plan Element and Fair Share Plan Affordable Housing Zones – Location: Mannington Township, Salem County, NJ – Date: June 2025” that is part of the Township of Mannington’s 2025 Fourth Round Housing Plan Element and Fair Share Plan dated June 6, 2025, adopted on June 18, 2025, and endorsed on June 30, 2025, is hereby adopted as the zoning map for the Affordable Housing-1 (AH-1) zone district to be included and designated in the Mannington Township Code as “Land Development 70 Attachment 9b” at page 70 Attachment 9b:1.
  7. The Mannington Township Acting Clerk is directed to give notice of this Ordinance pursuant to *N.J.S.A. 40:55D-15* to the Clerks of all municipalities adjoining Mannington Township and to the Salem County Planning Board at least ten (10) days prior to the date scheduled for hearing on the adoption of this Ordinance.
  8. The Mannington Township Acting Clerk is directed to give notice of this Ordinance pursuant to *N.J.S.A. 40:55D-62.1* to the owner of the property located at 164-180 Route 45, designated as Block 61, Lot 6, on the Mannington Township Tax Map (which is the “subject property” of this Ordinance”; to all owners of property within 200 feet of the subject property; to the New Jersey Office of Planning Advocacy; and to any military facility commander has registered with Mannington Township pursuant to *N.J.S.A. 40:55D-12.4*, all via certified mail, return receipt requested, and regular mail, with all postage paid, at least ten (10) days prior to the date scheduled for hearing on the adoption of this Ordinance.
  9. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid by a court of competent jurisdiction, such adjudication shall apply only to the section, paragraph subsection, clause or provision so adjudged, and the remainder of the Ordinance shall be deemed valid and effective.


- 10. Any article, section, paragraph, subsection, clause, or other provision of the Mannington Township Code that is inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.
- 11. This Ordinance shall, following adoption and publication in accordance with the laws of the State of New Jersey, take effect immediately upon its filing with the Salem County Planning Board pursuant to *N.J.S.A. 40:55D-16*.

**NOTICE**

Notice is hereby given that the foregoing proposed Ordinance No. 26-02 was introduced and passed on first reading by the Township Committee of the Township of Mannington, County of Salem, State of New Jersey, at a regularly scheduled meeting held on February 5<sup>th</sup>, 2026. A second reading and public hearing on the foregoing Ordinance will be conducted by the Township Committee at a regularly scheduled meeting to be held on March 5<sup>th</sup>, 2026, at 5:30 p.m., in the Mannington Town Hall, 491 Route 45, Mannington Township, New Jersey, after which the Ordinance will be considered for final passage


ATTEST:

  
\_\_\_\_\_  
Amber Ayars, Acting Clerk

  
\_\_\_\_\_  
Richard A. Eber, Jr., Mayor

**CERTIFICATION**

I hereby certify the above to be a true copy of an Ordinance introduced and passed by the Mannington Township Committee on second reading following a public hearing at a regular meeting held on March 5<sup>th</sup>, 2026.  
*30<sup>th</sup>*

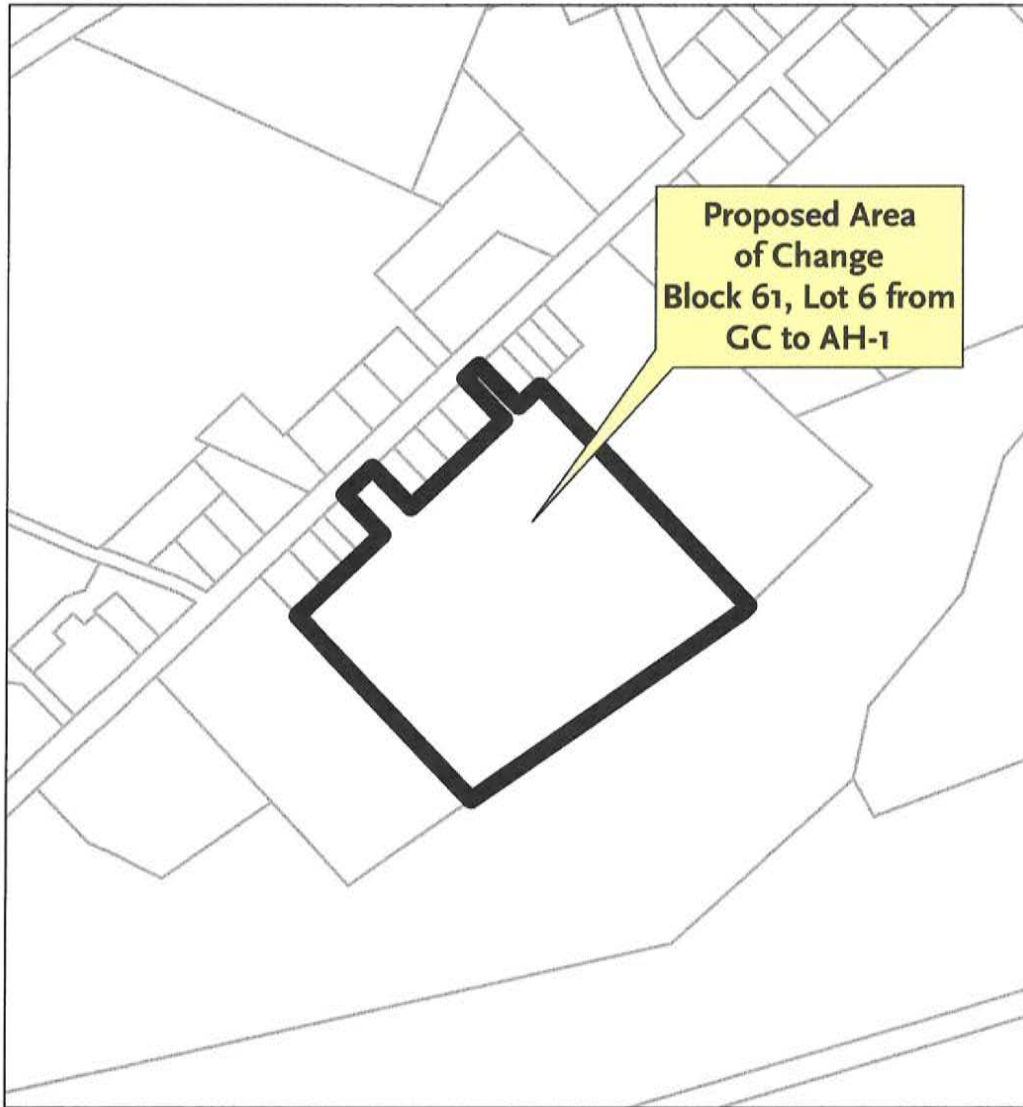
  
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~~Amber Ayars, Acting Clerk~~  
*Patricia L. Davis Deputy Clerk*

DATE: 3/30/2026

LAND DEVELOPMENT

70 Attachment 9b

**Zoning Map Amendment: Block 61, Lot 6**



**Clarke Caton Hintz** ● ● ●  
Architecture  
Planning  
Landscape Architecture

**Zoning Map Amendment  
Block 61, Lot 6**

LOCATION:  
Mannington Township, New Jersey

DATE:  
February 5, 2026

**MANNINGTON TOWNSHIP**

**ORDINANCE NO. 26-03**

**AN ORDINANCE AMENDING THE MANNINGTON TOWNSHIP CODE TO REPEAL CHAPTER 46, ARTICLE IV “DEVELOPMENT FEES”; TO REPEAL CHAPTER 89, ARTICLE VI “MUNICIPAL HOUSING LIAISON”; AND TO ENACT NEW CHAPTER 4 “AFFORDABLE HOUSING”**

**WHEREAS**, the New Jersey Department of Community Affairs (“DCA”) has drafted a “Model Affordable Housing Ordinance Guidance Document” (the “model ordinance”) that is intended solely as a sample municipal ordinance integrating the applicable provisions of:

- the Uniform Housing Affordability Controls (“UHAC”) promulgated by the New Jersey Housing and Mortgage Finance Agency at *N.J.A.C. 5:80-26, et seq.*;
- the amended Fair Housing Act at *N.J.S.A. 52:27D-301, et seq.*;
- the Fair Housing Act regulations that have been promulgated by the DCA’s Division of Local Planning Services (“LPS”) at *N.J.A.C. 5:99, et seq.*; and
- the statutorily-upheld existing regulations of the former Council on Affordable Housing (“COAH”) at *N.J.A.C. 5:93 and 5:97*; and

**WHEREAS**, the DCA has, in its introductory statement for the model ordinance, confirmed that the model ordinance is not intended to interpret or supersede UHAC; and

**WHEREAS**, the Mannington Township Committee now desires to adopt an ordinance based on the model ordinance as new Chapter 4 of the Mannington Township Code entitled “Affordable Housing”; and

**WHEREAS**, the Mannington Township Committee desires to repeal certain existing provisions of the Mannington Township Code that are no longer valid under current law and/or would be in conflict with, or redundant to, new Chapter 4;

**NOW THEREFORE BE IT ORDAINED**, by the Township Committee of the Township of Mannington, in the County of Salem, State of New Jersey, as follows:

1. Article IV (“Development Fees”) of Mannington Township Code Chapter 46 (“Fees”) (comprised of Sections 46-10 through 46-19) is hereby deleted and repealed.
2. Article VI (“Municipal Housing Liaison”) of Mannington Township Code Chapter 89 (“Officers and Employees”) (comprised of Sections 89-14 through 89-16) is hereby deleted and repealed.

3. The Mannington Township Code is hereby amended to include the following new Chapter 4, entitled “Affordable Housing”:

#### Chapter 4 **Affordable Housing**

##### § 4-1 Introduction & Applicability

- A. This Chapter 4 sets forth regulations regarding the very low-, low- and moderate-income housing units in the Township of Mannington 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 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”). This Chapter 4 is not intended to interpret or supersede UHAC.
- 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 5.c. below.
- C. The Mannington 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.
- E. Applicability
  - (1) The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created pursuant to the municipality’s most recently adopted HEFSP.
  - (2) This Ordinance shall apply to all developments that contain very low-, low- and moderate-income housing units included in the Municipal HEFSP, including any unanticipated future developments that will provide very low-, low- and moderate-income housing units.
  - (3) Projects receiving federal Low Income Housing Tax Credit financing and are proposed for credit shall comply with the low/moderate split and bedroom distribution requirements, maximum initial rents and sales prices requirements, affirmative fair marketing requirements of UHAC at N.J.A.C. 5:80-26.16 and the length of the affordability controls applicable to such projects shall be not less than a 30-year

compliance period plus a 15-year extended-use period, for a total of not less than 45 years.

#### § 4-2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Builder's remedy" means court-imposed site-specific relief for a litigant who seeks to build affordable housing for which the court requires a municipality to utilize zoning techniques, such as mandatory set-asides or density bonuses, including techniques which provide for the economic viability of a residential development by including housing that is not for low- and moderate-income households.

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

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

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

"Commissioner" means the Commissioner of the Department of Community Affairs.

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

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

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

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

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

"Department" means the New Jersey Department of Community Affairs.

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

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

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

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

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

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

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

"Equity share amount" means the product of the price differential and the equity share, with the equity share being the whole number of years that have elapsed since the last non-exempt